

Federal Communications Commission

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§ 1.56 Motions for summary denial of petitions for forbearance.

(a) Opponents of a petition for forbearance may submit a motion for summary denial if it can be shown that the petition for forbearance, viewed in the light most favorable to the petitioner, cannot meet the statutory criteria for forbearance.

(b) A motion for summary denial may not be filed later than the due date for comments and oppositions announced in the public notice.

(c) Oppositions to motions for summary denial may not be filed later than the due date for reply comments announced in the public notice.

(d) No reply may be filed to an opposition to a motion for summary denial.

[74 FR 39227, Aug. 6, 2009]

§ 1.57 Circulation and voting of petitions for forbearance.

(a) If a petition for forbearance includes novel questions of fact, law or policy which cannot be resolved under outstanding precedents and decisions, the Chairman will circulate a draft order no later than 28 days prior to the statutory deadline, unless all Commissioners agree to a shorter period.

(b) The Commission will vote on any circulated order resolving a forbearance petition not later than seven days before the last day that action must be taken to prevent the petition from being deemed granted by operation of law.

[74 FR 39227, Aug. 6, 2009]

§ 1.58 Forbearance petition quiet period prohibition.

The prohibition in § 1.1203(a) on contacts with decisionmakers concerning matters listed in the Sunshine Agenda shall also apply to a petition for forbearance for a period of 14 days prior to the statutory deadline under 47 U.S.C. 160(c) or as announced by the Commission.

[74 FR 39227, Aug. 6, 2009]

§ 1.59 Withdrawal or narrowing of petitions for forbearance.

(a) A petitioner may withdraw or narrow a petition for forbearance without approval of the Commission by filing a notice of full or partial with-

drawal at any time prior to the end of the tenth business day after the due date for reply comments announced in the public notice.

(b) Except as provided in paragraph (a) of this section, a petition for forbearance may be withdrawn, or narrowed so significantly as to amount to a withdrawal of a large portion of the forbearance relief originally requested by the petitioner, only with approval of the Commission.

[74 FR 39227, Aug. 6, 2009]

GENERAL APPLICATION PROCEDURES

§ 1.61 Procedures for handling applications requiring special aeronautical study.

(a) Antenna Structure Registration is conducted by the Wireless Telecommunications Bureau as follows:

(1) Each antenna structure owner that must notify the FAA of proposed construction using FAA Form 7460-1 shall, upon proposing new or modified construction, register that antenna structure with the Wireless Telecommunications Bureau using FCC Form 854.

(2) In accordance with § 1.1307 and § 17.4(c) of this chapter, the Bureau will address any environmental concerns prior to processing the registration.

(3) If a final FAA determination of “no hazard” is not submitted along with FCC Form 854, processing of the registration may be delayed or disapproved.

(4) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first licensee authorized to locate on the structure must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by § 17.4(g) of this chapter.

(5) Upon receipt of FCC Form 854, and attached final FAA determination of “no hazard,” the Bureau prescribes antenna structure painting and/or lighting specifications or other conditions

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in accordance with the FAA airspace recommendation and returns a completed Antenna Structure Registration (FCC Form 854R) to the registrant. If the proposed structure is disapproved the registrant is so advised.

(b) Each operating Bureau or Office examines the applications for Commission authorization for which it is responsible to ensure compliance with FAA notification procedures as well as Commission Antenna Structure Registration as follows:

(1) If Antenna Structure Registration is required, the operating Bureau reviews the application for the Antenna Structure Registration Number and proceeds as follows:

(i) If the application contains the Antenna Structure Registration Number or if the applicant seeks a Cellular or PCS system authorization, the operating Bureau processes the application.

(ii) If the application does not contain the Antenna Structure Registration Number, but the structure owner has already filed FCC Form 854, the operating Bureau places the application on hold until Registration can be confirmed, so long as the owner exhibits due diligence in filing.

(iii) If the application does not contain the Antenna Structure Registration Number, and the structure owner has not filed FCC Form 854, the operating Bureau notifies the applicant that FCC Form 854 must be filed and places the application on hold until Registration can be confirmed, so long as the owner exhibits due diligence in filing.

(2) If Antenna Structure Registration is not required, the operating Bureau processes the application.

(c) Where one or more antenna farm areas have been designated for a community or communities (see §17.9 of this chapter), an application proposing the erection of an antenna structure over 1,000 feet in height above ground to serve such community or communities will not be accepted for filing unless:

(1) It is proposed to locate the antenna structure in a designated antenna farm area, or

(2) It is accompanied by a statement from the Federal Aviation Administration that the proposed structure will

not constitute a menace to air navigation, or

(3) It is accompanied by a request for waiver setting forth reasons sufficient, if true, to justify such a waiver.

NOTE: By Commission Order (FCC 65–455), 30 FR 7419, June 5, 1965, the Commission issued the following policy statement concerning the height of radio and television antenna towers:

“We have concluded that this objective can best be achieved by adopting the following policy: Applications for antenna towers higher than 2,000 feet above ground will be presumed to be inconsistent with the public interest, and the applicant will have a burden of overcoming that strong presumption. The applicant must accompany its application with a detailed showing directed to meeting this burden. Only in the exceptional case, where the Commission concludes that a clear and compelling showing has been made that there are public interest reasons requiring a tower higher than 2,000 feet above ground, and after the parties have complied with applicable FAA procedures, and full Commission coordination with FAA on the question of menace to air navigation, will a grant be made. Applicants and parties in interest will, of course, be afforded their statutory hearing rights.”

[28 FR 12415, Nov. 22, 1963, as amended at 32 FR 8813, June 21, 1967; 32 FR 20860, Dec. 28, 1967; 34 FR 6481, Apr. 15, 1969; 45 FR 55201, Aug. 19, 1980; 58 FR 13021, Mar. 9, 1993, 61 FR 4361, Feb. 6, 1996; 77 FR 3952, Jan. 26, 2012]

§ 1.62 Operation pending action on renewal application.

(a)(1) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal of license with respect to any activity of a continuing nature, in accordance with the provisions of section 9(b) of the Administrative Procedure Act, such license shall continue in effect without further action by the Commission until such time as the Commission shall make a final determination with respect to the renewal application. No operation by any licensee under this section shall be construed as a finding by the Commission that the operation will serve the public interest, convenience, or necessity, nor shall such operation in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(2) A licensee operating by virtue of this paragraph shall, after the date of