

FEDERAL COMMUNICATIONS COMMISSION

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ADVISORY COMMITTEE ON DIVERSITY FOR

COMMUNICATIONS IN A DIGITAL AGE

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TUESDAY,

OCTOBER 28, 2008

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The Board convened at 10:00 a.m. in the
Federal Communications Commission Meeting
Room, 445 12th Street, S.W., Washington, D.C.,
Henry Rivera, Chairman, presiding.

PRESENT:

HENRY RIVERA
BARBARA KREISMAN
DAVID HONIG
ANNE LUCEY
VONYA B. McCANN

SUSAN FOX
ANDREW SCHWARTZMAN
JOYCELYN JAMES
SHEBA CHACKO
TARA BALLESTEROS
RAY GUTIERREZ
TARA SWEENEY

DIANE SUTTER
BOB MENDEZ
MARGARITA WILDER
MAX NAVARRO
MARIA BRENNAN

TABLE OF CONTENTS

Introductions 5

Taskforce on Eligible Entities. 8

Questions 16

Vote. 19

Report from the New Technologies Committee. . 20

Questions 21

Vote. 27

Access to Capital Report on Regulatory Fee
Relief for Eligible Entities. 27

Questions 33

Vote. 35

Conclusion of Meeting 36

1 P-R-O-C-E-E-D-I-N-G-S

2 10:03 a.m.

3 MS. KREISMAN: I guess we're going
4 to start now, because I think we have a
5 quorum.

6 I guess I would like to start out
7 by saying that this has been a pleasure to
8 work with everybody here. This is our last
9 meeting under our present charter, and I felt
10 like I sort of bonded with everybody during
11 our New York experience.

12 For those of you who participated,
13 it was really a great opportunity to get
14 minority and women entrepreneurs together in
15 a really interesting dialogue.

16 This group has also come up with
17 terrific recommendations, many of which have
18 been incorporated in Commission items.

19 I want to thank you. I want to --
20 I don't think I've ever publicly thanked you,
21 Diane, and you, David, and you, Henry, for
22 helping with that commission en banc.

1 There's a lot of work that's been
2 done and some of you have been extraordinarily
3 dedicated, spending countless hours
4 participating in meetings and doing a -- a
5 great work product. So, just thank you very
6 much for your dedication. It's been a
7 pleasure to work with you all.

8 And with that, I think I turn it
9 over to you, Henry.

10 CHAIRMAN RIVERA: Thank you.

11 MS. KREISMAN: Mr. Chair.

12 CHAIRMAN RIVERA: Thank you very
13 much, Barbara. I also want to extend my
14 gratitude to everyone for their very hard
15 work. I have to single out of course, David
16 Honig, for his countless hours in terms of --
17 on behalf of the Advisory Committee. We could
18 not have done what we did without David's hard
19 work and perseverance.

20 And of course, I have to thank
21 Barbara, our designated Federal Officer, who
22 did a wonderful job, particularly pulling

1 together the meeting in New York.

2 But to all of you, thank you very
3 much. It's been an honor serving as your
4 chair. And as Barbara said, this will be our
5 last meeting under this particular charter.
6 It's possible that the Advisory Committee
7 would be rechartered, but that remains to be
8 seen and so, until further notice, this will
9 be our last meeting.

10 So with that, we -- okay, I think
11 we should go ahead and introduce ourselves to
12 let everybody know who's here, particularly in
13 -- in Washington.

14 So, you've already heard from me
15 and Barbara and let's go with you, Andy, and
16 around the table.

17 MR. SCHWARTZMAN: Andy
18 Schwartzman, Media Access Project.

19 MR. HONIG: David Honig, MMTC.

20 MS. JAMES: Joycelyn James, MMTC.

21 MS. FOX: Susan Fox, Disney/ABC.

22 MS. CHACKO: Sheba Chacko, BT.

1 MS. LUCEY: Anne Lucey,
2 CBS/Showtime.

3 MS. BALLESTEROS: Tara
4 Ballesteros, ZGS Communications.

5 CHAIRMAN RIVERA: Well welcome
6 everybody. All right -- go ahead, let's do it
7 on the phone. Those of you on the phone,
8 could you introduce yourself and let everybody
9 know who's there? Let's start with Ray
10 Gutierrez.

11 MR. GUTIERREZ: I'm Ray Gutierrez,
12 I'm Showtime Network/CBS, representing Matt
13 Blank.

14 CHAIRMAN RIVERA: Tara?

15 MS. SWEENEY: Tara Sweeney, Arctic
16 Slope Regional Corporation.

17 CHAIRMAN RIVERA: Diane?

18 MS. SUTTER: Diane Sutter,
19 ShootingStar Broadcasting.

20 CHAIRMAN RIVERA: Bob?

21 MR. MENDEZ: Bob Mendez,
22 Disney/ABC Television Group.

1 CHAIRMAN RIVERA: Margarita?

2 MS. WILDER: Margarita Wilder,
3 with Entravision Communications.

4 CHAIRMAN RIVERA: Ambassador?

5 MS. McCANN: Vonya McCann,
6 Sprint/Nextel Corporation.

7 CHAIRMAN RIVERA: Is there anyone
8 else on the phone?

9 MR. NAVARRO: Yes, Henry, this is
10 Max Navarro, Operational Technologies.

11 CHAIRMAN RIVERA: Great Max,
12 welcome.

13 MS. BRENNAN: Hi, everybody, this
14 is Maria Brennan, American Women in Radio and
15 Television. I, I also want to thank you,
16 David, having been on travel, I used the
17 report that you had sent us a few days ago as
18 my reading material. And I just want to say
19 I was very inspired, thank you. Thanks to
20 that subcommittee.

21 CHAIRMAN RIVERA: Thank you,
22 Maria. Anyone else on the phone?

1 All right, with that we'll turn to
2 our first item, which will be the Taskforce on
3 Eligible Entity. David Honig chaired that
4 very ably. I -- we, we sent out the report to
5 you, as Maria mentioned. It was quite
6 lengthy. We hope you had an opportunity to
7 take a look at it.

8 And David, the floor is yours,
9 sir.

10 MR. HONIG: Thank you so much,
11 Henry, and thanks for the kind words.

12 The subcommittee met five times
13 and I want to especially thank Anne Lucey, who
14 hosted our meetings and Joycelyn James, who is
15 a guest today, who acted as our rapporteur.

16 The subcommittee was formed for
17 the purpose of examining whether there was
18 some definition of an eligible entity. And
19 that is an entity which, under various
20 commission programs, especially diversity-
21 related broadcast programs, that would be less
22 dilute in its impact on minority and women

1 ownership than the current small business
2 definition, which seems to be very dilute in
3 it's impact, but that nonetheless, would not
4 present constitutional issues and would be
5 regarded as race-neutral.

6 The Broadcast Diversity Report in
7 order, and third for the Notice of Proposed
8 Rulemaking, that was voted out in December of
9 last year, issued in March; has a long
10 paragraph, Paragraph 85, which raises this
11 question of full file review, which -- which
12 the Diversity Committee had raised with the
13 Commission earlier, and asks numerous
14 questions about it, in terms of how would work
15 in its implementation.

