

March 8, 2011

BY FEDERAL EXPRESS AND ELECTRONIC DELIVERY

Federal Communications Commission
Enforcement Bureau, Western Region
Los Angeles Office
18000 Studebaker Road, Room 660
Cerritos, CA 90703

Re: File Number: EB-10-LA-0214
NAL/Acct. No.: 201132900003
FRN: 0001529213

To Whom It May Concern:

Community Television of Southern California, licensee of noncommercial educational public television Station KCET, Los Angeles, California ("KCET"), through undersigned counsel, hereby submits its response to the Enforcement Bureau's Notice of Apparent Liability for Forfeiture released on February 8, 2011 ("NAL"). The Enforcement Bureau concluded that KCET failed "to make available Station KCET's public inspection file during three visits"¹ by an FCC agent and proposed a forfeiture in the amount of \$10,000. As explained in detail below, the NAL omitted salient facts concerning the request by the FCC agent to make the public file available. When all the facts are considered, it is clear that KCET acted solely to protect the safety and security of the station and its employees. It did not violate Section 73.3527 and made the public file available to the FCC agent in a manner consistent with that rule and Commission policy.

KCET is located on Sunset Boulevard in a commercial area of Los Angeles, the second largest city in the country. Because of its location and general concerns about the safety of the station and its employees, KCET maintains a 24-hour security system on the lot as recommended by the FCC's Media Security and Reliability Council. Pursuant to security procedures applied to all visitors to KCET, the security guard asked the visitor seeking access to the public file on August 19, 2010 to provide basic identifying information or to let the security guard know with whom the visitor had an appointment so that the guard could verify that the visitor was expected. Those procedures are reasonable security measures that have been recognized as appropriate under the FCC's public file rules for four decades.² Indeed, most office buildings throughout the

¹ NAL ¶ 8.

² See *In the Matter of Petition for Stay and Reconsideration filed by Station WAPA-TV of the Commission's Letter and Public Notice Concerning a Licensee's Local Public File*,

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country, including at the FCC offices, employ similar procedures. Following the terrorist attacks of September 11, 2001, most businesses, including KCET, tightened their security procedures to ensure the safety of their employees. The visitor's unwillingness to provide such basic information on August 19, 2010 and the morning visit on August 20, 2010 raised security concerns about allowing the visitor to enter the lot. Those concerns resulted in a temporary delay of his access to the public file. On the afternoon visit on August 20, 2010, when he provided identification, he was permitted to enter the station lot to inspect the public file, which he found to be in full compliance.

For the reasons set forth in this response and supported by declarations from station personnel, the Enforcement Bureau should conclude that KCET did not violate Section 73.3527 and cancel the proposed \$10,000 forfeiture. Even if the FCC concludes that KCET violated Section 73.3527, which KCET submits it has not, the appropriate sanction should be, at most, an admonishment.

I. Material Facts That Are Not Included in the NAL Demonstrate That KCET Has Not Violated Section 73.3527

In the NAL, the Enforcement Bureau concludes that KCET violated Section 73.3527 because its employees "instructed the Los Angeles agent during three separate visits that he must first make an appointment before he would be allowed to access the public inspection file."³ However, the NAL omits the sole reason why the visitor was asked to make an appointment to view the file and why he left the KCET lot on August 19, 2010 and the morning of August 20, 2010 without viewing the file – he refused to provide *any* identifying information to KCET security. On the third visit, the visitor presented identification upon arrival, the security guard did not ask him if he had an appointment, and he was promptly escorted to view the file. Based on these facts, the Enforcement Bureau incorrectly concluded that KCET "denied any access, absent an appointment."⁴

A. The First Visit - August 19th

The NAL states that, on August 19, 2010, when the FCC agent first requested to view the public file without identifying himself, "[t]he security guard at the facility gave the agent a

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Memorandum Opinion and Order, 32 F.C.C. 2d 729, ¶ 4 (1971) ("*WAPA-TV*") (Attached as Exhibit G).

³ NAL ¶ 8.

⁴ NAL ¶ 8.

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telephone number and advised him that he must make an appointment by calling the telephone number in order to access Station KCET's public inspection file . . . The agent left the premises without being able to view the public inspection file."⁵ The NAL omits material facts concerning the FCC agent's exchange with the security guard.

According to KCET personnel, when the visitor asked the security guard on duty, Bobby Davis, to view KCET's public file, Mr. Davis asked the visitor to provide his name.⁶ The visitor replied that he did not need to give his name in order to access the station's public file.⁷ Mr. Davis explained to the visitor that the station's security procedures require that any visitor entering the lot must provide a name or some form of identification.⁸

Because the visitor would not provide basic identifying information to the security guard, Mr. Davis contacted KCET's legal department and reached the assistant to the General Counsel, Leonora Gutierrez.⁹ Mr. Davis expressed his concerns about security in light of the visitor's unwillingness to provide any identification, as required by KCET's security measures.¹⁰ After she consulted with one of KCET's officers, Ms. Gutierrez instructed Mr. Davis to inform the visitor that, if he was unwilling to provide his name, he should make an appointment to see the public file.¹¹ Mr. Davis relayed these instructions to the visitor. The visitor left without providing his name or identification.¹² The visit lasted approximately eight minutes.¹³

B. *The Second Visit - Morning of August 20th*

The NAL states that, on the morning of August 20, 2010, "[t]he security guard again prevented the agent from entering the building, stating that the agent did not have the necessary

⁵ NAL ¶ 2.

⁶ Declaration of Bobby Davis ¶ 5 ("Davis Decl.") (Attached as Exhibit A).

⁷ Davis Decl. ¶ 5.

⁸ Davis Decl. ¶ 5.

⁹ Davis Decl. ¶ 7; Gutierrez Decl. ¶ 2.

¹⁰ Davis Decl. ¶ 7.

¹¹ Declaration of Leonora Gutierrez ¶¶ 3-4 ("Gutierrez Decl.") (Attached as Exhibit B).

¹² Davis Decl. ¶ 8. The NAL also states that the security guard "denied the agent's request to speak with a station manager without a scheduled appointment." NAL ¶ 2. Mr. Davis does not recall the visitor requesting to speak with the station manager or Mr. Davis denying such a request. Davis Decl. ¶ 15.

¹³ Davis Decl. ¶ 9.

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appointment with the station to enter the Station KCET main studio.”¹⁴ The NAL again fails to acknowledge that the reason for the security guard’s request whether the visitor had an appointment was that the visitor would not provide his name.

According to KCET personnel, when the visitor returned on the morning of August 20, 2010 and requested to view the public file, when asked, he again declined to provide identification.¹⁵ Mr. Davis called Claudia Franck, the executive assistant to KCET’s President Al Jerome, and explained that a visitor was seeking to review the public file but would not provide his name or identification.¹⁶ Ms. Franck conferred with Mr. Jerome regarding whether to permit an unknown visitor onto the lot when that visitor would not provide identification.¹⁷

At the time, KCET was presented with heightened security concerns as a result of recent events. At the beginning of August 2010, press articles reported that KCET was considering ending its relationship with PBS.¹⁸ This press coverage created an outpouring of viewer feedback, some of which was negative and potentially hostile.¹⁹ In light of the security concerns resulting from these events, Mr. Jerome thought that it was important to maintain KCET’s standard security protocols.²⁰ Thus, Mr. Jerome instructed Ms. Franck to explain to the visitor that he would be permitted to view the public file upon providing identification, as required by KCET’s security measures.²¹

After speaking with Mr. Jerome for approximately less than ten minutes after she received the call from security, Ms. Franck called back to the security guard to relay Mr. Jerome’s instructions.²² However, the visitor already had left the entrance to the KCET lot.²³

¹⁴ NAL ¶ 3.

¹⁵ Declaration of Rod Bigelow ¶ 6 (“Bigelow Decl.”) (Attached as Exhibit C); Davis Decl. ¶ 10.

¹⁶ Declaration of Claudia Franck ¶ 2 (“Franck Decl.”) (Attached as Exhibit D).

¹⁷ Franck Decl. ¶ 3; Declaration of Al Jerome ¶ 7 (“Jerome Decl.”) (Attached as Exhibit E).

¹⁸ See James Rainey, *On the Media: Struggling KCET Examines its Options*, L.A. Times, Aug. 4, 2010; James Rainey, *KCET Without PBS? Audience Says No*, L.A. Times, Aug. 7, 2010. L.A. Times Articles are attached as Exhibit F.

¹⁹ Jerome Decl. ¶ 6.

²⁰ Jerome Decl. ¶ 8.

