



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 03-862
Released: March 25, 2003

MEDIA BUREAU ACTION

REQUEST FOR COMMENT ON PETITIONS REGARDING DIRECTV'S DBS SERVICE TO THE STATES OF ALASKA AND HAWAII

On February 6, 2003, the State of Hawaii filed a Petition for Administrative Sanctions against DirecTV Holdings, LLC, DIRECTV Enterprises, Inc., and USSB II, Inc. (DIRECTV). On March 20, 2003, MICROCOM filed Requests for Declaratory Rulings concerning Direct Broadcast Satellite (DBS) service to Alaska and to Hawaii by DirecTV that raise substantially the same issues. All three filings contend that DirecTV is violating the Commission's DBS geographic service rules (47 C.F.R. § 25.148(c)).

We request public comment on the issues raised in these filings to ensure that we develop a full and complete record in light of the Commission's recent decision in *Policies and Rules for the Direct Broadcast Satellite Service*, IB Docket No. 98-21, FCC 02-110 (rel. June 13, 2002). The Petition for Administrative Sanctions, to the extent it seeks sanctions not available through the Declaratory Ruling process, will be held in abeyance by the Enforcement Bureau pending completion of the Declaratory Rulings.

We are assigning this proceeding a Commission docket number, MB 03-82, in order to facilitate filing public comment. Accordingly, pursuant to Section 1.1200(a) of the Commission's rules, 47 C.F.R. 1.1200(a), this proceeding (including the Petition for Administrative Sanctions) will be governed by permit-but-disclose *ex parte* procedures that are applicable to nonrestricted proceedings under Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206.¹

¹ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. See 47 C.F.R. § 1.1202.

Permit-but-disclose *ex parte* procedures permit interested parties to make *ex parte* presentations to the Commissioners and Commission employees and require that these presentations be disclosed in the record of the relevant proceeding. Persons making a written presentation to the Commissioners or Commission employees must file the written presentation with the Commission, as set forth below, no later than the next business day after the presentation. 47 C.F.R. §1.1206(b)(1). Persons making oral *ex parte* presentations must file a summary of the presentation, as set forth below, and deliver copies to the Commissioners or Commission employees involved with the presentation no later than the next business day after the presentation. 47 C.F.R. §1.1206(b)(2). All *ex parte* filings must be clearly labeled as such and must reference MB 03-82.

Parties making oral *ex parte* presentations are directed to the Commission's statement reemphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. §1.1206.

Parties may file responses to the Petitions on or before **April 24, 2003** and replies on or before **May 9, 2003**. Please place the docket number, MB 03-82, on all filings.

The Petitions are available for public inspection in the Commission's Reference Information Center:

445 12th Street, S.W.
Washington, D.C. 20554
202-418-7092

This document is also available to individuals with disabilities requiring accessible formats (electronic ASCII text, Braille, large print, and audiocassette) by contacting Brian Millin at (202) 418-7426 (Voice), (202) 418- 7365 (TTY), or by sending an email to bmillin@fcc.

Copies of the Petitions and other pleadings are available for purchase from:

QUALEX INTERNATIONAL
202-863-2893

When filing responses or replies, one copy of each pleading must be served on all parties, and an original and two copies of all pleadings should be addressed to:

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
Attn: Media Bureau

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in

receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

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