16 The concept basically derives from
17 a close analogue to broadcasting, which is the
18 educational sphere. And the use of this
19 concept, full file review, under various name,
20 emerged after a number of Supreme Court
21 decisions, that seemed to limit in many cases
22 a university -- a state university's ability

1 to consider race as a factor in admissions
2 directly, at least as an input.

3 Various universities adopted this
4 process of full file review, in which they
5 looked at the contribution of an individual
6 person to diversity of expression throughout
7 the educational experience and diversity of
8 insights. And much of this is background-
9 related, but you could refer to it as, as kind
10 of an emphasis on outputs rather than inputs.

11 Full file review, in the
12 university context, has been implemented in
13 both a race-conscious and a race-neutral
14 version. But we examined the race-neutral
15 version, to see whether it could be translated
16 into the FCC's sphere. And we tentatively
17 concluded that yes, it could, that,
18 especially, but not exclusively, with respect
19 to programs designed to promote diversity, the
20 Commission could consider a wide range of
21 attributes that, that really fall in two
22 categories.

1 One being disadvantages that a
2 person has experienced, that the -- the
3 experiencing of which and the reacting to
4 which, may give that individual insights not
5 available to most other people, which could
6 find their way directly or indirectly onto the
7 air in broadcasting, for example.

8 And the other is really a close
9 analogue to this, which is the overcoming of
10 disadvantages, because that evidence is -- the
11 persons or entity in which that person is a
12 controlling investor or significant investor,
13 that entities ability to overcome the
14 obstacles that one would face as a Commission
15 regulatee.

16 There would be -- there would need
17 to be some research to be sure that that
18 inference of, of having experiences that
19 provide this learning curve, in fact,
20 translate into the likelihood that these
21 experiences, which tend disproportionately to
22 effect women and minorities, would also tend

1 to result in more women and minority
2 ownership.

3 In the educational context, that
4 has proven to be the case. The classic
5 example being of the Law School at the
6 University of California at Berkeley and UCLA.
7 Which after these passage of a state anti-
8 affirmative action resolution, these
9 universities could not consider race in
10 admissions. And what happened was that the
11 next entering class contained virtually no
12 African Americans or Hispanics. After full
13 file review in its race-neutral context was
14 impeded, the numbers came up to about 60% of
15 where they had been in each class under a
16 race-conscious initiative.

17 Certainly, the subcommittee is of
18 the view that, that as the Diversity Committee
19 has expressed on a number of occasions in
20 earlier resolutions over the past few years,
21 that the gold standard would be the adoption
22 of a -- of an SDB Model, which we described in

1 an appendix to the Report. An SDB Model looks
2 at -- is a race-conscious model looking at
3 socially and economically disadvantaged
4 businesses.

5 And again, you can consult the
6 Appendix to get a sense for how this works.
7 What we were concerned about is what could be
8 implemented in the short run? Because the
9 process of doing disparity studies and
10 research necessary to validate and defend any
11 race-conscious program, is a long process.

12 The Commission started toward that
13 process in 2000 -- from 1996 to 2000, produced
14 six such studies. Then the ball got dropped.
15 It was picked up briefly in an inquiry in
16 2004. But arguably, the record is a bit stale
17 and the Commission would have to start all
18 over.

19 This leads to the penultimate
20 recommendation, which you'll find on Page 4 at
21 the end of the Executive Summary, which is
22 what we would essentially be voting on today,

1 which is that the subcommittee recommends that
2 the Commission takes steps immediately to
3 substitute full-file review for the small
4 business-based eligible entity paradigm
5 currently in place, until the Commission can
6 adopt a constitutionally sustainable SDB-based
7 program.

8 The Commission could achieve this
9 by, 1) a second report in order -- in the
10 broadcast diversity docket that adopts the
11 legal and policy recommendations in this
12 report and, 2) a media bureau request for
13 notice and comment on the administrative
14 issues discussed in or identified in this
15 report.

16 In the meantime, the Commission
17 should act promptly to update existing
18 disparity in other studies necessary to
19 sustain an SDB-based program.

20 And in conclusion, if you look at
21 Page 29, there you will find the, the
22 administrative issues that we were not able to

1 answer in the course of our review, that could
2 be put out for comment in rulemaking. These
3 essentially relate to, how does one assess
4 claims of overcoming of disadvantages? How do
5 you handle ownership and control issues, such
6 as LMAs, JSAs, shared services agreement? And
7 what would be the content in evaluation
8 process for applications and for review of
9 them?

10 But those are the sort of, of
11 issues that commonly get addressed and
12 answered in administrative rulemakings.
13 They're, they're tedious, but they're not
14 controversial. So, we -- we recommended that
15 they be taken up in the rulemaking process.

16 CHAIRMAN RIVERA: All right, thank
17 you.

18 David, great work, and -- and
19 thanks to the Committee for all its hard work.
20 It's obviously a tremendous body of knowledge
21 that you've captured here in this, in this
22 report.

1 I guess, two comments from the
2 Chair. One is that the Commission asked us to
3 do this in the diversity order, is that
4 correct?

5 MR. HONIG: That's right.

6 CHAIRMAN RIVERA: And the second
7 thing is, we would be basically asking the
8 Commission to initiate a notice of proposed
9 rulemaking. It could be a further notice, but
10 it would be a notice of proposed rulemaking.

11 So, I guess a third comment I
12 would make is that we invited folks who had
13 questions or comments to a conference call
14 last Friday. David and Margarita were on that
15 call.

16 MR. HONIG: Margaret Lancaster.

17 CHAIRMAN RIVERA: Oh, Margaret
18 Lancaster, excuse me. And, but I got no
19 takers, is what I understand.

20 So, if there are any comments or
21 questions for David at this point the floor's
22 open.

1 MS. LUCEY: Well, I just want to
2 note one concern I had voiced in the
3 subcommittee and that is that this apply more
4 broadly beyond broadcast, and I, I don't see
5 why it should be limited to broadcast and
6 exclude all the other telecom services. So
7 that was -- that was my overriding concern.
8 Other than that, I thought the report was
9 fantastic.

10 MR. HONIG: I'd agree that,
11 ideally, the report would have extended to
12 telecom. In going back over our notes and
13 records, it appeared that, because telecom is
14 much larger, because for many telecom
15 services, diversity is not a rationale that
16 one would use to justify a program, whether
17 it's under strict scrutiny or even rational
18 basis. And because we hadn't interviewed
19 telecom experts, it might be premature for us
20 to have a report that extends beyond the
21 corners of the broadcast diversity notice of
22 third -- for further notice.

1 However, it would be, I think
2 certainly advisable for the Commission, in the
3 next administration, to initiate a similar
4 diversity-related proceeding, addressing
5 itself to telecom and cable and information
6 services, for just that purpose.

7 CHAIRMAN RIVERA: Other questions,
8 comments?

9 MS. SWEENEY: This is Tara Sweeney
10 with the ASRC. I just had an overriding
11 concern, how well the full file review protect
12 those that are socially and economically
13 disadvantaged businesses, like Native American
14 businesses, that are by law required by
15 Congress to collectively operate on behalf of
16 their populations -- excuse me, I'm sick.