²¹ Franck Decl. ¶ 4; Jerome Decl. ¶ 8.

²² Franck Decl. ¶ 4.

²³ Franck Decl. ¶ 4. The NAL again states that the security guard denied the FCC agent’s request “to speak with a station manager.” NAL ¶ 3. Neither Mr. Davis nor Mr. Bigelow recalls the

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Mr. Jerome instructed Ms. Franck that if the visitor returned, the visitor could be admitted to the station to review the public file as long as he provided a name or identification.²⁴

C. *The Third Visit - August 20th*

The NAL states that when the FCC agent returned on the afternoon of August 20, 2010, he "again requested access to the station's public inspection file. The security guard asked the agent whether he had made an appointment with Station KCET personnel. The agent then showed his FCC badge and credentials to the security personnel and requested an FCC inspection of the Station KCET public inspection file. After a thorough examination of the agent's badge and several phone calls to Station KCET personnel inside the building, the agent was allowed to go inside of the facility and view the public inspection file. The agent found that the Station KCET public inspection file was complete."²⁵

According to KCET personnel, when the visitor returned on the afternoon of August 20, 2010, he asked to see the public file and, at the same time, displayed his identification.²⁶ Mr. Davis does not recall asking the visitor if he had an appointment.²⁷ Rather, Mr. Davis called Ms. Franck to inform her that the previous visitor had returned and wished to view the public file.²⁸ Ms. Franck went downstairs to escort the visitor into KCET's offices to view the public inspection file, without yet knowing that the visitor was an FCC agent.²⁹ She approached his car window and said she would escort him to the office where the public file is maintained, but he would first need to provide identification. At this time, he revealed his identification to Ms. Franck.³⁰ Ms. Franck and Mr. Davis then escorted the visitor to the office to inspect the public

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visitor requesting to speak with a station manager or either of them denying such request. Davis Decl. ¶ 15; Bigelow Decl. ¶ 7.

²⁴ Franck Dec. ¶ 4; Jerome Decl. ¶ 8.

²⁵ NAL ¶ 4.

²⁶ Davis Decl. ¶ 11.

²⁷ Davis Decl. ¶ 12.

²⁸ Davis Decl. ¶ 12.

²⁹ Franck Decl. ¶ 5.

³⁰ Franck Decl. ¶ 6.

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file.³¹ Only a few minutes passed from the time the visitor approached the gate until he was escorted to the public files.³²

II. Longstanding Commission Policy Permits Stations to Require Basic Identifying Information and Take Other Reasonable Security Precautions

It is well-established and longstanding FCC policy to permit broadcast stations to require identification before allowing a member of the public access to the station premises for inspection of the public file.³³ The Commission has said that “allowing licensees to require personal identification (names and addresses) of those wishing to inspect their files would represent a reasonable balancing of interests.”³⁴ This policy was reaffirmed in a 1998 Public Notice, reiterating that stations may “require personal identification (name and address) of members of the public seeking access to the public file.”³⁵

Commission decisions also have recognized that stations’ reasonable security precautions do not violate Section 73.3527. Thus, the Commission has held that “[b]rief delays caused by legitimate security procedures. . . are not unreasonable.”³⁶ The FCC also has found that a station

³¹ Franck Decl. ¶ 7; Davis Decl. ¶ 13.

³² Davis Decl ¶ 14.

³³ *WAPA-TV* ¶ 4 (amending prior decision, *In re Cecily Little and Jacqueline Klein Concerning Availability of Public File of Station WBRN, Big Rapids, Mich.*, 32 F.C.C. 2d 474, 475 (1971) (“*Cecily Little*”).

³⁴ *WAPA-TV* ¶ 4.

³⁵ *Availability of Locally Maintained Records for Inspection by Members of the Public*, Public Notice, 13 FCC Rcd. 17,959 (1998) (“1998 Public Notice”). The original Public Notice mistakenly stated that licensees could not request identification of those seeking access to the public file, relying improperly on *Cecily Little*. However, in an erratum issued September 28, 1998, the FCC made clear that it would “permit stations to require personal identification (name and address) of members of the public seeking access to the public file, although stations may not require that they identify the organizations that represent” and, accordingly, corrected the September 18, 1998 Public Notice. A copy of the 1998 Public Notice, including the erratum, is attached as Exhibit H. The *Riverside* decision, cited in the NAL at ¶ 8, n.7, cannot be relied on to the contrary. *In re Riverside Broadcasting, Inc.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd. 18,322, ¶ 2 (2000). While *Riverside* states that “a station is prohibited from requiring individuals who request access to the public inspection file to identify themselves . . .,” *id.* ¶ 5, that statement is based on the uncorrected 1998 Public Notice. Since the Public Notice was corrected, the holding in *Riverside* is not controlling.

³⁶ *In re Applications of Citicasters Licenses, L.P.*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd. 19,324, 19,334 (2007).

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was not intentionally trying to prevent access to its public files based on delays of over an hour in order to locate the appropriate station personnel to escort the visitor through the building.³⁷ Nor is it unreasonable to seek assistance from counsel and security personnel when there is a safety concern raised.³⁸ Indeed, the Media Security and Reliability Council, an FCC advisory committee formed in 2002, among other things, to develop best practices to assure the security of broadcast stations, recommends that “[t]elevision broadcasters should have appropriate physical security, augmented by security personnel and/or video surveillance at their key facilities, including studios...”³⁹ In short, established Commission precedent provides that it will look to whether the station carried out in good faith its obligations to make the public file available to members of public in deciding whether a station has violated Section 73.3527.⁴⁰ Moreover, the Commission has declined to “question the licensee’s judgment” regarding delays based on apprehension that security precautions were necessary.⁴¹

KCET’s response to the FCC agent’s visits on August 19, 2010 and August 20, 2010 was fully consistent with this longstanding FCC policy, constituted a reasonable security precaution that does not violate Section 73.3527 and was carried out in good faith. First, the FCC agent’s refusal to provide his name – a request from KCET that is consistent with its obligations under Section 73.3527 – prompted KCET’s temporary delay, consultation with station executives and requests that the FCC agent make an appointment.⁴² The Enforcement Bureau’s focus on KCET’s request that he make an appointment is misplaced.⁴³ KCET does not require that a

³⁷ *Citicasters*, ¶ 29. See also *In re Application of Gross Telecasting, Inc. for Renewal of Licenses of Stations WJIM, WJIM-FM, WJIM-TV Lansing, Michigan*, Decision, 92 F.C.C.2d 204, ¶ 72 (1982) (finding that a requirement that the individuals sign forms and provide their names and addresses, and a 40 minute delay due to security measures, were not unreasonable).

³⁸ *In re Isothermal Community College*, Memorandum Opinion and Order, 16 FCC Rcd. 21,360, ¶ 15 (2001) (“*Isothermal*”) (finding that no violation occurred when the station delayed access to the public file in order to seek assistance from counsel and security personnel when there is a safety concern raised).

³⁹ See Media Security and Reliability Council: Adopted Best Practices Recommendations, ¶ 15 (Attached as Exhibit I).

⁴⁰ *WAPA-TV* ¶ 4.

⁴¹ *Isothermal* ¶ 15.

⁴² The suggestions that the visitor make an appointment was intended to encourage the visitor to provide identification consistent with KCET’s security procedures.

⁴³ The NAL states that a security guard interviewed by the agent stated “that, in general, people had to make an appointment to enter the Station KCET facility and that [the security guard] was just following Station KCET’s security protocol to conduct this screening at the entrance gate.” NAL ¶ 5.

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member of the public seeking to view the public file have an appointment.⁴⁴ However, it is standard procedure for security guards to ask visitors who do not have appointments to identify themselves,⁴⁵ and the FCC agent stated that he was not required to do so in order to view the public file.⁴⁶ The FCC agent's refusal to provide his name or identification – not his lack of an appointment – was the basis upon which KCET temporarily did not allow him to view the public file.⁴⁷ Thus, the NAL incorrectly concludes that KCET on *three* visits “denied any access, absent an appointment.”⁴⁸

Moreover, KCET's request that the FCC agent provide basic identifying information was a reasonable security precaution. KCET has employed 24-hour security personnel for years,⁴⁹ and these security officers ask all visitors to identify themselves when they arrive at the security gate.⁵⁰ This is a common sense, reasonable security measure in place at most office buildings throughout the country,⁵¹ including the Commission's offices. Over the last decade, following the September 11, 2001 terrorist attacks, KCET, like most other businesses in America, implemented additional security measures to ensure that the station and its employees are safe.⁵² KCET faced heightened security concerns in light of events at the time arising from the public disclosure of KCET's dispute with PBS and potential withdrawal from PBS. Most of the public response to that information raised concerns among KCET's senior management about safety for the station and its employees when an unidentified visitor sought access to the station.⁵³

Finally, based on the totality of circumstances, KCET was acting in good faith to balance its interest in maintaining adequate security for the station and its employees against the interest

⁴⁴ Jerome Decl. ¶ 4; Bigelow ¶ 5.

