

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Promoting Diversification of Ownership	)	MB Docket No. 07-294
In the Broadcasting Services	)	

To: Secretary, Federal Communications Commission  
Attention: The Commission

**JOINT COMMENTS  
OF PUBLIC TELEVISION AND RADIO LICENSEES**

The group of sixty-eight (68) public television and radio station licensees shown below (collectively, "Public Broadcasting Licensees"), by their attorneys, submit these joint comments responsive to the *Sixth Further Notice of Proposed Rulemaking* in MB Docket No. 07-294, FCC 12-166 (released January 3, 2013) ("*Six Further Notice*"), proposing, among other things, changes to the substance and filing process for the FCC's noncommercial educational Ownership Report Form 323-E, and elimination of the "Special Use" FRN for attributable individuals that are reported on ownership reports.

The Public Broadcasting Licensees are public and private universities and university systems, state educational communications authorities, boards and commissions, community and technical college and public school districts, and non-profit community-based media enterprises. Collectively, they are licensees of hundreds of full power public television and radio stations, and numerous television and FM translator stations and related facilities, over which they provide an incredible array of services to their local communities.

### NCE Broadcasting and Concepts of Ownership

Under Sections 73.503(a) and 73.621(a) of the Commission's rules, all NCE station licensees have to be "nonprofit educational organizations." In the case of the Public Broadcasting Licensees, these nonprofit educational organizations include governmental agencies, public and private educational institutions and private non-stock entities that exist to serve educational and public service purposes. These entities do not issue stock. They have no stockholders. No persons invest funds in exchange for an interest in these entities, and no persons have a right to any share of their revenue, net income or assets. They thus have no individual "owners."

Given the lack of any better handle on NCE station "ownership," and needing to assign ultimate responsibility for and control over broadcast station operations, the Commission has traditionally looked to an NCE station licensee's governance structure. Thus, the current Form 323-E seeks information about persons who serve on a licensee's governing board and the licensee's officers.

However, the practice of reporting governing board members on NCE station ownership reports does not make them owners. As board members of public or private nonprofit entities, their roles and motivations are not the same as those of owners of for-profit corporations operating commercial broadcast stations. No NCE board member has an investment stake in his or her NCE broadcast station, and board members are not motivated by a desire to maximize financial return to themselves. Typically, governing board members of NCE broadcast stations are (1) unpaid volunteers who support (often with both their time and their money) the educational and public service of the public broadcasting station in their community or region, (2) unpaid volunteers who serve on the board of an educational institution to which the station is licensed, or (3) elected or

commercial ownership reporting model, including filling out a time-consuming electronic reporting form and obtaining CORES FRNs for board members.

The Public Broadcasting Licensees believe that collecting and reporting “owners” data for NCE stations will do nothing to enhance data that seeks to reflect broadcast ownership in the United States. The Commission states in the *Sixth Further Notice* at ¶ 15 that the “fundamental objective” of the biennial Form 323 filing requirements (which it now proposes to extend to NCE stations filing Form 323-E) “is to track trends in media ownership by individuals with particular racial, ethnic and gender characteristics.” In pushing the idea that NCE stations need to report the gender and minority status of their “owners,” the Commission presumably suggests that data from NCE stations is necessary to provide a comprehensive nationwide picture of broadcast ownership. But in fact just the opposite is true. Including information about individuals who are *not* broadcast station owners will detract from the accuracy and usefulness of the data that are collected about ownership of commercial broadcast stations, because the data will be mixing two different sets of people -- some of whom are owners and some of whom are not.

Even if the Commission were to collect information on NCE station board members and then keep that data separately from commercial station ownership data, so as not to skew the real ownership data, significant doubts can be raised about whether the separate NCE data are then worth collecting. The Commission’s ultimate goal, and its motivation for collecting data about women and minority owners, is to devise strategies for increasing their presence in broadcast ownership. These strategies would presumably rely on market-based incentives to lower the economic or regulatory cost of ownership for these individuals. Plainly, however, given the nature of NCE station governance,

required to submit their social security numbers and are very reluctant to do so. Several of the Public Broadcasting Licensees also hold licenses for commercial stations (FM and Class A LPTV) and have been subject to the Form 323 reporting regime for those stations. Following the Commission's previous decision to require their board members to obtain FRNs, but before the FCC instituted the special use FRN option, they experienced vociferous objections from board members, including in one case an official of a state, and in another case a private citizen who resigned from the NCE board rather than disclose his social security number in the FCC FRN registration process. Based on this experience, and their understanding of board members' motivations and expectations, the Public Broadcasting Licensees believe that requiring their board members to provide social security numbers as a condition of service will discourage worthy individuals from volunteering, and will cause compliance difficulties for stations whose board members refuse to make the necessary disclosures.<sup>3</sup>