17 MR. HONIG: There are at least
18 three categories of entities, which -- in
19 which questions have been raised as to whether
20 those entities and their definitions are race-
21 conscious or not, and the answers seem to be,
22 no. And it's been -- it was suggested in some

1 of our deliberations that some carve-out could
2 be done to more directly focus on them.

3 Native Americans, Aleuts, Alaskan
4 Natives, are one such group. Those who are
5 multilingual speakers are another such group.
6 And historically black colleges and
7 universities and historically Spanish-speaking
8 institutions are the third.

9 We didn't focus on them
10 specifically as potential carve-outs, but
11 certainly that ought to be, I think, the -- a
12 subject of this further rulemaking, whether
13 members of those groups should have the
14 partial relief that would come from a full
15 file review mechanism or might be entitled
16 right now to the more full relief that could
17 come from the application of SDB-type
18 protocols to them.

19 MS. SWEENEY: Okay, thank you.

20 CHAIRMAN RIVERA: Other questions?

21 Are you ready to vote then?

22 All right, we have a motion from

1 the subcommittee, is there a second?

2 MS. FOX: Second.

3 CHAIRMAN RIVERA: Second, thank
4 you.

5 All in favor of the
6 recommendation, say Aye.

7 (A chorus of ayes)

8 CHAIRMAN RIVERA: Any opposed, say
9 aye.

10 (No audible response.)

11 CHAIRMAN RIVERA: All right, the
12 motion carries. Thank you very much and thank
13 you again, David, for all your hard work on
14 this.

15 We'll move now to -- just to give
16 David a chance to catch his breath, we'll move
17 to the Report from the New Technologies
18 Committee. Russell Frisby is not here today.
19 He's having some minor surgery done. And to,
20 to take his place and deliver the report of
21 the subcommittee, Andy Schwartzman has
22 graciously agreed to step up and do that.

1 I would like to note that this
2 report -- or this recommendation stems out of
3 the New York meeting, where it was -- Andy, in
4 fact, delivered this recommendation to the en
5 banc that was held in New York.

6 So, and then the subcommittee took
7 it up and gave birth to this recommendation
8 that we sent out to you last week.

9 So, if you'd be so kind, Andy.

10 MR. SCHWARTZMAN: It would help if
11 I had it in front of me. Thank you.

12 Okay, is this on?

13 MS. KREISMAN: It takes a minute
14 to start. Just --

15 MR. SCHWARTZMAN: Hello, yes,
16 there we go.

17 Okay, the, the recommendation is
18 to authorize the -- or, for the Commission to
19 authorize a new class of licenses. The
20 eligible entities for these licenses would be
21 either Class A, low-power stations, or small
22 and disadvantaged businesses.

1 These licenses would be for the --
2 would be a result from the purchase of one of
3 the multiplexed signals of an existing full-
4 power digital television station.

5 The advantage that these licenses
6 would have, is that they would be full-powered
7 licenses, and therefore eligible for must
8 carry.

9 The notion is that licensing these
10 entities would be a significant advantage in
11 terms of ability to finance and the ability to
12 advertise with the additional carriage that
13 would result from must carry.

14 From the standpoint of full-power
15 broadcasters, presumably most of these would
16 be independents. There are full-power
17 broadcasters who have yet to figure out what
18 to do with all of their digital capacity. And
19 this would provide a revenue stream, since
20 they would be providing the transmission
21 services to these new Class S licensees.

22 And so this would, therefore,

1 assist full-power digital broadcasters, who
2 have not figured out how, how they could
3 utilize all the digital capacity presently
4 available to that.

5 CHAIRMAN RIVERA: Thank you, Andy.
6 Any questions about that recommendation?

7 Susan?

8 MS. FOX: I have a quick question.
9 Andy, is it anticipated that it would be a
10 24/7 purchase?

11 MR. SCHWARTZMAN: No, the -- the
12 full-power licensee would have the ability to
13 retain some of the time if they opted to carry
14 high definition programming.

15 MS. FOX: Oh, okay. And the other
16 question is, would the full-power station,
17 apart from the -- full-power station have to
18 also be a must carry station, or do you
19 anticipate a retrans-must carry divide there
20 between the --

21 MR. SCHWARTZMAN: No, the full-
22 power station would not have to be a, a must

1 carry station for the licensee, the Class S
2 licensee to get must carry rights.

3 MS. FOX: Okay, just curious.

4 CHAIRMAN RIVERA: Anne?

5 MS. LUCEY: Yes, I just have a
6 question. Where is this in the Commission?
7 Is this teed up at all, Andy?

8 MR. SCHWARTZMAN: No.

9 MS. LUCEY: Okay, so again, I'm
10 going to my process issue here. Why an MPRM
11 as opposed to a notice?

12 MR. SCHWARTZMAN: Well, I -- I
13 didn't give a whole lot of thought to that.
14 Just it seems to me, that -- that an MPRM
15 makes it more likely to, to move the thing
16 along.

17 I don't see, personally, any --
18 any particular reason why, why there would be
19 benefit from adding the step of an NOI. But
20 I certainly would not, if there was feelings
21 about it, I wouldn't oppose an amendment to
22 that effect.

1 CHAIRMAN RIVERA: Other questions,
2 comments?

3 So the -- basically again, we're
4 talking about a notice of some kind, that the
5 Commission certainly could decide it wanted to
6 go with an NOI.

7 In my experience, I guess the
8 Commission generally doesn't like to do that,
9 because they considers it a waste of
10 resources, it's another step that they've got
11 to go through, because generally they go to,
12 to an MPRM from a notice. And you've
13 basically gathered the same, the same data.
14 But, again, I don't have any problem with that
15 and the Commission would be in -- would, may -
16 - regardless of whether we recommend an NOI or
17 an MPRM, the Commission's going to do what it
18 wants, if it sees fit to move forward with
19 this.

20 So, I think we're more interested
21 in the concept being voted in and -- and as I
22 said earlier in my remarks, the -- this was

1 put before the Commission by Andy in New York,
2 so they certainly know about it. And we're
3 just putting a stamp of endorsement on the
4 concept.

5 MS. KREISMAN: I think also, I
6 know I suggest that there's a -- and I'm still
7 trying to figure it out, you know, all the
8 options. And you know, I think we're at this,
9 the point at this one that we think it's a
10 decent idea. And delay in fact, especially at
11 the time, the next few years, we're asking the
12 service to also transition to digital. And if
13 we wait too long on any kind of assistance,
14 it's going to be too late.

15 MS. LUCEY: I don't think it has
16 to be a delay, necessarily. I mean, I think
17 that's traditionally how these things have
18 worked out, but the whole idea of an NOI, I
19 believe, is to gather more information as
20 opposed to the FCC just throwing a proposal
21 down. And I just -- there's a lot of things
22 that need to be fleshed out on this it seems

1 to me.

2 I mean, some of the questions that
3 Susan raised, for example. I don't know, I
4 just, I just think it might benefit from more
5 comment and stuff, that's all. And it doesn't
6 have to be a delay. It's just, you know,
7 maybe there can be a tight time frame on it,
8 if the Commission wants to move to MPRM.
9 That's all.

10 CHAIRMAN RIVERA: Okay. Any other
11 comments or questions?

12 Are you ready to vote?

13 All in favor, say aye.

14 (A chorus of ayes)

15 CHAIRMAN RIVERA: Opposed?

16 (No audible response.)

