

§ 1.325

47 CFR Ch. I (10–1–08 Edition)

file a response within 7 days after the motion is filed, to which he may append an answer or an amended answer. Additional pleadings should not be submitted and will not be considered.

(d) *Action by the presiding officer.* If the presiding officer determines that an objection is not justified, he shall order that the answer be served. If an interrogatory has not been answered, the presiding officer may rule that the right to object has been waived and may order that an answer be served. If an answer does not comply fully with the requirements of this section, the presiding officer may order that an amended answer be served, may specify the scope and detail of the matters to be covered by the amended answer, and may specify any appropriate procedural consequences (including adverse findings of fact and dismissal with prejudice) which will follow from the failure to make a full and responsive answer. If a full and responsive answer is not made, the presiding officer may issue an order invoking any of the procedural consequences specified in the order to compel an answer.

(e) *Appeal.* As order to compel an answer is not subject to appeal.

[33 FR 10572, July 25, 1968, as amended at 35 FR 17334, Nov. 11, 1970]

§ 1.325 Discovery and production of documents and things for inspection, copying, or photographing.

(a) A party to a Commission proceeding may request any other party except the Commission to produce and permit inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things which constitute or contain evidence within the scope of the examination permitted by § 1.311(b) of this part and which are in his possession, custody, or control or to permit entry upon designated land or other property in his possession or control for purposes of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by § 1.311(b) of this part.

(1) Such requests need not be filed with the presiding officer, but copies of the request shall be served on all other parties to the proceeding.

(2) The party against whom the request was made must, within 10 days, comply with the request or object to the request, claiming a privilege or raising other proper objections. If the request is not complied with in whole or in part, the requesting party may file a motion to compel production of documents or access to property with the presiding officer. A motion to compel must be accompanied by a copy of the original request and the responding party's objection or claim of privilege. Motions to compel must be filed within five business days of the objection or claim of privilege.

(3) In resolving any disputes involving the production of documents or access to property, the presiding officer may direct that the materials objected to be presented to him for *in camera* inspection.

(b) Any party seeking the production of Commission records should proceed under § 0.460 or § 0.461 of this chapter. See §§ 0.451 through 0.467.

(c) In comparative broadcast proceedings involving applicants for only new facilities, all applicants will serve the materials listed in the Standard Document Production Order and the Standardized Integration Statement on all other parties in the case that have filed Notices of Appearance. The exchange of these materials must be accomplished within five days after the date established for filing notices of appearance (see § 1.221).

(1) *Standard Document Production Order.* The following documents must be produced or objected to on grounds of privilege (Unless otherwise directed by the presiding officer, copies of these documents should not be filed with the presiding officer):

(i) All formation and organizational documents, including articles of incorporation, by laws, partnership agreements, voting rights, proxies, and any amendments to the foregoing documents;

(ii) All minutes of meetings relating to the application;

(iii) All documents relating to the rights or plans of persons or entities to

Federal Communications Commission

§ 1.325

purchase an interest in the applicant or of current owners to alineate their interests;

(iv) All documents relating to pledges, mortgages, security interests, or other encumbrances of any kind with respect to the applicant;

(v) All bank letters and other financing documents with the dollar amounts unexpurgated;

(vi) All documents relating to the applicant's proposed transmitter site;

(vii) All documents relating to communications by proposed integrated principals with respect to their proposed participation in the management of the station and the disposition of their current employment;

(viii) All documents relating to prior integration pledges made by principals who propose to be integrated into the management of the station at issue;

(ix) All documents relating to communications by and between principals of the applicant concerning the application, including communications between active and passive principals;

(x) Representative documents relating to enhancement credits and preferences sought by the applicant's principals for local residence, civic participation, past broadcast experience, minority/female status, and the like;

(xi) All documents relating to commitments to divest other media interests; and

(xii) All documents that identify or describe the principals who are responsible for completing the application, arranging financing, obtaining the applicant's transmitter site, publishing the required notices, establishing the local public inspection file, and retaining lawyers, engineers, and other professionals.