⁴⁵ Davis Decl. ¶ 2; Bigelow Decl. ¶ 4.

⁴⁶ Davis Decl. ¶ 5.

⁴⁷ Davis Decl. ¶¶ 5-9; Franck Decl. ¶¶ 2-4; Jerome Decl. ¶¶ 7-8.

⁴⁸ NAL ¶ 8. In all events, the NAL wrongly states the KCET failed to make the public file available “during three visits.” ¶ 8. On the third visit, on the afternoon of August 20, 2010, after a brief delay while Ms. Franck came from the KCET offices to the security entrance, the visitor was escorted into the building and able to view the file. Franck Decl. ¶¶ 5-7; Davis Decl. ¶ 14.

⁴⁹ Jerome Decl. ¶ 3; Bigelow ¶ 2.

⁵⁰ Bigelow Decl. ¶ 4; Davis Decl. ¶ 2.

⁵¹ Bigelow Decl. ¶ 3.

⁵² Jerome Decl. ¶ 5; Bigelow Decl. ¶ 3.

⁵³ Jerome Decl. ¶ 6.

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of a visitor's right to access the public file. In this instance, KCET's reasonable request that the visitor provide basic identifying information before he would be permitted to enter the station to review the public file was made in good faith and not intended in any way to harass the visitor or discourage him from viewing the public file.⁵⁴ Indeed, once the visitor provided his identification, he was given prompt access to the public file.⁵⁵

III. The Enforcement Bureau Should Cancel or Reduce the Proposed Forfeiture

Based on the additional facts not considered in the NAL, KCET requests that the Enforcement Bureau conclude that KCET did not violate Section 73.3527 and cancel the proposed \$10,000 forfeiture. Even if the FCC concludes that KCET's reasonable security precautions violated Section 73.3527, a \$10,000 forfeiture is excessive in light of the totality of circumstances when the FCC agent sought access to the public file and the reasonable security concerns that prompted KCET to delay temporarily the FCC agent's access to the public file.

Indeed, if any disciplinary action is warranted, which KCET submits is not the case, the Enforcement Bureau, at most, should admonish KCET.⁵⁶ KCET acted in good faith to comply with the Commission's rules. As evidenced by its actions giving the visitor access to the public file once he identified himself, it is clear that KCET did not and does not require an appointment before allowing individuals to view the public file, as the NAL alleges. Rather, KCET's insistence on the visitor identifying himself was a standard security procedure employed widely across the country by innumerable businesses to protect their employees and facilities. Based on a totality of the circumstances, KCET's actions differ materially from those in which the Commission imposed forfeitures when a station "threaten[ed] to have the requestor arrested"⁵⁷ or informed the requestor "that if he called again, the station would call the local police and file harassment charges."⁵⁸ Thus, if the Enforcement Bureau concludes a violation occurred, despite the evidence to the contrary, an admonition is the only appropriate sanction.

⁵⁴ Jerome Decl. ¶ 8; Davis Decl. ¶ 16; Gutierrez Decl. ¶ 5.

⁵⁵ Davis Decl. ¶¶ 11-14; Franck Decl. ¶¶ 6-7.

⁵⁶ *Tabback Broadcasting Company*, Memorandum Opinion and Order, 15 FCC Rcd. 11899, ¶ 5 (2000) (upholding staff decision to admonish licensee for failure "on two occasions to permit unrestricted access to its public file" and citing other FCC decision imposing admonishment).

⁵⁷ *In re Gaston College*, Forfeiture Order, 25 FCC Rcd. 982, ¶ 14 (2010).

⁵⁸ *Riverside*, ¶ 2. In the alternative, KCET is entitled to a reduction of the proposed forfeiture because this was an isolated event. *In the Matter of San Francisco Unified School District*, Initial Decision, 21 FCC Rcd. 3837, ¶¶ 106-08 (2006) (finding the impact of public file violations mitigated because, among other reasons, "[t]here is no evidence of a repetition of

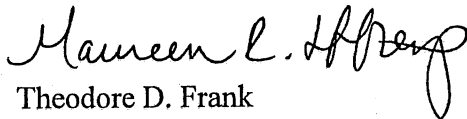
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IV. Conclusion

For the foregoing reasons, KCET requests that the Enforcement Bureau conclude that KCET did not violate Section 73.3527 and cancel the proposed \$10,000 forfeiture. Even if the Enforcement Bureau concludes that KCET violated Section 73.3527, KCET should at most be admonished or the proposed forfeiture should be reduced materially.

Sincerely,



Theodore D. Frank
Maureen R. Jeffreys
Counsel for Community Television of
Southern California

Attachments

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compliance violations” and “the Station consistently produced programming that was responsive to San Francisco.”).

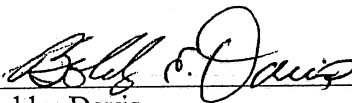
Exhibit A

DECLARATION OF BOBBY DAVIS

1. My name is Bobby Davis. I am a security guard at Community Television of Southern California, licensee of noncommercial educational television Station KCET, Los Angeles, California ("KCET"). The representations contained in this Declaration are based upon my personal knowledge of the events described in the Notice of Apparent Liability and Forfeiture (NAL/Acct. No.: 201132900003) ("NAL"), as well as my general knowledge of KCET operations and procedures.
2. When a visitor approaches the security entrance to the KCET lot, he has to identify himself and indicate whether he has an appointment. If the visitor does not have an appointment, it is general policy to contact the department within KCET where the visitor wishes to go before letting the person enter the lot.
3. I occasionally receive information from security industry personnel at other broadcast stations about the tactics that may be used to gain access to station lots by individuals who do not have a legitimate purpose in visiting the lot. One of those ways is by using industry terminology and information to seem to have a legitimate purpose for entering the station when the actual purpose is for burglarizing, soliciting or something else.
4. I was the security guard on duty on the morning of August 19, 2010. A visitor drove up to the security entrance of KCET and asked to view KCET's public file.
5. I asked the visitor his name. The visitor stated that he did not need to give his name in order to access the public file. I then explained to the visitor that KCET's security policy required that anyone entering the lot must at least give a name or some form of identification. The visitor still would not give me his name.
6. The visitor's refusal to give his name was suspicious and concerned me.
7. I then contacted the Legal Department and spoke with Leonora Gutierrez, the assistant to the General Counsel. I explained my concern about security in light of the visitor's unwillingness to provide his name or identification.
8. After consulting with one of KCET's officers, Ms. Gutierrez called me back and instructed me to inform the visitor that, if he was unwilling to provide his name, he should make an appointment to see the public file. I relayed these instructions to the visitor. The visitor left without providing his name or identification.
9. The visit took approximately eight minutes.
10. I do not recall being present on the morning of August 20, 2010 when the same visitor returned to the KCET entrance. However, my supervisor, Rod Bigelow, has informed me that he and Glen Savery were with me at the security post and that I spoke to the same visitor that morning.

11. I was the security guard on duty on the afternoon of August 20, 2010. The same visitor drove up to the security post. He asked to see the public file and, at the same time, displayed his identification. The identification indicated that he worked for the Federal Communications Commission.
12. Because he presented identification, I do not recall asking the visitor if he had an appointment. Instead, I called Ms. Franck, the Executive Assistant to the President of KCET, who came downstairs to meet the visitor.
13. Ms. Franck, the visitor, and I went upstairs so that the visitor could view the public file.
14. I would estimate that less than five minutes passed from the time the visitor arrived on the afternoon of August 20, 2010 until the time he was escorted to the public files.
15. In all of my interactions with the visitor, I do not recall the visitor requesting to speak with the station manager, nor do I recall denying any such request. I also do not recall the visitor asking me why he was denied access to the public file.
16. I asked the visitor to provide his name as part of the standard security procedures adopted by KCET for the safety and security of its employees. I did not intend to harass the visitor or discourage him from viewing the public file. My sole concern was for the security of KCET and its employees.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on March 7, 2011.