17 CHAIRMAN RIVERA: The motion
18 appears to me to carry. Thank you.

19 Okay, we'll move along to the
20 Access to Capital Report on Regulatory Fee
21 Relief for Eligible Entities. This item too
22 was floated in in New York at the en banc

1 meeting.

2 The, Rodney Hood, who is Chairman
3 to this subcommittee is unable to be with us
4 today. He's in Costa Rica. He sends his
5 regrets. And also, Becky Klein, the -- the
6 Chair of our other subcommittee is at a work
7 conflict and is unable to, to be with us, also
8 extends her regrets.

9 So, David, back to you to carry
10 the ball on the Regulatory Relief.

11 MR. HONIG: This concept found its
12 voice at the July 29th en banc hearing. But
13 actually has its antecedents much earlier and
14 I wanted to acknowledge the source of, the
15 original source of this idea, was Ben Hooks
16 and Jim Cuello. There was a petition for
17 relief from fees filed by the Masons, who in
18 1973, I think, signed on the first African
19 American-owned -- first minority owned full-
20 power television station in the country.

21 The licensing fee at that time was
22 over \$22,000. And this was a UHF station in

1 Detroit that did not have at that time, of
2 course, a network affiliation.

3 The Commissions vote was 5 to 2,
4 with Cuello issuing a dissent, basically
5 saying that the Commission's authority to
6 grant relief from fees, either through waivers
7 or discounts, ought to be applied in a manner
8 that tends to incentivise minority ownership.

9 There have been no, no cases since
10 then, until this issue just arose.

11 For those unfamiliar with the way
12 the Commission collects fees, there are two
13 types of fees that derive from the statute and
14 the regs.

15 One is application fees and the
16 other is regulatory fees that licensees
17 basically pay and other regulatees pay.

18 The Commission approximately
19 estimates what it's annual budget is going to
20 be with the idea that it will recover most or
21 all or even a little more than all of it's
22 budget from these fees.

1 Most of the fees, of course, come
2 from large businesses, especially the telecom
3 carriers. But -- and there is a schedule of
4 fees that's set out in the rules.

5 In the past, the Commission has
6 recognized that, while it has broad discretion
7 subject to being able to still raise
8 essentially all of it's budget this way, to
9 grant waivers and discounts and relief from
10 fees. And that in fact, has only recognized
11 one reason to do so in specific cases, which
12 is financial hardship.

13 It has not developed a rulemaking
14 in the past that goes to whether members of a
15 class of entities, such as small businesses or
16 disadvantaged businesses or businesses that
17 have full file review or other categories,
18 could either be automatically entitled to
19 certain kinds of fee relief. Or at least have
20 a rebuttal presumption of entitlement to it.

21 The idea that is presented here,
22 would operate in practice, much the same way

1 that the Tax Certificate Policy operated from
2 `78 to `95. Which is that it provides the
3 entrepreneur that's entitled to this fee
4 relief, with essentially a coin of
5 ratification and endorsement of value from the
6 Agency itself. And while the amount of money
7 involved often would not be large. And
8 regulatory fees, certainly they are often
9 large.

10 The, the fact that the Commission
11 has done this and especially in a time of
12 tightening credit, where any relief is
13 welcome, would be viewed as a good way for
14 these entrepreneurs to get in the door at
15 banks with lenders and investors.

16 Because of the credit crisis, this
17 matter takes on higher importance. Certainly
18 in the legislation that was passed for the
19 \$700 billion relief bill, there were a number
20 of provisions, philosophically much like this
21 one, aimed at really providing some relief at
22 the floor for those who needed it most. This

1 is really presented in much the same spirit.

2 At the end of the draft, there is
3 a recommendation on which we would vote, in
4 which we tentatively conclude, and of course
5 subject to rulemaking, that SDBs, companies
6 incubating SDBs, as an incentive, regular fees
7 providing multilingual service, service to
8 Indian reservations; should generally be
9 entitled to a rebuttal presumption of
10 eligibility for waivers or deferrals of
11 application or other processing fees, and for
12 waivers reduction and deferrals of regulatory
13 fees. The reason for reductions, is that's
14 only authorized on the Statute Reductions for
15 Regulatory Fees, not application fees.

16 The MPRM would seek comment on
17 these issues. The classification of entities
18 whose members would be rebuttably presumed
19 eligible for individual fee relief, which
20 types of fees should be subject to relief,
21 whether fee relief should be offered in the
22 form of, of waivers or reductions or

1 deferrals, the aggregate extent to which fee
2 waivers, reductions, or deferrals could be
3 offered without materially impairing the
4 Commissions ability to generate financing for
5 its own operations inasmuch as the budget
6 requirements may limit their flexibility in
7 offering fee relief, and the amounts of
8 reductions of specific fees, the length of
9 deferrals that would be appropriate; those are
10 the kinds of, again, administrative questions
11 that are naturally suited to consideration and
12 rulemaking.

13 So, that's the recommendation and,
14 and I'd be happy to take questions on it.

15 CHAIRMAN RIVERA: All right, thank
16 you. I wanted to acknowledge Jane Mago's
17 efforts on this item. She is the guru on
18 regulatory fees, apparently, and graciously
19 agreed to look our draft over for us and made
20 some very constructive suggestions, I think.

21 So, I think the, the work product
22 is pretty solid. And are there any questions

1 or comments to David?

2 MR. SCHWARTZMAN: I have a very
3 basic question, which is, is it clear that the
4 Commission has authority to grant these
5 waivers? Are waivers ever granted for
6 whatever other reason?

7 MR. HONIG: The statute gives
8 broad authority to -- for the Commission to
9 determine the reasons under which it will
10 grant waivers.

11 In the past however, the
12 Commission has only recognized financial
13 hardship in an individual case as a basis.
14 But it's never interpreted the statute as
15 saying that it lacks discretion to define that
16 there are other reasons for waivers.

17 CHAIRMAN RIVERA: I'm sure this
18 question, that question, should the Commission
19 decide to take this up in, in a notice, would
20 be -- would be thoroughly vetted, Andy.

21 Any other questions or comments
22 for David?

1 All right, the Chair will take
2 that as a motion from the subcommittee. Is
3 there a second?

4 MS. CHACKO: Second.

5 CHAIRMAN RIVERA: Second, thank
6 you.

7 All in favor, say aye.

8 (A chorus of ayes)

9 CHAIRMAN RIVERA: Opposed?

10 (No audible response.)

11 CHAIRMAN RIVERA: All right, the
12 motion carries. Thank you very much.

13 Well that concludes the items on
14 our agenda. Is there any new business to
15 bring before the Committee?

16 (No audible response.)

17 Hearing none again, I'd like to
18 thank you all for your great work. You, you
19 have done some wonderful work. There's been
20 some great recommendations that have gone
21 forward out of this Committee to the
22 Commission, many of which have been acted on

1 by the Commission.

2 So I think that speaks well of, of
3 you and your efforts.

4 So, without objection, we will
5 stand adjourned and --

6 MS. BRENNAN: Mr. Chairman, this
7 is Maria Brennan. I just want to trumpet for
8 the whole group. I know I'm not going out on
9 a limb thanking you for your leadership and
10 your insight throughout this process. And
11 thanking Barbara as well. Thank you both.
12 Bravo.

13 (Applause.)

14 CHAIRMAN RIVERA: Thank you,
15 Maria, you're very kind. I appreciate that.

16 MS. KREISMAN: And extraordinary
17 patience.

18 CHAIRMAN RIVERA: All right.
19 Well, then we'll stand adjourned and we'll see
20 you all around the campus, I guess.

21 (Whereupon, the above-entitled
22 matter was concluded at 10:36 a.m.)

A	<p>ahead 5:11 6:6 aimed 31:21 air 11:7 Alaskan 19:3 Aleuts 19:3 Ambassador 7:4 amendment 24:21 American 7:14 18:13 Americans 12:12 19:3 American-owned 28:19 amount 31:6 amounts 33:7 analogue 9:17 11:9 ANDREW 1:17 Andy 5:15,17 20:21 21:3,9 23:5,9 24:7 26:1 34:20 Anne 1:15 6:1 8:13 24:4 annual 29:19 answer 15:1 answered 15:12 answers 18:21 antecedents 28:13 anti 12:7 anticipate 23:19 anticipated 23:9 apart 23:17 apparently 33:18 appeared 17:13 appears 27:18 appendix 13:1,6 Applause 36:13 application 19:17 29:15 32:11,15 applications 15:8 applied 29:7 apply 17:3 appreciate 36:15 appropriate 33:9 approximately 29:18 Arctic 6:15 arguably 13:16 arose 29:10</p>	<p>asked 16:2 asking 16:7 26:11 asks 9:13 ASRC 18:10 assess 15:3 assist 23:1 assistance 26:13 attributes 10:21 audible 20:10 27:16 35:10,16 authority 29:5 34:4 34:8 authorize 21:18,19 authorized 32:14 automatically 30:18 available 11:5 23:4 aye 20:6,9 27:13 35:7 ayes 20:7 27:14 35:8 a.m 1:9 3:2 36:22</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 1:15 back 17:12 28:9 background 10:8 ball 13:14 28:10 Ballesteros 1:18 6:3 6:4 banc 3:22 21:5 27:22 28:12 banks 31:15 Barbara 1:14 4:13 4:21 5:4,15 36:11 basic 34:3 basically 9:16 16:7 25:3,13 29:4,17 basis 17:18 34:13 Becky 28:5 behalf 4:17 18:15 believe 26:19 Ben 28:15 benefit 24:19 27:4 Berkeley 12:6 beyond 17:4,20 bill 31:19 billion 31:19 birth 21:7</p>	<p>bit 13:16 black 19:6 Blank 6:13 Board 1:9 Bob 1:21 6:20,21 body 15:20 bonded 3:10 Bravo 36:12 breath 20:16 Brennan 1:22 7:13 7:14 36:6,7 briefly 13:15 bring 35:15 broad 30:6 34:8 broadcast 8:21 9:6 14:10 17:4,5,21 broadcasters 22:15 22:17 23:1 broadcasting 6:19 9:17 11:7 broadly 17:4 BT 5:22 budget 29:19,22 30:8 33:5 bureau 14:12 business 9:1 35:14 businesses 13:4 18:13,14 21:22 30:2,15,16,16 business-based 14:4</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>cable 18:5 California 12:6 call 16:13,15 campus 36:20 capacity 22:18 23:3 Capital 2:14 27:20 captured 15:21 carriage 22:12 carriers 30:3 carries 20:12 35:12 carry 22:8,13 23:13 23:18,19 24:1,2 27:18 28:9 carve-out 19:1 carve-outs 19:10 case 12:4 34:13</p>	<p>cases 9:21 29:9 30:11 catch 20:16 categories 10:22 18:18 30:17 CBS/Showtime 6:2 certain 30:19 certainly 12:17 18:2 19:11 24:20 25:5 26:2 31:8,17 Certificate 31:1 Chacko 1:18 5:22 5:22 35:4 chair 4:11 5:4 16:2 28:6 35:1 chaired 8:3 Chairman 1:11 4:10,12 6:5,14,17 6:20 7:1,4,7,11,21 15:16 16:6,17 18:7 19:20 20:3,8,11 23:5 24:4 25:1 27:10,15,17 28:2 33:15 34:17 35:5,9 35:11 36:6,14,18 chance 20:16 charter 3:9 5:5 chorus 20:7 27:14 35:8 claims 15:4 class 12:11,15 21:19 21:21 22:21 24:1 30:15 classic 12:4 classification 32:17 clear 34:3 close 9:17 11:8 coin 31:4 collectively 18:15 collects 29:12 colleges 19:6 come 3:16 19:14,17 30:1 comment 14:13 15:2 16:11 27:5 32:16 comments 16:1,13 16:20 18:8 25:2</p>
----------	---	--	--	---