(2) *Standardized Integration Statement.* On the same day that documents are exchanged pursuant to the Standardized Document Production Order, the following information must also be provided by all applicants (Copies of this statement should be filed with the presiding officer and served on all parties to the proceeding that have filed Notices of Appearance):

(i) The ownership structure of the applicant, i.e., whether it is a partnership, limited partnership, or a corpora-

tion (if a corporation, indicate whether it has voting and non-voting stock);

(ii) The ownership percentage of each owner;

(iii) The identity of the owners who will work at the proposed station, what titles and duties they will have, how many hours they will work per week, and how they will reconcile any current business interests or employment with that commitment to the station;

(iv) All other media interests held by the persons identified under paragraph (c)(2)(ii), of this section;

(v) Whether the integrated owners will claim credit for minority or female ownership and if so, specifically on what basis;

(vi) Whether the integrated owners will claim credit for local residence and civic involvement in the city of license or service area and if so, specifically on what basis (including a detailed chronology of past residence and a description of civic activities and their duration);

(vii) Whether the integrated owners will claim credit for previous broadcast experience and if so, provide a detailed list of the stations they worked at, the titles and duties they had, and the years in which they were so employed; and

(viii) Whether the applicant will claim a daytimer preference and if so, specifically on what basis.

(3) *Supplemental document production.* Parties may request additional relevant documents, not called for in the Standard Document Production Order, at any time after the release of the designation order. Supplemental requests for documents based on materials exchanged pursuant to the Standardized Document Production Order and Standardized Integration Statement must be filed no later than ten days after those standardized exchanges. Other supplemental document requests must be filed no later than ten days after receipt of the information on which those requests are based. Supplemental document requests will be handled under the procedures established in paragraph (a) of this section. To facilitate the resolution of disputes concerning the production of documents, the presiding officer may convene a

§ 1.331

47 CFR Ch. I (10–1–08 Edition)

pre-hearing conference to hear argument on and dispose of any such disputes.

[33 FR 463, Jan. 12, 1968, as amended at 40 FR 39509, Aug. 28, 1975; 56 FR 794, Jan. 9, 1991; 56 FR 25639, June 5, 1991]

SUBPENAS

AUTHORITY: Sections 1.331 and 1.333 through 1.340 are issued under sec. 409, 48 Stat. 1096; 47 U.S.C. 409.

§ 1.331 Who may sign and issue.

Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing, may be signed and issued as follows:

(a) Hearings before the Commission en banc, an individual commissioner, or a panel of commissioners: By any commissioner participating in the conduct of the hearing.

(b) Hearings before an administrative law judge: By the administrative law judge or, in his absence, by the Chief Administrative Law Judge.

§ 1.333 Requests for issuance of subpoena.

(a) Unless submitted on the record while a hearing is in progress, requests for a subpoena ad testificandum shall be submitted in writing.

(b) Requests for a subpoena *duces tecum* shall be submitted in writing, duly subscribed and verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby. Where the subpoena *duces tecum* request is directed to a nonparty to the proceeding, the presiding officer may issue the same, upon request, without an accompanying subpoena to enforce a notice to take depositions, provided for in paragraph (e) of this section, where it appears that the testimony of said person is not required in connection with the subpoena *duces tecum*.

(c) All requests for subpenas shall be supported by a showing of the general relevance and materiality of the evidence sought.

(d) Requests for subpenas shall be submitted in triplicate, but need not be served on the parties to the proceeding.

(e) Requests for issuance of a subpoena ad testificandum to enforce a notice to take depositions shall be submitted in writing. Such requests may be submitted with the notice or at a later date. The request shall not be granted until the period for the filing of motions opposing the taking of depositions has expired or, if a motion has been filed, until that motion has been acted on. Regardless of the time when the subpoena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the person will be examined regarding a nonprivileged matter which is relevant to the hearing issues. The subpoena request may ask that a subpoena *duces tecum* be contemporaneously issued commanding the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by § 1.311(b) but in that event the subpoena request will be subject to the provisions of § 1.313 and paragraph (b) of this section.

(f) Requests for issuance of a subpoena *duces tecum* to enforce an order for the production of documents and things for inspection and copying under § 1.325 may be submitted with the motion requesting the issuance of such an order. Regardless of the time when the subpoena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the documents and things to be examined contain nonprivileged matter which is relevant to the subject matter of the proceeding.

[28 FR 12425, Nov. 22, 1963, as amended at 33 FR 466, Jan. 12, 1968; 47 FR 51873, Nov. 18, 1982]

§ 1.334 Motions to quash.

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope.