

**Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, D.C.**

In the Matter of:

Determination of Rates and Terms for
Public Broadcasting (PB III)

Docket No. 16-CRB-0002-PBR (2018-
2022)

**JOINT MOTION REQUESTING POSTPONEMENT OF
COMMENCEMENT OF PRELIMINARY DISCLOSURE AND
DISCOVERY AND SUBSEQUENT PERIODS**

The undersigned parties are (a) the public broadcasters that are or will be responsible for a vast amount of the broadcast programming at issue in this proceeding, specifically National Public Radio, Inc. (NPR) and the Public Broadcasting Service (PBS); (b) the major organizations that license and collect royalties associated with reproduction and performance of the vast majority of musical compositions performed by noncommercial broadcasters in the United States, including the American Society of Composers, Authors and Publishers (“ASCAP”), Broadcast Music, Inc. (“BMI”), SESAC, Inc. (“SESAC”), and The Harry Fox Agency LLC (“HFA”); and (c) the major trade organization that represents music publishers and songwriters, the National Music Publishers Association.¹

At this time, the undersigned parties write to jointly request that the Copyright Royalty Judges (the “Judges”) grant a postponement, for thirty (30) days (i.e., until August 8, 2016) (or such other period that the Judges believe provides a reasonable period of time within which the parties should be able to accomplish a possible resolution of some or all of the issues that are

¹ Additional participants the National Religious Broadcasting Music Licensing Committee, the National Association of College and University Business Officers, and the Educational Media Foundation have each agreed not to oppose this motion or have already reached a settlement in this proceeding.

subject to this proceeding), of the commencement of the Preliminary Disclosure and Discovery Period that is scheduled to commence on July 8, 2016, and, in the event that no settlement is reached, a postponement for a similar period of time for each subsequent period (but not the date for issuance of a determination). The undersigned propose that Monday, August 1, 2016, be designated the date for advising the Judges of settlements reached during the 30 day extension period.

The undersigned are mindful that the Judges wish the parties to adhere to the schedule set forth in the March 25, 2016 Case Scheduling Order. The undersigned nevertheless request the exercise of the Judges' discretion to provide the parties with additional time to continue what have been productive discussions towards a settlement without the parties having to incur the added obligations and potentially unnecessary costs of the immediately upcoming phases of the proceeding (including the Preliminary Disclosure and Discovery Period). Avoiding these costs is particularly relevant in a proceeding like this one, which is dedicated to public broadcasting, where many of the participants are non-profit organizations. The parties have exchanged settlement proposals, have had fruitful settlement discussions, and are scheduling follow-up meetings. The statutory license scheme is designed to facilitate and encourage the participants in rate proceedings to reach negotiated resolutions and avoid the expense and uncertainty of adjudications. H.R. REP. 108-408, at 24 (2004); S. REP. 104-128, at 39 (1995).

Because the issues that the parties have been discussing in separate, parallel negotiations have different levels of complexity, the parties believe that postponing the commencement of the Preliminary Disclosure and Discovery Period (and, in the event that any of the participants do not reach a settlement, each additional period other than the date for issuance of a determination) for thirty (30) days to permit the undersigned participants to continue their good-faith negotiations towards amicable settlement is not only reasonable and warranted, but necessary to

arrive at an acceptable settlement. The parties believe the requested postponement would not prejudice any other party or the Judges' ability to conduct a timely proceeding and reach a timely result in the event significant settlements are not achieved. The parties also believe that, even with such an extension, the Judges will still be able to render a decision on Rates and Terms in this proceeding prior to December 15, 2017 (see proposed revised schedule, attached as Exhibit A).

For these reasons, the undersigned participants respectfully request that this motion be granted, and that the parties be allowed until and including August 1, 2016 to file a Notice of Settlement or otherwise be subject to subsequent proceedings, including a Preliminary Disclosure and Discovery period beginning on August 8, 2016.

DATED: July 6, 2016

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EXHIBIT A
Rates and Terms Determination Proceeding (PB III)

Case event	Date
Commencement of Voluntary Negotiation Period	March 25, 2016
End of Voluntary Negotiation Period	July 27, 2016
Parties' Notice of Settlement	August 1, 2016
IF PARTIES DO NOT SETTLE or if the Judges decline to adopt the settlement	
Order for Further Proceedings	August 8, 2016
Begin Preliminary Disclosure and Discovery	August 8, 2016
End Preliminary Disclosure and Discovery	October 7, 2016
Parties file Written Direct Statements Commencement of Discovery Period	December 7, 2016
End of Discovery Period	January 6, 2016
End Settlement Conference Period	February 10, 2017
Deadline for Joint Settlement Conference Report	February 17, 2017
IF PARTIES DO NOT SETTLE	
Deadline to file Written Rebuttal Statements	March 13, 2017
Hearing	commencing on May 24, 2017
Deadline to file Proposed Findings and Conclusions	TBD
Issuance of Determination	not later than December 15, 2017

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2016, I caused true and correct copies of a Joint Motion Requesting Postponement of Commencement of Preliminary Disclosure and Discovery and Subsequent Periods to be served on the individuals and entities identified in the below attached Service List via overnight express mail, pursuant to 37 C.F.R §350.4(h).

By: David Metten

Service List

<p>David Powell P.O. Box 010950 Miami, FL 33101 Telephone: (305) 539-1755</p>	<p><i>Educational Media Foundation (EMF)</i></p> <p>David Oxenford Wilkinson Barker Knauer, LLP 1800 M Street, N.W., Suite 800N Washington, DC 20036 Telephone: 202-383-3337 Email: doxenford@wbklaw.com</p>
<p><i>National Association of College and University Business Officers (NACUBO)</i></p> <p>Ronald Dove Dustin Cho Covington & Burling LLP One City Center 850 Tenth Street, N.W. Washington, DC 20001-4956 Telephone: 202-662-5685 Facsimile: 202-778-5685 Email: Rdove@cov.com dcho@cov.com</p>	<p><i>National Religious Broadcasters Noncommercial Music License Committee (NRBNMLC)</i></p> <p>Karyn Ablin Fletcher, Heald & Hildreth 1300 North 17th St, Ste. 1100 Arlington, VA 22209 Telephone: 202-719-7000 Facsimile: 202-719-7049 Email: ablin@fhhlaw.com</p> <p>Harv Hendrickson Russ Hauth 3003 Snelling Avenue North Saint Paul, MN 55113 Telephone: 651-631-5000 Facsimile: 651-631-5086 Email: hphendrickson@unwsp.edu RussH@salem.cc</p>
<p><i>Church Music Publishers' Association (CMPA)</i></p> <p>J. Rush Hicks P.O. Box 121192 Nashville, TN 37212 Telephone: 615-319-1912 rushhicks@comcast.net</p>	