27:11 34:1,21 commission 1:1,10 3:22 8:20 9:13 10:20 11:14 13:12 13:17 14:2,5,8,16 16:2,8 18:2 21:18 24:6 25:5,8,15 26:1 27:8 29:12,18 30:5 31:10 34:4,8 34:12,18 35:22 36:1 Commissions 29:3 33:4 Commission's 25:17 29:5 Committee 1:3 2:7 4:17 5:6 9:12 12:18 15:19 20:18 35:15,21 Commission 3:18 commonly 15:11 Communications 1:1,4,10 6:4 7:3 companies 32:5 concept 9:16,19 25:21 26:4 28:11 concern 17:2,7 18:11 concerned 13:7 conclude 32:4 concluded 10:17 36:22 concludes 35:13 conclusion 2:22 14:20 conference 16:13 conflict 28:7 Congress 18:15 conscious 18:21 consider 10:1,20 12:9 consideration 33:11 considers 25:9 constitutional 9:4 constitutionally 14:6 constructive 33:20 consult 13:5	contained 12:11 content 15:7 CONTENTS 2:1 context 10:12 12:3 12:13 contribution 10:5 control 15:5 controlling 11:12 controversial 15:14 convened 1:9 corners 17:21 Corporation 6:16 7:6 correct 16:4 Costa 28:4 countless 4:3,16 country 28:20 course 4:15,20 15:1 29:2 30:1 32:4 Court 9:20 credit 31:12,16 crisis 31:16 Cuello 28:16 29:4 curious 24:3 current 9:1 currently 14:5 curve 11:19 <hr/> D <hr/> data 25:13 David 1:14 3:21 4:15 5:19 7:16 8:3 8:8 15:18 16:14,21 20:13,16 28:9 34:1 34:22 David's 4:18 days 7:17 December 9:8 decent 26:10 decide 25:5 34:19 decisions 9:21 dedicated 4:3 dedication 4:6 defend 13:10 deferrals 32:10,12 33:1,2,9 define 34:15 definition 8:18 9:2	23:14 definitions 18:20 delay 26:10,16 27:6 deliberations 19:1 deliver 20:20 delivered 21:4 derive 29:13 derives 9:16 described 12:22 designated 4:21 designed 10:19 determine 34:9 Detroit 29:1 developed 30:13 dialogue 3:15 Diane 1:20 3:21 6:17,18 digital 1:4 22:4,18 23:1,3 26:12 dilute 8:22 9:2 directly 10:2 11:6 19:2 disadvantaged 13:3 18:13 21:22 30:16 disadvantages 11:1 11:10 15:4 discounts 29:7 30:9 discretion 30:6 34:15 discussed 14:14 Disney/ABC 5:21 6:22 disparity 13:9 14:18 disproportionately 11:21 dissent 29:4 diversity 1:3 8:20 9:6,12 10:6,7,19 12:18 14:10 16:3 17:15,21 diversity-related 18:4 divide 23:19 docket 14:10 doing 4:4 13:9 door 31:14 draft 32:2 33:19 dropped 13:14	D.C 1:10 <hr/> E <hr/> earlier 9:13 12:20 25:22 28:13 economically 13:3 18:12 educational 9:18 10:7 12:3 effect 11:22 24:22 efforts 33:17 36:3 either 21:21 29:6 30:18 eligibility 32:10 eligible 2:3,15 8:3 8:18 14:4 21:20 22:7 27:21 32:19 emerged 9:20 emphasis 10:10 en 3:22 21:4 27:22 28:12 endorsement 26:3 31:5 entering 12:11 entities 2:3,15 11:13 18:18,20 21:20 22:10 27:21 30:15 32:17 entitled 19:15 30:18 31:3 32:9 entitlement 30:20 entity 8:3,18,19 11:11 14:4 Entravision 7:3 entrepreneur 31:3 entrepreneurs 3:14 31:14 especially 8:13,20 10:18 26:10 30:2 31:11 essentially 13:22 15:3 30:8 31:4 estimates 29:19 evaluation 15:7 everybody 3:8,10 5:12 6:6,8 7:13 evidence 11:10 examined 10:14	examining 8:17 example 11:7 12:5 27:3 exclude 17:6 exclusively 10:18 excuse 16:18 18:16 Executive 13:21 existing 14:17 22:3 experience 3:11 10:7 25:7 experienced 11:2 experiences 11:18 11:21 experiencing 11:3 experts 17:19 expressed 12:19 expression 10:6 extend 4:13 extended 17:11 extends 17:20 28:8 extent 33:1 extraordinarily 4:2 extraordinary 36:16 <hr/> F <hr/> face 11:14 fact 11:19 21:4 26:10 30:10 31:10 factor 10:1 fall 10:21 fantastic 17:9 favor 20:5 27:13 35:7 FCC 26:20 FCC's 10:16 Federal 1:1,10 4:21 fee 2:14 27:20 28:21 30:19 31:3 32:19 32:21 33:1,7 feelings 24:20 fees 28:17 29:6,12 29:13,15,16,22 30:1,4,10 31:8 32:6,11,13,15,15 32:20 33:8,18 felt 3:9 figure 22:17 26:7
---	--	--	--	--

figured 23:2	generate 33:4	higher 31:17	inspired 7:19	Lancaster 16:16,18
file 9:11,19 10:4,11 12:13 18:11 19:15 30:17	give 11:4 20:15 24:13	Hispanics 12:12	institutions 19:8	large 30:2 31:7,9
filed 28:17	gives 34:7	historically 19:6,7	interested 25:20	larger 17:14
finance 22:11	go 5:11,15 6:6 21:16 25:6,11,11	Honig 1:14 4:16 5:19,19 8:3,10 16:5,16 17:10 18:17 28:11 34:7	interesting 3:15	late 26:14
financial 30:12 34:12	goes 30:14	honor 5:3	interpreted 34:14	law 12:5 18:14
financing 33:4	going 3:3 17:12 24:10 25:17 26:14	Hood 28:2	interviewed 17:18	leadership 36:9
find 11:6 13:20 14:21	graciously 20:22 33:18	Hooks 28:15	introduce 5:11 6:8	leads 13:19
first 8:2 28:18,19	grant 29:6 30:9 34:4,10	hope 8:6	Introductions 2:2	learning 11:19
fit 25:18	granted 34:5	hosted 8:14	investor 11:12,12	legal 14:11
five 8:12	gratitude 4:14	hours 4:3,16	investors 31:15	legislation 31:18
fleshed 26:22	great 3:13 4:5 7:11 15:18 35:18,20	<hr/>	invited 16:12	lenders 31:15
flexibility 33:6	group 3:16 6:22 19:4,5 36:8	I	involved 31:7	length 33:8
floated 27:22	groups 19:13	idea 26:10,18 28:15 29:20 30:21	issue 24:10 29:10	lengthy 8:6
floor 8:8 31:22	guess 3:3,6 16:1,11 25:7 36:20	ideally 17:11	issued 9:9	let's 5:15 6:6,9
floor's 16:21	guest 8:15	identified 14:14	issues 9:4 14:14,22 15:5,11 32:17	licensee 23:12 24:1 24:2
focus 19:2,9	guru 33:17	immediately 14:2	issuing 29:4	licensees 22:21 29:16
folks 16:12	Gutierrez 1:19 6:10 6:11,11	impact 8:22 9:3	item 8:2 27:21 33:17	licenses 21:19,20 22:1,5,7
form 32:22	<hr/>	impairing 33:3	items 3:18 35:13	licensing 22:9 28:21
formed 8:16	H	impeded 12:14	<hr/>	likelihood 11:20
forward 25:18 35:21	handle 15:5	implementation 9:15	J	limb 36:9
found 28:11	happened 12:10	implemented 10:12 13:8	James 1:17 5:20,20 8:14	limit 9:21 33:6
Fox 1:16 5:21,21 20:2 23:8,15 24:3	happy 33:14	importance 31:17	Jane 33:16	limited 17:5
frame 27:7	hard 4:14,18 15:19 20:13	inasmuch 33:5	Jim 28:16	little 29:21
Friday 16:14	hardship 30:12 34:13	incentive 32:6	job 4:22	LMAs 15:6
Frisby 20:18	heard 5:14	incentivise 29:8	Joycelyn 1:17 5:20 8:14	long 9:9 13:11 26:13
front 21:11	hearing 28:12 35:17	incorporated 3:18	JSAs 15:6	look 8:7 14:20 33:19
full 9:11,19 10:4,11 12:12 18:11 19:14 19:16 22:3 23:21 28:19 30:17	held 21:5	incubating 32:6	July 28:12	looked 10:5
full-file 14:3	Hello 21:15	independents 22:16	justify 17:16	looking 13:2
full-power 22:14,16 23:1,12,16,17	help 21:10	Indian 32:8	<hr/>	looks 13:1
full-powered 22:6	helping 3:22	indirectly 11:6	K	lot 4:1 24:13 26:21
further 5:8 16:9 17:22 19:12	Henry 1:11,13 3:21 4:9 7:9 8:11	individual 10:5 11:4 32:19 34:13	kind 8:11 10:9 21:9 25:4 26:13 36:15	low-power 21:21
<hr/>	Hi 7:13	inference 11:18	kinds 30:19 33:10	Lucey 1:15 6:1,1 8:13 17:1 24:5,9 26:15
G	high 23:14	information 18:5 26:19	Klein 28:5	<hr/>
gather 26:19		inputs 10:10	know 5:12 6:9 26:2 26:6,7,8 27:3,6 36:8	M
gathered 25:13		inputs 10:10	knowledge 15:20	Mago's 33:16
generally 25:8,11 32:8		inquiry 13:15	KREISMAN 1:14 3:3 4:11 21:13 26:5 36:16	manner 29:7
		insight 36:10	<hr/>	March 9:9
		insights 10:8 11:4	L	Margaret 16:16,17
			lacks 34:15	Margarita 1:21 7:1 7:2 16:14
				Maria 1:22 7:14,22