The Commission asks how, if it elects not to include a CORES FRN requirement for individuals reported on Form 323-E, it can ensure the accuracy of the data submitted. Quite frankly, the Public Broadcasting Licensees do not believe there is any issue with the accuracy of their or other NCE station ownership reports, and the Commission certainly doesn't suggest any reason why NCE licensees might be motivated to misrepresent their ownership information. The Commission has always relied on the good faith certification of an official of an NCE station on Form 323-E to ensure that the reported information is accurate, and this should continue to be sufficient.

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<sup>3</sup> Although the Public Broadcasting Licensees believe that the Commission should make no changes to the ownership reporting form and process for NCE stations at all, if it does proceed to adopt requirements for NCE stations similar to those for commercial stations, at the very least, the Commission should permit NCE stations to obtain special use FRNs without penalty.

continue with the current system of filing their biennial ownership reports at two-month intervals over two-year cycles based on the deadline for filing license renewals. The current rolling filing deadlines are easier for NCE stations -- only a relatively small number of stations has to prepare and file its Form 323-E at any given deadline. This permits licensees to develop the necessary information and seek and obtain individualized advice from counsel in a less pressing environment, contributing to the completeness and accuracy of the filings.

#### Conclusion

For the foregoing reasons, the Public Broadcasting Licensees urge the Commission to make no changes to Form 323-E and the associated filing process for the form.

Respectfully submitted,

ALASKA PUBLIC TELECOMMUNICATIONS,  
INC.

ARIZONA BOARD OF REGENTS FOR  
BENEFIT OF THE UNIVERSITY OF ARIZONA

ARKANSAS EDUCATIONAL TELEVISION  
COMMISSION

BOARD OF GOVERNORS OF MISSOURI  
STATE UNIVERSITY

BOARD OF REGENTS, UNIVERSITY OF  
WISCONSIN SYSTEM

BOARD OF TRUSTEES FOR SAN DIEGO  
STATE UNIVERSITY

BOARD OF TRUSTEES OF COMMUNITY  
COLLEGE DISTRICT NO. 508, COUNTY OF  
COOK AND STATE OF ILLINOIS

MICHIANA PUBLIC BROADCASTING CORP.

MILWAUKEE AREA TECHNICAL COLLEGE  
DISTRICT BOARD

MONTANA STATE UNIVERSITY

MOUNTAIN LAKE PUBLIC  
TELECOMMUNICATIONS COUNCIL

NEBRASKA EDUCATIONAL  
TELECOMMUNICATIONS COMMISSION

NORTHEAST INDIANA PUBLIC RADIO, INC.

NORTHEASTERN EDUCATIONAL  
TELEVISION OF OHIO, INC.

NORTHERN MINNESOTA PUBLIC  
TELEVISION, INC.

THE OHIO STATE UNIVERSITY

OHIO UNIVERSITY

OKLAHOMA EDUCATIONAL TELEVISION  
AUTHORITY

OKLAHOMA STATE UNIVERSITY

OREGON STATE BOARD OF HIGHER  
EDUCATION FOR THE UNIVERSITY OF  
OREGON

PACIFIC LUTHERAN UNIVERSITY, INC.

PRAIRIE PUBLIC BROADCASTING, INC.

PUBLIC BROADCASTING OF NORTHWEST  
PENNSYLVANIA, INC.

PUBLIC TELEVISION 19, INC.

REGENTS OF NEW MEXICO STATE  
UNIVERSITY

WEST CENTRAL ILLINOIS EDUCATIONAL  
TELECOMMUNICATIONS CORPORATION

WINDOW TO THE WORLD  
COMMUNICATIONS, INC.

WITF, INC.

WNIN TRI-STATE PUBLIC MEDIA, INC.

WSKG PUBLIC TELECOMMUNICATIONS  
COUNCIL

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February 14, 2013



STAMP & RETURN

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March 30, 2012

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

FILED/ACCEPTED

MAR 30 2012

Federal Communications Commission  
Office of the Secretary


Attention: Media Bureau  
Ownership Section

Re: Ownership Document  
University of Houston System  
KUHA(FM), Houston, TX (Facility ID 72685)  
KUHF(FM), Houston, TX (Facility ID 69150)  
KUHT(TV), Houston, TX (Facility ID 69269)

Dear Ms. Dortch:

On behalf of the University of Houston System, licensee of noncommercial educational radio stations KUHA(FM) and KUHF(FM), and noncommercial educational DTV station KUHT(TV), all in Houston, Texas, and pursuant to Section 73.3613 of the Commission's rules, we transmit herewith a copy of the licensee's Updated Bylaws. We ask that this document and this transmittal letter be associated with the Commission's ownership files for the above listed stations. Should any questions arise concerning this matter, kindly contact the undersigned.

Very truly yours,

  
Barry S. Persh

Enclosure



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## Bylaws - Board of Regents - University of Houston System

[Bylaws](#)[Board of Regents](#)[University of Houston System](#)

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August 17, 2011

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### Section 1: Authority and Responsibility of Governing Board

1.1 The Texas Legislature has vested the organization and control of the University of Houston System (hereafter referred to as "system") to the Board of Regents (hereafter referred to as "board"). Section 111.11, Texas Education Code.

1.2 Section 51.352. Responsibility of Governing Boards, Texas Education Code, sets forth the responsibility of the board as follows:

(a) It is the policy of this state that the governing boards of institutions of higher education, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard each governing board:

- 1) is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees;
- 2) shall enhance the public image of each institution under its governance;
- 3) shall interpret the community to the campus and interpret the campus to the community;

(b) In addition to other powers and duties provided by this code or other law, each system administration shall:

- 1) initiate, monitor, approve, and coordinate long-range planning for the system;
- 2) approve short-range institutional plans for operations and expenditures;
- 3) provide to component institutions technical assistance such as legal and financial services;
- 4) evaluate each component institution and assist the institution in the achievement of performance goals; and
- 5) perform such other duties as may be delegated to it by the governing board of its system.

2.3 Section 51.354. Institutional Responsibility, Texas Education Code sets forth the responsibility of system component institutions as follows:

In addition to specific responsibilities imposed by this code or other law, each institution of higher education has the general responsibility to serve the public and, within the institution's role and mission, to:

- (a) transmit culture through general education;
- (b) extend knowledge;
- (c) teach and train students for professions;
- (d) provide for scientific, engineering, medical, and other academic research;
- (e) protect intellectual exploration and academic freedom;
- (f) strive for intellectual excellence;
- (g) provide educational opportunity for all who can benefit from post secondary education and training; and
- (h) provide continuing education opportunities.

2.4 The board shall appoint a chancellor and such other executive officers of the system central administration office as may be deemed appropriate. The term of appointment, salary, and duties of each such officer shall be determined by the board. Section 111.21(b), Texas Education Code.

2.5 The board may appoint and remove the chancellor, a president, any faculty member, or other officer or employee of the system when, in its judgment, the interest of the university requires it. The board shall fix the respective salaries and duties of the officers and employees. Section 111.19, Texas Education Code.

2.6 All executive management employee appointments, to the extent they are not System executive officers, shall be approved by the chancellor, and reported to the board. The board delegates to the chancellor, or his/her designee, the authority to approve all other faculty, professional, and administrative actions.

### Section 3: Non-Voting Student Regent

3.1 Pursuant to Texas Education Code § 51.355, a student regent shall be appointed by the governor annually, to serve a one-year term, expiring on May 31st. The student regent must be enrolled as an undergraduate or graduate student at a component institution of the University of Houston System at the time of appointment and throughout the student regents' term.

3.2 The student regent is not a member of the board of regents of the University

- (a) exercise the powers of the board when time is of the essence and a quorum of the board cannot be reasonably and practically established;
- (b) annually review the performance of the chancellor, the internal auditor, and the performance reports on the executive officers presented by the chancellor; and
- (c) keep a separate record of executive committee proceedings and submit that record for inclusion in the official record of the board at the next regular or special board meeting;
- (d) report all actions taken on behalf of the board at the next regular or special board meeting or sooner if practicable.
- (e) act as executive compensation committee to oversee the evaluation and assessment of Executive Officers and any other compensation contract of \$1,000,000 or more in one fiscal year.

## 5.2 Standing Committees

5.2.1 The standing committees are Academic and Student Success, Finance and Administration, Audit and Compliance, Facilities, Construction, and Master Planning, and Endowment Management. The board shall adopt a charter for each committee.

5.2.2 The chair of the board shall appoint a chair and vice chair for each standing committee. Standing committee chairs and vice chairs shall serve one-year terms from September 1 through August 31. A vacancy in a committee chair or vice chair position shall be filled by appointment of the board chair.

5.2.3 Committee meetings shall be called by the committee chair and duly posted, convened and conducted in accordance with the Texas Open Meetings Act. Any board member may attend and participate in discussion at any such committee meetings. Committees will meet no more than once monthly without prior approval from the board chair. All committees will have not less than three regents, nor more than four. Each committee will have a committee chair, vice chair, and one or two additional regents, all of whom shall be appointed by the chair of the board.

The chairman will serve as voting ex officio for all committees and will count for purposes of determining a quorum. A quorum is three for all committees. A quorum shall be declared as soon as a majority of the committee members are in attendance at the appointed committee meeting.

A majority vote of a quorum of a committee is required for a committee recommendation from an appointed committee to be presented to the full board for consideration. A committee recommendation, however, does not constitute a final board action and therefore, does not bind the board, except as provided in 5.1.1(a).

5.2.4 One to four advisory members may be appointed to each respective committee with the unanimous approval of the chair of the board, the chancellor, and the chair of the committee. The advisory members will serve one-year terms from September 1 through August 31 and may be reappointed each year for up to three consecutive years. They may serve again after one off year. Advisory members will not have voting authority.

5.2.5 The authority of a board committee is subject to the bylaws and policies of the board. Committees shall report and make recommendations to the board. Unless specifically authorized by official action of the board, a committee shall not act for the board.

5.2.6 Official Business. No business other than that placed on the Agenda and posted as required by law shall be officially transacted at a meeting of the Board of Regents or its committees.

## 5.3 Academic and Student Success Committee

The academic and student success committee has oversight of instruction, research, and service policy and performance, including review of the Chancellor's recommendations on academic programs. It also has oversight of all matters related to student success, including academic and student support programs.

committee business and board action.

#### 6.5 Special Meetings

Special meetings of the board may be called by the chair, the vice chair when performing the duties of the chair, or upon written request of five members of the board.

#### 6.6 Notice of Open Meetings

All meetings of the board and its committees are subject to the terms of the Open Meetings Act. The Open Meetings Act, Chapter 551 of the Texas Government Code, provides that meetings of governmental bodies must be open to the public, except for expressly authorized executive sessions, and that the public must be given notice of the time, place and subject matter of meetings of governmental bodies. Notice of a meeting must be posted with the Secretary of State's Office for at least 72 hours preceding the scheduled time of the meeting. In case of an emergency of urgent public necessity, which shall be clearly identified in the notice, it shall be sufficient if the notice is posted two hours before the meeting is convened.

#### 6.7 Distribution of Agenda Material

Written notice of the time, place, and agenda of each regular or special meeting should be delivered to each member of the board no later than seven (7) days before the day of such meeting. No business other than that placed on the agenda and the written notice, as required by law, shall be officially transacted at the meeting of the board or its standing committees or subcommittees.

#### 6.8 Order of Business

Normally the order of business shall be:

- 6.8.1 Call the meeting to order;
- 6.8.2 Open Forum;
- 6.8.3 Approval of the minutes;
- 6.8.4 Resolutions, communications, petitions, and memorials;
- 6.8.5 Report and recommendations of the chair of the board;
- 6.8.6 Reports and recommendations of standing committees from the committee chair;
- 6.8.7 Reports and recommendations of special committees;
- 6.8.8 Approval of committee recommendations;
- 6.8.9 Approval of consent docket;
- 6.8.10 Reports and recommendations of the chancellor;
- 6.8.11 Executive Session;
- 6.8.12 Reports and recommendations from executive session; and
- 6.8.13 Adjournment

#### 6.9 Consent Docket

Items on the consent docket will go directly to the board for action after consideration by the standing committees at their meetings unless one or more regents request that an item(s) be removed from the docket and considered separately, in which case it will be considered by the full board outside of the consent docket. The following may be placed on the consent docket and shall be enumerated specifically on the Board's agenda:

- 6.9.1 Investment resolutions and amendments.