Bobby Davis

Exhibit B

DECLARATION OF LEONORA GUTIERREZ

1. My name is Leonora Gutierrez. On August 19, 2010, I was the Executive Assistant to the General Counsel of Community Television of Southern California, licensee of noncommercial educational television Station KCET, Los Angeles, California ("KCET"). Today, I serve as the Executive Assistant to the Chief Development Officer. The representations contained in this Declaration are based upon my personal knowledge of the events described in the Notice of Apparent Liability and Forfeiture (NAL/Acct. No.: 201132900003) ("NAL"), as well as my general knowledge of KCET operations and procedures.
2. On or about the morning of August 19, 2010, I received a call from Bobby Davis, one of KCET's security guards. Mr. Davis informed me that a visitor was requesting to view the public inspection file but would not provide his name or identification. Mr. Davis voiced his concern about the visitor's refusal to provide his name or identification.
3. Because the General Counsel was on vacation, I called Lourdes Nunez-Burgess, KCET's Vice President of Human Resources to ask her if there was a procedure for allowing access to someone who did not want to explain the situation or provide a name or identification, yet wanted to view our public files. Ms. Nunez-Burgess told me that anyone can have access to the public files. However, if he is unwilling to provide a name, he should make an appointment to see the file.
4. After speaking with Ms. Nunez-Burgess, I called Mr. Davis and relayed the instructions from Ms. Nunez-Burgess.
5. The suggestion that the visitor make an appointment was made solely because he was unwilling to provide his name or identification, which raised security concerns about allowing him to enter the station. It was not intended to deny the visitor access to the public file.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on March 7, 2011.

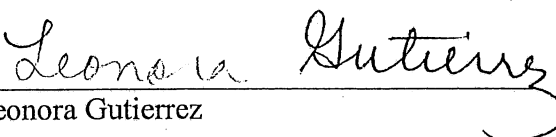

Leonora Gutierrez

Exhibit C

DECLARATION OF ROD BIGELOW

1. My name is Rod Bigelow. I am the security manager at Community Television of Southern California, licensee of noncommercial educational television station KCET, Los Angeles, California ("KCET"). The representations contained in this Declaration are based upon my personal knowledge of the events described in the Notice of Apparent Liability and Forfeiture (NAL/Acct. No.: 201132900003) ("NAL"), as well as my general knowledge of KCET operations and procedures.
2. I have been a security guard at KCET for 26 years. There has been 24-hour security at KCET since I started working here 26 years ago.
3. I am familiar with the KCET's security procedures, as well as the procedures related to inspection of the public file. KCET increased its security measures after the terrorist attacks of September 11, 2001. Identification checks on visitors became tightened and all visitors without appointments were required to identify themselves. Based on my experience and conversations with security personnel at other business locations in Los Angeles, including other broadcast stations, KCET's security measures are consistent with those employed at businesses throughout the Los Angeles area.
4. When a visitor approaches the security entrance to the KCET lot, he has to identify himself and indicate whether he has an appointment, unless he is seeking to look at the public file. If the visitor does not have an appointment, the security guard is required to contact the department within KCET where the visitor wishes to go before letting the person enter the lot.
5. When a visitor requests to view the public file, it is procedure, and it has been my experience, that such a visitor is admitted without an appointment. However, the visitor is required to provide a name or identification, as is the case with all other visitors.
6. On the morning of August 20, 2010, I was at the security post with two other officers, Bobby Davis and Glen Savery, when a visitor walked up to the KCET entrance. Mr. Davis, who was about to start his shift, recognized the visitor from the previous day. The visitor asked to view the public file and, when asked, would not provide identification.
7. I do not recall the visitor requesting to speak to a station manager, nor do I recall Mr. Davis or I denying any such request.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on March 7, 2011.

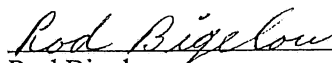


Rod Bigelow

Exhibit D

DECLARATION OF CLAUDIA FRANCK

1. My name is Claudia Franck. I am the Executive Assistant to the President and Chief Executive Officer of Community Television of Southern California, licensee of noncommercial educational television Station KCET, Los Angeles, California ("KCET"). The representations contained in this Declaration are based upon my personal knowledge of the events described in the Notice of Apparent Liability and Forfeiture (NAL/Acct. No.: 201132900003) ("NAL"), as well as my general knowledge of KCET operations and procedures.
2. On or about the morning of August 20, 2010, I received a called from Bobby Davis, one of KCET's security guards. Mr. Davis informed me that a visitor was requesting to view the public inspection file but would not provide his name or identification.
3. My desk is directly outside of the office of the President, Al Jerome. Upon receiving the call from Mr. Davis, I went into Mr. Jerome's office to discuss whether to permit an unknown visitor onto the lot when that visitor would not provide a name or identification. I recall that there were safety concerns because the visitor refused to provide his name.
4. After speaking with Mr. Jerome for approximately less than ten minutes, Mr. Jerome instructed me to explain to the visitor that he would be permitted to view the public file upon providing identification, as required by KCET's standard security measures. At that point, I called the security gate to inform the visitor that he could enter the premises if he provided a name or identification, but he had left by that time. Mr. Jerome instructed me that if the visitor returned, the visitor could be admitted to the station to review the public file as long as he provided a name or identification.
5. On or about the afternoon of August 20, 2010, I received a phone call from Mr. Davis, who informed me that the visitor had returned and wished to view the public file. Mr. Davis did not tell me that the visitor was an FCC agent.
6. I went downstairs to escort the visitor into KCET's officers to view the public file, which is kept near my desk. When I got downstairs, I went to his car window and said I would escort him to the office where the public file is maintained, but he would first need to provide identification. At this time, he revealed his identification and told me that he was an FCC agent.
7. Along with Mr. Davis, I then escorted the FCC agent to the office to inspect the public files.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on March 7, 2011



Claudia Franck

Exhibit E

DECLARATION OF AL JEROME

1. My name is Al Jerome. I am the President and Chief Executive Officer of Community Television of Southern California, licensee of noncommercial educational television Station KCET, Los Angeles, California ("KCET"). I have served in this position for fifteen years and have worked in the broadcasting industry for more than forty years. The representations contained in this Declaration are based upon my personal knowledge of the events described in the FCC Notice of Apparent Liability and Forfeiture (NAL/Acct. No.: 201132900003) ("NAL"), as well as my knowledge of KCET operations and procedures.
2. KCET is located on Sunset Boulevard in downtown Los Angeles.
3. KCET employs security guards who are posted at the lot entrance 24 hours a day. KCET has done so for as long as I have served as President of the station to protect its employees, facilities, and ability to continue operating without interruption.
4. I am familiar with the FCC's public file requirement that KCET allow a visitor to view the public file during business hours without having an appointment. However, I also have an obligation to ensure the safety of the station and its employees. At the time of the FCC agent's visit, I believed that the FCC's policies recognized safety concerns and permitted stations to employ reasonable security measures, including requiring visitors to identify themselves.
5. Following September 11, 2001, KCET tightened its security procedures for the station. Among other things, KCET closed off a back entrance to insure that all those entering or exiting the lot pass through the security guard at the front entrance.
6. In August 2010, KCET was presented with heightened security concerns as a result of recent events. At the beginning of August 2010, the L.A. Times and other press reported that KCET was considering ending its relationship with PBS. This press coverage created an outpouring of viewer feedback, most of which was negative and potentially hostile.
7. On or about August 20, 2010, my executive assistant, Claudia Franck, informed me that a visitor had requested access to the station's public file, but he would not provide his name as required by KCET's routine security procedure.
8. In light of the security concerns resulting from these recent events, I agreed that the visitor needed to provide a name or an identification, consistent with KCET's standard security protocols. This decision was based solely on my desire to protect the safety of the station and its employees and the suspicion raised by the visitor's refusal to identify himself. I could not think of a legitimate reason why he would not give his name or other identification. I did not intend to harass him or discourage him from viewing the public file, provided he complied with our security procedures.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on March 7, 2011.



Al Jerome

Exhibit F

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On the Media: Struggling KCET examines its options

The public TV station might form a consortium with other area PBS affiliates, sell its studios or even leave the network to improve its financial fortunes, programming slate and public profile.

August 04, 2010 | James Rainey

Just three years ago, L.A.'s high-minded public television station threw in its lot with that maven of flashy, commercial TV, Fred Silverman. Some might have feared that teaming with the champion of "Charlie's Angels" and "Three's Company" would disfigure KCET.

Instead, the onetime network programming guru helped craft a thoughtful roster of locally oriented programs. One show would adapt theatrical productions for the small screen, another would let politicians mix with voters, while still another would reenact heroic deeds.

But KCET's bid to reinvigorate itself fell flat. The station's problem was not Silverman's ambitions — which turned out to be middle- to highbrow — but raising enough money to make it happen. The station did not find the underwriters. The programs died before they ever got off the wish list.

Cue the Great Recession. Watch the audience splinter to other broadcast and online media.

Now KCET faces even bigger identity and financial challenges, and it's looking at solutions more radical than getting advice from the godfather of "Jiggle TV."

The options include selling the station's historic Sunset Boulevard studios or banding together with KOCE of Orange County and other local public TV stations to save costs and coordinate programming. Or there's the nuclear option — dropping out of the PBS network and going independent.

KCET's chief executive, Al Jerome, and its board chairman, Gordon Bava, dropped the bombshell about one of public television's largest stations possibly going solo when I talked to them this week. They had heard I'd been asking around regarding recent layoffs and a dearth of locally produced programming.

The next thing I know, the KCET bosses are talking about how egregiously PBS overcharges to be part of it, challenging headquarters to get its own financial house in order and suggesting how — though they want to remain — they might be forced to forge out on their own.

The KCET loyalists who originally contacted me didn't have a problem with the talk of rebellion. But they also complained that the station needs to clean up some messes of its own — including trimming what they called a top-heavy management and setting a more consistent plan for the future.

Stations in New York, Boston and Washington have been the big players in creating shows for the 358-station PBS audience. KCET has been a more modest contributor, with a few nationally acclaimed programs, such as the preschool education series "A Place of Our Own" (and the Spanish-language version, "Los Niños en Su Casa"). But in recent years it has focused more on catering to its Southern California base.

The local newsmagazine "SoCal Connected" (Full disclosure: I did one commentary for the show and have talked to a producer about doing more) recently won five local Emmy Awards. But that weekly show, despite its numerous awards, doesn't have the money to stay on the air year-round.

"I don't think KCET is very pertinent to the community now," said one longtime employee, who asked not to be named for fear of alienating the station's bosses. "It makes me sad that a lot of people don't even know who we are."

The station's leaders pin a lot of their problems on the annual payments of \$6.8 million owed to PBS. They complain that they pay a lot more than other stations and without even getting exclusivity to PBS programs like "Nova" and "Frontline" in Southern California, as KOCE can air some of the same programs, usually a few days after KCET.

"Taken to its logical extreme, PBS would have us just retransmit their programs and pay a lot of dues, which is what the vast majority of the stations do," said Bava, the KCET chair. "But that is not our history, or what our local talent dictates or what this city demands. It's not how we can best serve our citizens."

PBS spokeswoman Anne Bentley disputed KCET's reasoning and said that the station pays about the same percentage of its operating revenue to the network as other affiliates. She said the station got the lion's share of its shows, and many other benefits, from being with the network. And Bentley rejected the notion that PBS hasn't done its own substantial belt-tightening.

KCET's leaders said they would like to become a more limited partner with PBS, which would give them access to just a quarter of the network's programming but also cut their dues substantially. That would be similar to the arrangement for KOCE.

KCET hopes it might form a consortium with its Orange County cousin and two other public stations — the Los Angeles school district's KLCS and the Inland Empire's KVCR — to offer a full range of PBS programs in Southern California.

The consortium would also allow the four stations to combine some operations, cut back office costs and coordinate fundraisers so viewers would not be pummeled by multiple on-air pledge drives at the same time. The arrangement would allow KCET to plow money saved from dues reductions back into new programs.

The dues issue has become particularly sensitive as donors big and small have pulled the purse strings tight. An operating budget (not counting money raised for programs) that stood at \$37.4 million for the year ending in June 2009 is expected to be slashed by \$10 million in the current year.

A few rounds of layoffs have reduced the staff from 170 to 132. Jerome said three vice presidents have been cut in the last two years, leaving a dozen that rank or above. In 2007, the last time a public report was filed on the nonprofit's operations, eight executives earned around \$200,000 or more. Jerome's salary then was \$388,000.

Potential buyers have been touring the Silver Lake property. A sale of the studios, which have been operating since 1912 (under various owners), could be a possible source of cash. The station's leaders say they simply can't continue business as usual.

They described an exit from PBS only as a last resort. Jerome said he is confident that a compromise can be reached. If not, he said, he has no doubt that KCET would thrive without "The News Hour," "Sesame Street" and "Frontline," though he is not ready to say exactly what the station would offer in their places.

It's hard to put a huge amount of faith in promises of big things to come, given the station's history of unfulfilled plans.

Still, it remains an article of faith of many that Los Angeles simply has too much creative and entrepreneurial power to be anything less than a leading light in the public television constellation.

Just for starters, couldn't KCET create a new show featuring the Los Angeles Philharmonic and its charismatic young musical director, Gustavo Dudamel? Wouldn't a Spanish-language version of the program find an audience, even in Central and South America? What about tapping into the local music or acting communities?

As Silverman's volunteer stint a few years back proved, there is no shortage of ideas of what KCET could and should be. There's mostly been a shortage of funds, thrift and follow through. At our public television station, it's time for a little more walk and a little less talk.

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KCET without PBS? Audience says no

KCET's switchboards were recently abuzz after operators floated the idea of possibly severing PBS ties. But large dues and budget woes leave the station with little room to maneuver.

August 07, 2010 | James Rainey

The honchos over at KCET weren't quite prepared for the sound and fury vented by their audience this week when they let it slip that the station might drop out of the Public Broadcasting Service.

So until they got their talking points straight, the public television operators shut down the switchboard for a couple of hours Wednesday. When the lines reopened later that day, KCET operators got an earful about the potential loss of "Nova" and "The News Hour" and questions about what replacement programming might be on the way and why those dreary pledge drives must drag on so long.

The lesson: Don't threaten to roust Big Bird from his roost until a new nest has been made. Instead, KCET has flown into a squall of criticism about its operations and future direction. It's not apparent how it will make a safe landing.

I don't blame the bosses at the station for trying to get out from under some of the \$6.8 million in annual dues they owe PBS, which got inflated because of a burst of one-time fundraising by the L.A. station a few years back.

That's not to say that management couldn't have planned better for this fee bubble or that it can easily dismiss a lot of other complaints — about the paltry amount of local programming, the potential drag of executive pay (with most of the dozen employees ranked vice president or higher making around \$200,000 a year and up) and about broad, and growing, pledge-drive fatigue.

Recognizing the danger of asking people for more money at the same time you are telling them their favorite programs may be pulled off the air, KCET canceled its on-air solicitations on Wednesday and Thursday nights.

Station Chief Executive Al Jerome said management wasn't afraid of public reaction. It simply needed a couple of days, he said, to make sure workers at the Utah center that handles viewer calls were prepared for questions. Pledge programs will resume Saturday night.

In truth, these on-air solicitations have been a conundrum throughout the public television universe for years. Stations shift to alternative programming — cue "Roy Orbison & Friends" or "Ed Sullivan: Rock & Roll Classics" — to pry money from the heavily baby boomer audience.

As PBS viewers have fled to other stations (the same kind of fragmentation felt throughout the media), the dollars captured per hour have dropped. To keep their budgets up, managers extend pledge programming hours. Viewers get tired of infomercial-style pitches, driving even more away. And the cycle continues — managers taking even more hours away from regular programming to raise money.

In the fiscal year just ended in June, KCET spent 528 hours pitching for dollars, up 9% from the year prior but still far short of KOCE in Orange County, which has about twice that many hours of pledge programming, said Jerome.

After The Times broke the news Wednesday that KCET had threatened (albeit only as a last resort) to drop PBS and find alternative programs, Beryl Arbit of Encino e-mailed me. "I'd miss 'Great Performances,'" Arbit said, "but I sure as heck would NOT miss the interminable pledge drives. I have to think some actuary has concluded that the payoff in pledges exceeds the piss-off factor of viewers, but I'm not convinced."

In other e-mails, onetime KCET loyalists said they had grown tired of constant solicitations by phone and mail. They said that it took a lot of complaining to put a stop to the deluge of calls and letters.

One KCET insider, who didn't want to be named, said public television stations have been talking for at least a decade about how to get out of the pledge box. But they haven't found many good answers.

"We can't keep going back to the same well," said the employee. "But no one can figure out an alternative. And it still does bring in the bucks."

KCET boss Jerome wants to combine with public television stations in Orange County, the Inland Empire and the Los Angeles school district to form a consortium that would divvy up programs, fundraising and production.

A study by the consultant Booz & Co. estimates that the collaboration with KOCE, KVCR and KICS would produce savings and new earnings totaling \$13 million a year. The parent Corporation for Public Broadcasting has expressed support for such an alliance.

But the question of relieving KCET of its dues — based on a formula that counts local fundraising for both regular operations and special productions — won't be so easy to resolve. PBS leaders worry that if they reduce the \$6.8 million the Los Angeles station pays a year it would set off a rush of demands from other stations for fee relief. Loss of dues could threaten the very programs that made PBS a premium brand in the first place.

Jerome reiterated in an interview Friday that KCET simply can't continue with the current dues structure, though he said he is "very optimistic" that a compromise can be reached that would keep the station with PBS.

2/14/2011

Kcet - KCET without PBS? Audience say...

Some public television insiders initially thought KCET might be bluffing about leaving PBS as leverage to lower its dues. But they told me they now take the threat seriously — in part because of rumors that the station has been looking at alternative programs.

Internet chat rooms have bristled with possible alternatives, including that Orange County-based KOCE would simply take over as the dominant public television station in Southern California. But KOCE Chief Executive Mel Rogers said that, contrary to rumor, he doesn't want to push his big competitor to the north side.

"I think it's better for us and better for the market if KCET and PBS can work something out," Rogers said, "and I still think they will work something out."

In the meantime, KCET has touched off a summer storm. Luckily, the switchboard has reopened. It can expect to be getting a lot more than pledge calls.

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Exhibit G



COMMISSION DECISIONS

17. It is further ordered, that the Western Union Telegraph Company make such changes in its telex tariff (Tariff FCC 240) as are necessary to make its Telex Computer Communication Service available for the direct delivery of inbound international messages to domestic telex subscribers on a 24 hour, 7 day a week basis.

18. It is further ordered, that, in the event WU is unable to make the Telex Computer Communication Service available on a 24 hour, 7 day a week basis, the inbound delivery of all international telegrams shall be provided via its domestic telex system without going via the TCCS.

19. It is further ordered, that such actions and tariff changes be effective within a period of 15 days from the date of release of this order and that The Western Union Telegraph Company is granted permission to file such tariff changes on not less than five days notice to the Commission and the public.

20. It is further ordered, that the petitions for clarification filed by RCA Global Communications, Inc. and Western Union International, Inc. are granted to the extent indicated above, and in all other respects are denied.

FCC 71-1267
72995

In the Matter of)
)
Petition for Stay and)
Reconsideration filed by)
Station WAPA-TV of the)
Commission's letter and)
Public Notice concerning a)
licensee's local public file.)

Adopted: December 15, 1971
Released: December 17, 1971

[¶51:526] Inspection of station's local public file.

Licensees may require personal identification (names and addresses) of those wishing to inspect their public files. Licensees may not require persons seeking access to such files to identify the organization or organizations to which they belong or which they represent. WBRN, Inc., 23 RR 2d 384 [1971].

MEMORANDUM OPINION AND ORDER

By the Commission: (Commissioner Johnson absent.)

1. On November 3, 1971, the Commission adopted a letter to the licensee of Station WBRN, Big Rapids, Michigan, stating that pursuant to §1.526(d) of the Rules, "those records which are required to be made available for public



inspection must be accessible to the public during regular business hours and such records should be provided to members of the public on request without requiring that they identify themselves, their organization, or the particular documents they wish to inspect." A Public Notice based on the letter to WBRN was issued on November 9, 1971.

2. The licensee of Station WAPA-TV 1/, San Juan, Puerto Rico, filed a petition requesting that the Commission stay the effectiveness of its "Order" (Public Notice) of November 9, reconsider and reverse its ruling in the Public Notice and its letter to WBRN and amend §1.526(d) by adding the following:

Nothing in this Chapter shall prevent the licensee's requiring appropriate identification (i. e., name, address, and organization represented) of the person requesting such inspection as a condition for inspection of the station's public file.

3. The principal arguments advanced by WAPA-TV and the other petitioners are: (1) Unless licensees are permitted to require the names and addresses of the persons seeking to inspect their public files they will have no proof that the persons were permitted to do so if allegations are later made that access was denied; (2) Licensees need to require identification of visitors because of security problems related to the building as well as to the records themselves; (3) A visitors' roster including names, addresses and organizations would assist in facilitating a dialogue between the licensees and interested members of the public; and (4) The Commission itself requires visitors wishing to inspect its public files to fill out a form providing such information as date, name, firm represented, and city.

4. We have considered the various requests and we believe that amending our previous ruling to the extent of allowing licensees to require personal identification (names and addresses) of those wishing to inspect their files would represent a reasonable balancing of interests. However, we are not persuaded that the public interest would best be served by permitting a requirement that persons seeking access to such public files identify the organization or organizations to which they belong or which they represent. Any member of the public is entitled to inspect the files regardless of membership in or representation of an organization, and we believe that a requirement for such

1/ Similar requests have been filed by the following: National Association of Broadcasters; Hubbard Broadcasting, Inc., licensee of Stations KSTP, KSTP-FM and KSTP-TV, St. Paul, Minnesota, KOB, KOB-FM and KOB-TV, Albuquerque, New Mexico, WGTO, Cypress Gardens, Florida, WOTG-TV, Ocala, Florida, and WTOG(TV), St. Petersburg, Florida; WBEN, Inc., licensee of Stations WBEN, WBEN-FM and WBEN-TV, Buffalo, New York; Chronicle Broadcasting Co., licensee of Stations KRON-FM and KRON-TV, San Francisco, California; Screen Gems Stations, Inc., licensee of Stations KCPX, KCPX-FM and KCPX-TV, Salt Lake City, Utah, WVUE(TV), New Orleans, Louisiana, and WNJU-TV, Linden-Newark, New Jersey; Pappas Television, Inc., permittee of Station KMPH, Tulare, California; Capitol Broadcasting Co., licensee of Stations WRAL-FM and WRAL-TV, Raleigh, North Carolina; Metromedia, Inc.; Storer Broadcasting Company; and WHAS, Inc., licensee of Stations WHAS, WHAS-FM and WHAS-TV, Louisville, Kentucky.



disclosure would be likely to do more harm than good, in that it might tend to discourage some persons from seeking access to the public files. In this connection, we emphasize that licensees are expected to carry out the provisions of §1.526 of the Rules in good faith. Evidence that a licensee has sought to harass, intimidate or otherwise discourage members of the public from inspecting its public files will be considered at renewal time as a factor raising substantial questions as to the public interest which would be served by renewal of the license.

5. Lastly, we find no adequate reason for amending §1.526 of the Rules as requested by Petitioner. As stated above, we believe it inadvisable to permit a requirement of identification of organization, and we have amended our prior interpretation of the Rule to allow a requirement that persons seeking access to public files give their names and addresses. In light of these facts, we believe it unnecessary to amend the language of the Rule itself.

6. Accordingly, it is ordered, that the Petitions for Stay and Reconsideration, are hereby granted to the extent set forth above and otherwise denied.

FCC 71-1257
74021

In re Application of
INTERNATIONAL PANORAMA TV, INC.
Fontana, California
For Renewal of License of Television
Broadcast Station KLXA-TV
Fontana, California

File No. BRCT-645

Adopted: December 15, 1971
Released: December 20, 1971

[J51:580] Extension of time to file petition to deny renewal application.

Request for an extension of time to file a petition to deny a renewal of license application, filed on the deadline date for filing a petition to deny, is denied. Petitioner alleged that the station's public file was not available on several occasions. The licensee alleged that the public file was made available whenever requested by the public. On at least three occasions petitioner's allegations were based on the assistant general manager's absence from the station. However, petitioner did not indicate whether it asked to see the public file or merely asked if the assistant general manager was in his office. International Panorama TV, Inc., 23 RR 2d 386 [1971].

Exhibit H

C

13 F.C.C.R. 17959, 13 FCC Rcd. 17959, 1998 WL 637300 (F.C.C.)

NOTE: An Erratum is attached at the end of this document.

Federal Communications Commission (F.C.C.)

Public Notice
 AVAILABILITY OF LOCALLY MAINTAINED
 RECORDS FOR INSPECTION BY MEMBERS
 OF THE PUBLIC

DA 98-1895

Released: September 18, 1998

In light of our recent modifications to the main studio and public inspection file rules in the *Report and Order* in MM Docket No. 97-138, FCC 98-175 (August 11, 1998), the Mass Media Bureau takes this opportunity to reissue the statement the FCC made in 1971 regarding the availability of locally maintained records for inspection by members of the public. See *Public Notice* dated February 23, 1971, 28 FCC 2d 71 (1971). The availability of these materials is important given that, in recent years, the FCC has increasingly come to rely on the involvement and scrutiny by members of the public to monitor broadcast licensee performance. See *Deregulation of Radio*, 84 FCC 2d 968, 1011 (1981).