8:5 36:7,15 Masons 28:17 material 7:18 materially 33:3 Matt 6:12 matter 31:17 36:22 Max 1:22 7:10,11 McCANN 1:15 7:5 7:5 mean 26:16 27:2 mechanism 19:15 media 5:18 14:12 meeting 1:10 2:22 3:9 5:1,5,9 21:3 28:1 meetings 4:4 8:14 members 19:13 30:14 32:18 Mendez 1:21 6:21 6:21 mentioned 8:5 met 8:12 minor 20:19 minorities 11:22 minority 3:14 8:22 12:1 28:19 29:8 minute 21:13 MMTC 5:19,20 model 12:22 13:1,2 money 31:6 motion 19:22 20:12 27:17 35:2,12 move 20:15,16 24:15 25:18 27:8 27:19 MPRM 24:10,14 25:12,17 27:8 32:16 multilingual 19:5 32:7 multiplexed 22:3	7:10 necessarily 26:16 necessary 13:10 14:18 need 11:16 26:22 needed 31:22 network 29:2 Network/CBS 6:12 never 34:14 new 2:7 3:11 5:1 20:17 21:3,5,19 22:21 26:1 27:22 35:14 NOI 24:19 25:6,16 26:18 note 17:2 21:1 notes 17:12 notice 5:8 9:7 14:13 16:8,9,10 17:21,22 24:11 25:4,12 34:19 notion 22:9 number 9:20 12:19 31:19 numbers 12:14 numerous 9:13	opposed 20:8 24:11 26:20 27:15 35:9 opted 23:13 options 26:8 order 9:7 14:9 16:3 original 28:15 ought 19:11 29:7 outputs 10:10 overcome 11:13 overcoming 11:9 15:4 overriding 17:7 18:10 owned 28:19 ownership 9:1 12:2 15:5 29:8	potential 19:10 power 22:4 23:22 28:20 practice 30:22 premature 17:19 present 1:12 3:9 9:4 presented 30:21 32:1 presently 23:3 presiding 1:11 presumably 22:15 presumed 32:18 presumption 30:20 32:9 pretty 33:22 problem 25:14 proceeding 18:4 process 10:4 13:9 13:11,13 15:8,15 24:10 36:10 processing 32:11 produced 13:13 product 4:5 33:21 program 13:11 14:7 14:19 17:16 programming 23:14 programs 8:20,21 10:19 Project 5:18 promote 10:19 promptly 14:17 proposal 26:20 proposed 9:7 16:8 16:10 protect 18:11 protocols 19:18 proven 12:4 provide 11:19 22:19 provides 31:2 providing 22:20 31:21 32:7 provisions 31:20 publicly 3:20 pulling 4:22 purchase 22:2 23:10 purpose 8:17 18:6	put 15:2 26:1 putting 26:3 P-R-O-C-E-E-D-... 3:1
<hr/> N <hr/> name 9:19 Native 18:13 19:3 Natives 19:4 naturally 33:11 Navarro 1:22 7:9	<hr/> O <hr/> objection 36:4 obstacles 11:14 obviously 15:20 occasions 12:19 OCTOBER 1:7 offered 32:21 33:3 offering 33:7 Officer 4:21 Oh 16:17 23:15 okay 5:10 19:19 21:12,17 23:15 24:3,9 27:10,19 open 16:22 operate 18:15 30:22 operated 31:1 Operational 7:10 operations 33:5 opportunity 3:13 8:6 oppose 24:21	<hr/> P <hr/> Page 13:20 14:21 paradigm 14:4 paragraph 9:10,10 partial 19:14 participated 3:12 participating 4:4 particular 5:5 24:18 particularly 4:22 5:12 passage 12:7 passed 31:18 patience 36:17 pay 29:17,17 penultimate 13:19 people 11:5 perseverance 4:19 person 10:6 11:2,11 personally 24:17 persons 11:11 petition 28:16 philosophically 31:20 phone 6:7,7 7:8,22 picked 13:15 place 14:5 20:20 pleasure 3:7 4:7 point 16:21 26:9 policy 14:11 31:1 populations 18:16 possible 5:6	<hr/> Q <hr/> question 9:11 23:8 23:16 24:6 34:3,18 34:18 questions 2:4,10,18 9:14 16:13,21 18:7 18:19 19:20 23:6 25:1 27:2,11 33:10 33:14,22 34:21 quick 23:8 quite 8:5 quorum 3:5	
			<hr/> R <hr/> race 10:1 12:9 18:20 race-conscious 10:13 12:16 13:2 13:11 race-neutral 9:5 10:13,14 12:13 Radio 7:14 raise 30:7 raised 9:12 18:19 27:3 raises 9:10 range 10:20 rappporteur 8:15 ratification 31:5 rational 17:17 rationale 17:15 Ray 1:19 6:9,11 reacting 11:3 reading 7:18 ready 19:21 27:12 really 3:13,15 10:21 11:8 31:21 32:1 reason 24:18 30:11 32:13 34:6 reasons 34:9,16 rebuttably 32:18 rebuttal 30:20 32:9 rechartered 5:7	

