

§ 78.21 Dismissal of applications.

(a) Any application may, on request of the applicant, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the application. An applicant's request for the return of an application will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the application.

[37 FR 15927, Aug. 8, 1972]

§ 78.22 Objections to applications.

(a) Any party in interest may file a petition to deny any application (whether as originally filed or as amended) no later than thirty (30) days after issuance of a public notice of the acceptance for filing of any such application or amendment thereto. Petitions to deny shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience, and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

(b) The applicant may file an opposition to any petition to deny, and the petitioner may file a reply to such opposition (see § 1.45 of this chapter), in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof.

(c) Notwithstanding the provisions of paragraph (a) of this section, before Commission action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in

§ 1.45 of this chapter shall not be applicable to any objections duly filed pursuant to this paragraph.

[37 FR 15927, Aug. 8, 1972, as amended at 50 FR 23421, June 4, 1985]

§ 78.23 Equipment tests.

(a) Following the grant of a CARS license, the licensee, during the process of construction of the station, may, without further authority from the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefore, the rules and regulations, and the applicable engineering standards.

(b) The Commission may notify the licensee to conduct no tests or may cancel, suspend, or change the date for the beginning of equipment tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) The test authorized in this section shall be conducted only as a necessary part of construction.

[50 FR 23421, June 4, 1985]

§ 78.27 License conditions.

(a) Authorizations (including initial grants, modifications, assignments or transfers of control, and renewals) in the Cable Television Relay Service to serve cable television systems and other eligible systems, shall contain the condition that cable television systems shall operate in compliance with the provisions of part 76 (Cable Television Service) of this chapter and that other eligible systems shall operate in compliance with the provisions of part 21 and part 74 of this chapter.

(b) CARS stations licensed under this subpart are required to commence operation within one year of the date of the license grant.

(1) The licensee of a CARS station shall notify the Commission in writing when the station commences operation. Such notification shall be submitted on or before the last day of the authorized one year construction period; otherwise, the station license shall be automatically forfeited.

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(2) CARS licensees needing additional time to complete construction of the station and commence operation shall request an extension of time 30 days before the expiration of the one year construction period. Exceptions to the 30-day advance filing requirement may be granted where unanticipated delays occur.

[50 FR 23421, June 4, 1985, as amended at 55 FR 46015, Oct. 31, 1990; 69 FR 57862, Sept. 28, 2004]

§ 78.29 License period.

Licenses for CARS stations will be issued for a period not to exceed five (5) years. On and after February 1, 1966, licenses for CARS stations ordinarily will be issued for a period expiring on February 1, 1971, and, when regularly renewed, at 5-year intervals thereafter. When a license is granted subsequent to the last renewal date for CARS stations, the license will be issued only for the unexpired period of the current license term of such stations. The license renewal date applicable to CARS stations may be varied as necessary to permit the orderly processing of renewal applications, and individual station licenses may be granted or renewed for a shorter period of time than that generally prescribed for CARS stations, if the Commission finds that the public interest, convenience, and necessity would be served by such action.

§ 78.30 Forfeiture and termination of station authorizations.

(a) A CARS license will be automatically forfeited in whole or in part without further notice to the licensee upon the voluntary removal or alteration of the facilities, so as to render the station not operational for a period of 30 days or more.

(b) If a station licensed under this part discontinues operation on a permanent basis, the licensee must cancel the license. For purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

[69 FR 57862, Sept. 28, 2004]

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§ 78.31 Temporary extension of license.

Where there is pending before the Commission any application, investigation, or proceeding which, after hearing, might lead to or make necessary the modification of, revocation of or the refusal to renew an existing cable television relay station license, the Commission will grant a temporary extension of such license: *Provided, however,* That no such temporary extension shall be construed as a finding by the Commission that the operation of any CARS station thereunder will serve the public interest, convenience, and necessity beyond the express terms of such temporary extension of license: *And provided, further,* That such temporary extension of license will in no wise affect or limit the action of the Commission with respect to any pending application or proceeding.

§ 78.33 Special temporary authority.

(a) Notwithstanding the requirements of §§ 78.15 and 78.20, in circumstances requiring immediate or temporary use of facilities, a request may be made for special temporary authority to install and operate new equipment or to operate licensed equipment in a manner different from that authorized in a station license. Any such request may be in letter form, and shall be submitted in duplicate: *Provided, however,* That in cases of emergency involving danger to life or property or due to damage to equipment, such request may be made by telephone or telegraph with the understanding that a written request shall be submitted within ten (10) days thereafter.

(b) Special temporary authority may also be requested to conduct a field survey to determine necessary data in connection with the preparation of a formal application for installation of a radio system under this part. Such authority may be granted to equipment suppliers and others who are not operators of cable television systems or other eligible systems, as well as to cable operators or other eligible system operators, to conduct equipment, program, service, and path tests.

(c) Any request for special temporary authority shall be clear and complete within itself as to the authority requested. In addition, such requests