

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
AUBURN NETWORK, INC.)	MB Docket No. 21-20
)	
WANI(AM), Opelika, AL)	Facility ID No. 63796
)	
WGZZ(FM), Waverly, AL)	Facility ID No. 15283
)	
W242AX(FX), Auburn, AL)	Facility ID No. 146140
)	
W254AY(FX), Auburn, AL)	Facility ID No. 138347
)	
W294AR(FX), Auburn, AL)	Facility ID No. 14119
)	
WHBD-LD, Auburn, AL)	Facility ID No. 185816
)	
Application for Original Construction Permit)	File No. BNPFT-20180327ABZ
NEW(FX), Auburn, AL)	Facility ID No. 201389

ORDER REVISING HEARING SCHEDULE

Issued: May 20, 2021

Released: May 20, 2021

1. On May 12, 2021, the Presiding Judge issued a *Discovery Order* that ruled on the Enforcement Bureau’s Motion to Compel of April 16, 2021, and modified the discovery and pleading deadlines previously established in this proceeding.¹ For documents ordered to be produced in the *Discovery Order* that are publicly-available, Auburn Network, Inc. (ANI) was given 20 days from release of the order to produce either the documents or the uniform resource locator (URL) of the publicly-available websites where the documents may be obtained without charge. For documents ordered to be produced that are not publicly-available, ANI was directed to either produce the documents or a privilege log within 60 days from release of the order. To account for the additional time permitted for document production, the Presiding Judge extended all due dates by 60 days.

2. On May 17, 2021, the Enforcement Bureau filed a motion to modify the revised case schedule.² The Bureau points out that the original schedule was based on ANI responding to its initial document requests within 10 days, and would have provided at least 35 days for the Bureau to review the documents produced and seek additional discovery if necessary.³ It submits that the 60-day document production

¹ *Auburn Network, Inc.*, Discovery Order, MB Docket No. 21-20, FCC 21M-06 (May 12, 2021) (*Discovery Order*).

² Enforcement Bureau’s Motion to Modify Case Schedule Set in *Order*, FCC 21M-06, MB Docket No. 21-20 (filed May 17, 2021).

³ The original hearing schedule was set forth in *Auburn Network, Inc.*, Order Summarizing Initial Status Conference,

adopted in the *Discovery Order* gives ANI until July 12, 2021, to produce non-public documents or a privilege log, which is only two days before the revised deadline for completion of discovery. ANI opposed the Bureau's request on May 18, 2021, arguing that the 20-day deadline for public documents will give the Bureau ample review time and that it is premature to extend the deadline for non-public documents without knowing what items from the privilege log, if any, will have to be produced.⁴ On May 19, 2021, the Enforcement Bureau filed a reply in support of its motion to modify the case schedule, accompanied by a motion for leave to file that reply.⁵

3. The schedule delineated in the *Discovery Order* does not provide sufficient time before the close of discovery for the Enforcement Bureau to review the information submitted by ANI that is subject to the 60-day deadline, nor does it provide sufficient time for the Presiding Judge to consider and rule on any claims of privilege. This scheduling oversight is hereby corrected by adopting the new schedule proposed by the Enforcement Bureau, which adds approximately 30 days to the dates previously adopted. The new schedule is as follows:

Deadline for Completion of Discovery	August 16, 2021
Affirmative Case Due	September 30, 2021
Responsive Case Due	November 15, 2021
Reply to Responsive Case Due	December 6, 2021
Deadline to Request Oral Hearing	December 20, 2021
Deadline to File Motion to Accept Additional Pleadings	December 20, 2021

4. The Bureau's motion to file a reply is dismissed as moot. The *Discovery Order* makes clear that ANI has 60 days from the release thereof to provide all responsive documents that are non-public and, if a claim of privilege is made for any of those documents, a privilege log in lieu of the documents claimed to be privileged. This Order does not change that aspect of the *Discovery Order*.

5. Accordingly, **IT IS ORDERED** that the Enforcement Bureau's Motion to Modify Case Schedule Set in *Order*, FCC 21M-06, **IS GRANTED** to the extent indicated herein.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau's Motion for Leave to File Reply in Support of its Motion to Modify Case Schedule Set in *Order*, FCC 21M-06, **IS DISMISSED AS MOOT**.

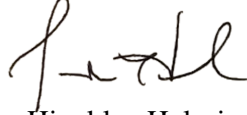
MB Docket No. 21-20, FCC 21M-02 (Mar. 17, 2021).

⁴ Auburn Network, Inc's Opposition to Enforcement Bureau's Motion to Modify Case Schedule Set in *Order*, FCC 21M-06, MB Docket No. 21-20 (filed May 18, 2021).

⁵ Enforcement Bureau's Motion for Leave to File Reply in Support of its Motion to Modify Case Schedule Set in *Order*, FCC 21M-06, MB Docket No. 21-20 (filed May 19, 2021); Enforcement Bureau's Reply in Support of its Motion to Modify Case Schedule Set in *Order*, FCC 21M-06, MB Docket No. 21-20 (filed May 19, 2021).

7. **IT IS FURTHER ORDERED** that the revised hearing schedule included herein **IS ADOPTED**.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "J. Halprin", written in a cursive style.

Jane Hinckley Halprin
Administrative Law Judge