recognized 30:6,10 34:12	requirements 33:6	schedule 30:3	19:7	surgery 20:19
recommend 25:16	research 11:17 13:10	School 12:5	speakers 19:5	Susan 1:16 5:21 23:7 27:3
recommendation 13:20 20:6 21:2,4 21:7,17 23:6 32:3 33:13	reservations 32:8	Schwartzman 1:17 5:17,18 20:21 21:10,15 23:11,21 24:8,12 34:2	speaks 36:2	sustain 14:19
recommendations 3:17 14:11 35:20	resolution 12:8	scrutiny 17:17	specific 30:11 33:8	sustainable 14:6
recommended 15:14	resolutions 12:20	SDB 12:22 13:1	specifically 19:10	Sutter 1:20 6:18,18
recommends 14:1	resources 25:10	SDBs 32:5,6	spending 4:3	Sweeney 1:19 6:15 6:15 18:9,9 19:19
record 13:16	respect 10:18	SDB-based 14:6,19	sphere 9:18 10:16	S.W 1:10
records 17:13	response 20:10 27:16 35:10,16	SDB-type 19:17	spirit 32:1	<hr/> T <hr/>
recover 29:20	result 12:1 22:2,13	second 14:9 16:6 20:1,2,3 35:3,4,5	Sprint/Nextel 7:6	table 2:1 5:16
reduction 32:12	retain 23:13	see 10:15 17:4 24:17 36:19	stale 13:16	take 8:7 20:20 33:14 34:19 35:1
reductions 32:13,14 32:22 33:2,8	retrans-must 23:19	seek 32:16	stamp 26:3	stand 36:5,19
refer 10:9	revenue 22:19	seen 5:8	standpoint 22:14	standard 12:21
regarded 9:5	review 9:11,19 10:4 10:11 12:13 14:3 15:1,8 18:11 19:15 30:17	sees 25:18	start 3:4,6 6:9 13:17 21:14	started 13:12
regardless 25:16	Rica 28:4	sends 28:4	state 9:22 12:7	station 22:4 23:16 23:17,18,22 24:1 28:20,22
Regional 6:16	right 6:6 8:1 15:16 16:5 19:16,22 20:11 33:15 35:1 35:11 36:18	sense 13:6	station 22:4 23:16 23:17,18,22 24:1 28:20,22	stations 21:21
regrets 28:5,8	rights 24:2	sent 7:17 8:4 21:8	statute 29:13 32:14 34:7,14	statute 29:13 32:14 34:7,14
regs 29:14	Rivera 1:11,13 4:10 4:12 6:5,14,17,20 7:1,4,7,11,21 15:16 16:6,17 18:7 19:20 20:3,8,11 23:5 24:4 25:1 27:10,15,17 33:15 34:17 35:5,9,11 36:14,18	service 26:12 32:7,7	stems 21:2	stem 20:22 24:19 25:10
regular 32:6	Rodney 28:2	services 15:6 17:6 17:15 18:6 22:21	steps 14:2	steps 14:2
regulatee 11:15	Room 1:10	servicing 5:3	stream 22:19	stream 22:19
regulatees 29:17	rulemaking 9:8 15:2,15 16:9,10 19:12 30:13 32:5 33:12	set 30:4	Street 1:10	Street 1:10
regulatory 2:14 27:20 28:10 29:16 31:8 32:12,15 33:18	Russell 20:18	shared 15:6	strict 17:17	strict 17:17
relate 15:3	<hr/> S <hr/>	Sheba 1:18 5:22	studies 13:9,14 14:18	studies 13:9,14 14:18
related 8:21 10:9	S 22:21 24:1	ShootingStar 6:19	stuff 27:5	stuff 27:5
relief 2:15 19:14,16 27:21 28:10,17 29:6 30:9,19 31:4 31:12,19,21 32:19 32:20,21 33:7	rulemakings 15:12	short 13:8	subcommittee 7:20 8:12,16 12:17 14:1 17:3 20:1,21 21:6 28:3,6 35:2	subcommittee 7:20 8:12,16 12:17 14:1 17:3 20:1,21 21:6 28:3,6 35:2
remains 5:7	rules 30:4	Showtime 6:12	subject 19:12 30:7 32:5,20	subject 19:12 30:7 32:5,20
remarks 25:22	run 13:8	sick 18:16	substitute 14:3	substitute 14:3
report 2:7,14 7:17 8:4 9:6 13:1 14:9 14:12,15 15:22 17:8,11,20 20:17 20:20 21:2 27:20	run 13:8	signals 22:3	suggest 26:6	suggest 26:6
representing 6:12	Russell 20:18	signed 28:18	suggested 18:22	suggested 18:22
request 14:12	<hr/> S <hr/>	significant 11:12 22:10	suggestions 33:20	suggestions 33:20
required 18:14	S 22:21 24:1	similar 18:3	suited 33:11	suited 33:11
	saying 3:7 29:5 34:15	single 4:15	Summary 13:21	Summary 13:21
		sir 8:9	Supreme 9:20	Supreme 9:20
		six 13:14	sure 11:17 34:17	sure 11:17 34:17
		Slope 6:16		
		small 9:1 14:3 21:21 30:15		
		socially 13:3 18:12		
		solid 33:22		
		sort 3:10 15:10		
		source 28:14,15		
		Spanish-speaking		

thanks 7:19 8:11 15:19	university's 9:22	women 3:14 7:14 8:22 11:22 12:1	29th 28:12
thing 16:7 24:15	update 14:17	wonderful 4:22	<hr/> 3 <hr/>
things 26:17,21	use 9:18 17:16	35:19	33 2:18
think 3:4,20 4:8	utilize 23:3	words 8:11	35 2:20
5:10 18:1 19:11	<hr/> V <hr/>	work 3:8 4:1,5,7,15	36 2:22
25:20 26:5,8,9,15	validate 13:10	4:19 9:14 15:18,19	<hr/> 4 <hr/>
26:16 27:4 28:18	value 31:5	20:13 28:6 33:21	4 13:20
33:20,21 36:2	various 8:19 9:19	35:18,19	445 1:10
third 9:7 16:11	10:3	worked 26:18	<hr/> 5 <hr/>
17:22 19:8	version 10:14,15	works 13:6	5 2:2 29:3
thoroughly 34:20	vetted 34:20	wouldn't 24:21	<hr/> 6 <hr/>
thought 17:8 24:13	view 12:18	<hr/> Y <hr/>	60% 12:14
three 18:18	viewed 31:13	year 9:9	<hr/> 7 <hr/>
throwing 26:20	virtually 12:11	years 12:20 26:11	78 31:2
tight 27:7	voice 28:12	York 3:11 5:1 21:3	<hr/> 8 <hr/>
tightening 31:12	voiced 17:2	21:5 26:1 27:22	8 2:3
time 23:13 26:11	Vonya 1:15 7:5	<hr/> Z <hr/>	85 9:10
27:7 28:21 29:1	vote 2:5,12,20 19:21	ZGS 6:4	<hr/> 9 <hr/>
31:11	27:12 29:3 32:3	<hr/> \$ <hr/>	95 31:2
times 8:12	voted 9:8 25:21	\$22,000 28:22	
today 8:15 13:22	voting 13:22	\$700 31:19	
20:18 28:4	<hr/> W <hr/>	<hr/> 1 <hr/>	
traditionally 26:17	wait 26:13	1 14:9	
transition 26:12	waivers 29:6 30:9	10:00 1:9	
translate 11:20	32:10,12,22 33:2	10:03 3:2	
translated 10:15	34:5,5,10,16	10:36 36:22	
transmission 22:20	want 3:19,19 4:13	12th 1:10	
travel 7:16	7:15,18 8:13 17:1	16 2:4	
tremendous 15:20	36:7	19 2:5	
trumpet 36:7	wanted 25:5 28:14	1973 28:18	
trying 26:7	33:16	1996 13:13	
TUESDAY 1:6	wants 25:18 27:8	<hr/> 2 <hr/>	
turn 4:8 8:1	Washington 1:10	2 14:12 29:3	
two 10:21 16:1	5:13	20 2:7	
29:12	waste 25:9	2000 13:13,13	
types 29:13 32:20	way 11:6 29:11 30:8	2004 13:16	
<hr/> U <hr/>	30:22 31:13	2008 1:7	
UCLA 12:6	week 21:8	21 2:10	
UHF 28:22	welcome 6:5 7:12	24/7 23:10	
unable 28:3,7	31:13	27 2:12,15	
understand 16:19	we'll 8:1 20:15,16	28 1:7	
unfamiliar 29:11	27:19 36:19,19	29 14:21	
universities 10:3	we're 3:3 25:3,20		
12:9 19:7	26:2,8,11		
university 9:22	wide 10:20		
10:12 12:6	Wilder 1:21 7:2,2		