With our recent decision to give stations greater flexibility about where to locate their main studios, and to drop our requirement that a station's public file be in its community of license, it is appropriate to remind licensees, permittees, and applicants of their duty to afford ready access to the public file. Thus, a station may not require that a member of the public make an appointment in advance or return at another time to inspect the public file, or that members of the public examine the public file only at times most convenient to the licensee or its

staff. We also remind all licensees, permittees and applicants that such records are to be provided on request to members of the public visiting the station and without requiring that they identify themselves, their organization, or the particular documents they wish to inspect. See *In Re Complaint by Cecily Little and Jacqueline Klein*, 32 FCC 2d 474 (1971). Finally, as we have in the past, we encourage stations to set aside an area with a table at which the public may inspect public file materials. *Public Notice*, 28 FCC 2d at 71-72. This Public Notice is simply to reiterate the points made in the 1971 Public Notice concerning a licensee's obligation to ensure access to its public file to members of the public visiting a station in person; these obligations are separate and apart from the Commission's recently adopted requirements regarding the provision of certain information and materials to members of the public who make telephone requests for public file documents. *Report and Order* in MM Docket No. 97-138, FCC 98-175, at ¶¶24-26.

Mass Media Contact: Vicky McCauley 418-2130

ERRATUM

Erratum Released: September 28, 1998

On September 18, 1998, the Mass Media Bureau issued a Public Notice reminding licensees of their obligations concerning the availability of the public inspection file. That Public Notice mistakenly relied on *In Re Complaint by Cecily Little and Jacqueline Klein*, 32 FCC 2d 474 (1971), in stating that stations may not request identification from parties seeking entry for purposes of inspecting the public file. This case was subsequently modified by the decision in *WBRN, Inc.*, 32 FCC 2d 729 (1971), to permit stations to require personal identification (name and address) of members of the public seeking access to the public file, although stations may not require that they identify the organizations they represent. Attached is the corrected Public Notice. Public Notice DA 98-1895 is hereby corrected.

13 F.C.C.R. 17959, 13 FCC Rcd. 17959, 1998 WL
637300 (F.C.C.)

END OF DOCUMENT

Exhibit I



**MEDIA SECURITY AND RELIABILITY COUNCIL
Adopted Best Practices Recommendations**

**Communications Infrastructure Security,
Access & Restoration Working Group**

Prevention Task Force

National Recommendations

1. All media companies should reassess their vulnerabilities considering the possibility of deliberate attacks in addition to natural disasters and equipment failures and take appropriate measures to prevent loss of service and to expedite rapid recovery.
 - .1 In contemplating the possibility of deliberate attacks, vulnerability assessments should consider system redundancies and their geographic distribution.
 - 1.2 Because commercial communications satellites are the predominant means of national signal distribution for mass media, the vulnerability of the satellite infrastructure, especially TT&C, should continue to be examined and reinforced.
 - 1.2.1 Each major source of news should consider alternatives to commercial communication satellites (*e.g.*, DBS satellites, Internet, etc.) as a last-resort backup means of signal distribution, even if technical signal quality is substantially degraded under such conditions.
1. Under government declared emergency conditions, news media should consider agreements that allow unconventional flexibility in local use and retransmission of the content to serve the public interest.
 - .1 In order to cost-effectively gain additional geographic diversity, news networks should consider the possibility of a backup carriage plan with other non-news networks that can be exercised under government declared emergency conditions.

Local Recommendations

1. Each local media facility (television stations, radio stations and cable headends) should have a vulnerability assessment and disaster recovery plan that is periodically reviewed, updated and practiced.
2. Local media (television stations, radio stations and cable operators) in each market should cooperate to assess their collective vulnerability and to develop reciprocal agreements and a cooperative emergency response plan to ensure that some media will remain in service even under extreme circumstances.
 - .1 Vulnerability assessments should consider the location and geographic distribution of key facilities in the market, such as news studios, ENG receive sites, towers and cable headends.
 - .2 Vulnerability assessments and cooperative emergency response plans should consider the scenario of widespread power outage and the resulting importance of radio to reach battery powered and automotive receivers.

Radio Best Practices

Physical security

5. Radio broadcasters should have appropriate physical security, augmented by security personnel and/or video surveillance at their key facilities, including studios/newsrooms, satellite transmit and receive sites and antenna/transmitter sites.

Backup Power

6. Radio Broadcasters should employ diverse power grid sources wherever feasible.
7. Radio broadcasters should take appropriate measures to provide backup power capabilities for their key facilities, including studios/newsrooms, satellite communications and transmitters.
8. Radio broadcasters with local news origination should ensure that they have robust and redundant ways to communicate with external news services and remote news teams, such as the use of mobile radio and Internet to augment cell phones.
9. Radio broadcasters should have backup signal feeds to their primary satellite transmit and receive sites.

10. Radio broadcasters should have redundant signal paths to their primary and backup transmission facilities.

Redundant Facilities

11. Radio broadcasters with local news origination should plan to have emergency origination capability at a separate location from their primary studio (e.g., backup studio, transmitter site, remote van, another station, etc).
 - 11.1 Radio broadcasters with local news origination should have a remote vehicle, or some means of delivering live news and information from a remote site.
 - 11.2 Radio broadcasters should have the capability of receiving a remote feed at an additional site from their primary studio (e.g., directly at their tower site, at a backup studio, etc).
12. Radio broadcasters should have a backup satellite transmitter and receiver, or an alternate means (e.g., a Satellite Radio receiver, a dedicated phone line or a streaming audio Internet connection) to send and receive signals from and to national news services in emergency situations.
13. Radio broadcasters should have a backup transmitter, and should attempt to make practical arrangements for geographic diversity where possible (e.g., provisions for emergency use of other backup transmitter/antenna facilities in the community or other means).
14. With the cooperation of federal and local policy makers, all radio broadcasters in a market should collaborate to increase their collective site diversity and redundancy, including their collective news studios, operations, satellite transmit and receive facilities and transmitter and antenna sites.

Local Television Best Practices

Physical Security

15. Television broadcasters should have appropriate physical security, augmented by security personnel and/or video surveillance at their key facilities, including studios/newsrooms, satellite communications facilities and antenna/transmitter sites.

Backup Power

16. Television broadcasters should employ diverse power grid sources wherever feasible.

17. Television broadcasters should take appropriate measures to provide backup power capabilities for their key facilities, including studios/newsrooms, satellite communications and transmitters.

Redundant Communications

18. Television broadcasters with local news origination should ensure that they have robust and redundant ways to communicate with external news services and remote news teams, such as the use of mobile radio and Internet to augment cell phones as well as some means of receiving remote feeds (e.g., directly at tower site or at a cable headend) and delivering live news and information from a remote site (e.g., ENG/SNG truck).
19. Television broadcasters should have backup signal feeds to their primary and backup satellite transmit and receive sites.
20. Television broadcasters should have redundant signal paths to their primary and backup transmission facilities.

Redundant Facilities

21. Television broadcasters with local news origination should plan to have emergency origination capability at a separate location from their primary studio (e.g., backup studio, transmitter site, ENG remote, another station, cable headend, etc).
 - 21.1 Television broadcasters with local news origination should have an ENG or SNG truck, or some means of delivering live news and information from a remote site.
 - 21.2 Television broadcasters should have the capability of receiving a remote feed at an additional site from their primary studio (e.g., directly at their tower site, at a backup studio, etc).
22. Television broadcasters should have a backup satellite transmitter and receiver, or an alternate means (e.g., a DBS receiver, or a streaming video over a broadband Internet connection) to send and receive signals from and to national news services in emergency situations. (We recognize that there may be copyright issues involved but recommend that operators negotiate a reasonable solution).
23. Television broadcasters should have a backup satellite transmitter and receiver, or an alternate means (e.g., a Satellite Radio receiver, a dedicated phone line or a streaming audio Internet connection) to send and receive signals from and to national news services in emergency situations.

- 23.1 Television broadcasters should examine the possibility of their DTV facilities providing emergency backup capabilities to their analog facilities.
24. Television broadcasters should provide the same prevention approaches to their DTV facilities, to the extent economically feasible.
25. With the cooperation of federal and local policy makers, all television broadcasters in a market should collaborate to increase their collective site diversity and redundancy, including their collective news studios, operations, satellite transmit and receive facilities and transmitter and antenna sites.

Cable Television Best Practices

Physical Security

26. Cable Operators should have appropriate physical security, augmented by security personnel and/or video surveillance at their key facilities, including their headend, hub, plant and customer service facilities.

Backup Power

27. Cable Operators should employ diverse power grid sources wherever feasible.
28. Cable Operators should take appropriate measures to provide backup power capabilities for their key facilities, including their headend, hub, plant and customer service facilities.

Redundant Communications

29. Cable systems should have backup satellite receivers for their major news and information channels. In cases where a backup satellite receiver is unaffordable or impractical, cable operators should consider the use of DBS receivers at headend and/or hub facilities for use in emergency situations.
30. Cable systems should have redundant signal routes as far out in their network as economically practical.

Redundant Facilities

31. Cable Operators should take appropriate measures to provide redundant and geographically diverse equipment for their headend, hub and plant facilities, appropriate to the system's operations and facilities.

- 31.1 Cable systems should have capability in an emergency situation to provide some news or information from a location other than their primary headend, where economically practical.
32. Cable systems should have some capability to obtain news and information in an emergency situation, such as their own studio or an arrangement to receive signals from local television broadcasters or cable program providers (e.g., ENG/SNG trucks or satellite links).
33. All Cable Operators in a market should collaborate, where possible, to increase their collective site and equipment diversity, redundancy and interconnections.
34. All Local Media (e.g., Television Broadcasters, Cable Operators and Radio Broadcasters) in a market should collaborate to increase their collective geographic diversity and to establish redundant interconnections capable of supporting emergency operations.
 - 34.1 Cable systems and local broadcasters in a market should work jointly to develop prevention plans and to improve the redundancies in their interconnections.
 - 34.2 Radio broadcasters should work with television broadcasters and cable operators to establish diverse primary and backup signal feeds from local television broadcasters and cable systems for use in emergency situations.

Restoration Task Force:

1. Radio and television broadcasters, cable companies, direct broadcast satellite (DBS) and digital satellite radio providers, and other delivery media should develop and implement written disaster recovery plans, geared not only to short-term disruption but to the possibility that primary transmission and studio facilities may suffer catastrophic failure.
2. Television and radio stations and other media organizations should update their disaster recovery plans as events warrant, and regularly conduct emergency drills at least once a year.
3. FCC licensees, MSOs, and other electronic media organizations (including television, radio, cable, DBS, digital satellite radio, and telecommunications) should establish market-by-market restoration committees.
4. Radio and television stations and cable systems should implement studio and transmitter reciprocity arrangements to ensure signal availability in all markets.

5. Television stations should develop plans for utilization of ENG trucks as emergency alternate studios, with microwave links at transmitter sites for both analog and digital service.
6. Television stations should create plans for alternate paths to cable headends. Alternate emergency distribution paths could include: DTV transmitter to cable headend, downconverted to NTSC; SNG to DBS to cable headend and DBS to homes; cross-connecting cable systems; opening local-to-local DBS service to all subscribers on an emergency basis; low data rate Internet links; and portable microwave links.
7. Radio and television stations should develop recovery timelines in situations where backup facilities exist. Stations with backup facilities should be prepared to provide service within 15 minutes of loss of primary facility.
8. The Federal Emergency Management Agency (FEMA), or another appropriate federal entity, should acquire and administer emergency response broadcast equipment packages. These containerized recovery systems would be stored in regional depots for use in emergency situations and would include self-contained VHF, UHF, AM and FM transmission units and mobile generators, along with sections for 500-foot and 100-foot towers. The federal government should also have the authority to designate emergency channels for television and radio where needed.
9. Federal preemption authority should be established during declared emergencies for replacement towers and other essential broadcast and delivery media needs.
10. Radio and television stations should have the ability to access alternate telecommunications capabilities. These may include: satellite phones, amateur radio facilities in studios, and alternate 450 MHz communication repeater sites with portable handheld units.

Future Technologies/Digital Solutions Task Force

1. Government should coordinate development of a Media Common Alert Protocol (MCAP). This protocol should be designed to deliver emergency messages via digital networks. It should flow over all methods of digital transport and be received by all digital receivers. This protocol should be optimized for point-to-multi-point networks and devices only.
 - .1 Key attributes of the MCAP should be addressability, scalability, interoperability and prioritizing.
 - .2 Industry organizations and companies should develop standards and specifications for carriage of MCAP on various media.

2. The existing tool set of digital television, comprised of standards for over-the-air, cable and satellite, should be leveraged in the development of new emergency notification standards and practices. Many of the existing capabilities are readily applicable, including but not limited to multiple video and audio channels, uniform channel designation, closed captioning and the ACAP middleware standard.

Public Communications and Safety Working Group

1. A single federal entity should be responsible for assuring:
 - Public communications capabilities and procedures exist, are effective, and are deployed for distribution of risk communication and warnings to the public by appropriate federal, state and local government personnel, agencies and authorities.
 - Lead responsibilities and actions under various circumstances are established at federal, state and local levels within the overall discipline of emergency management.
 - A national, uniform, all-hazard risk communication warning process is implemented from a public and private consensus on what best meets the needs of the public, including people of diverse language and/or with disabilities, including sensory disabilities.
2. Effective delivery of emergency information to the public should be achieved through a public/private partnership that makes coordinated use of mass media and other dissemination systems to quickly reach large numbers and diverse groups of the public at risk to deliver emergency information to the public.
3. Consistent with best practices in emergency management and business continuity planning, local and state governments and the media should cooperate to create, review and update emergency communications procedures, such as EAS, Amber plans and their components, to quickly disseminate critical information to the largest possible audience.
 - .1 Effective use should be made of current, emerging, and legacy systems, including television, radio and weather radio that includes EAS.
 - .2 Local media must be included in the creation of the communications and warning plan and understand their key role in its successful implementation.
 - .3 The skill set of both federal and local agency participants should include training and process knowledge of how to work with and the benefits of utilizing the media to inform the public in a timely fashion during emergencies. Emergency managers should have a working knowledge of how to access EAS and other public warning systems.
 - .4 Local media should assist government to create and deliver more effective public education about emergencies and preparedness.

- .5 Local media should agree to develop consistent presentation guidelines to ensure that all emergency delivery systems work well together to accurately deliver emergency information to the entire community.
 - .6 Government and local media should conduct regular testing and rehearsals of emergency communications plans.
1. All local media should form emergency jurisdiction/market cooperatives to assure delivery of local government emergency messages in a coordinated way to all constituencies in the community.
 - .1 Local media in each market should be encouraged to create media pools for risk communication and warning; in markets where pools exist, a working committee should take the pool to the higher level of security, isolating it from the traditional news coverage pool concerns.
 - .2 Local media should consider the creation of a Local Emergency Communications Coordinator position to serve as single media point of contact for government and develop a cooperative relationship with the local government lead agency.
 - .3 Media and government jurisdictions should agree to take pre-planned actions upon authenticated notice from authorized government agencies, and incorporate these pre-planned actions in overall emergency management training exercises.
 - .4 Local media and appropriate public safety and other government agencies should establish local and state emergency communication committees to plan well coordinated community responses for disasters.
 - .5 Local media should engage in coordinated activities to assure the flow of emergency information using multiple languages and means to make this information available to persons with disabilities in their communities.
 - .6 Pre-planned coordinated activities/roles appropriate to local conditions for each media under various scenarios (e.g., the type and number of delivery systems continuing to function) should be created, developed, rehearsed and tested.
 - .7 In particular, emergency communications plans must take into account the probability of widespread power outages when AM

and FM radio is the only way to communicate to battery powered receivers in the community.

1. As the nation's current means to issue timely warnings through mass media, the Emergency Alert System should be periodically tested, upgraded as necessary, implemented and maintained at the local, state, and national levels.
 - .1 EAS equipment should be uniformly implemented to make use of the latest EAS codes approved by the FCC.
 - .2 Written state and local EAS plans should be brought up to date with close participation by broadcasters and cable operators.
 - .3 Wired and wireless paths to EAS entry points from warning sources designated in state and local EAS plans should be in good working order.
 - .4 The Primary Entry Point system that gives the President the ability to address the nation through EAS should be in good working order and be regularly reviewed and improved if necessary in terms of reliability, reach and robustness.
1. Research into development of alternative, redundant and/or supplemental means of communicating emergency information to the public should be accelerated.
 - .1 An expanded government partnership with the media, consumer electronics and computer industries should harness free market innovation, foster competition, and enhance interoperability to meet changing national warning needs.
 - .2 The partnership should explore the use of emerging new technologies to improve and/or complement existing infrastructures and to leverage emerging new infrastructures.
1. Local jurisdiction/market cooperatives should be encouraged to share their locally developed best practices for coordinating their efforts, delivering risk communications and warnings to their diverse public constituencies, and joint continuity planning to maintain communications under crisis conditions.