

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, DC

In re

DETERMINATION OF ROYALTY RATES AND TERMS
FOR PERFORMANCE OR DISPLAY OF
NONDRAMATIC MUSICAL WORKS AND PICTORIAL,
GRAPHIC, AND SCULPTURAL WORKS BY PUBLIC
BROADCASTING ENTITIES (PB IV)

Docket No. 21-CRB-0002-
PBR (2023-2027)

**JOINT MOTION REQUESTING POSTPONEMENT OF SUBMISSION
OF WRITTEN DIRECT STATEMENTS AND SUBSEQUENT PERIODS**

The undersigned parties are (a) the Corporation for Public Broadcasting and 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”); and (b) the organizations that license and collect royalties associated with reproduction and performance of musical compositions performed by noncommercial broadcasters in the United States that are participants in this proceeding—the American Society of Composers, Authors and Publishers (“ASCAP”), Broadcast Music, Inc. (“BMI”), SESAC Performing Rights, LLC (“SESAC”), Global Music Rights, LLC (“GMR”), and The Harry Fox Agency LLC (“HFA”).

The undersigned parties have engaged in productive settlement negotiations and believe full settlement is likely. CPB, NPR, and PBS (collectively “CPB”) have already reached agreements in principle, including on all economics, subject only to final documentation, with each

of BMI,¹ SESAC, ASCAP and HFA, and those parties anticipate signing (separate) agreements within a matter of days; and CPB and GMR have had productive discussions and expect to reach a settlement, as well. In light of this, the undersigned parties jointly request that the Copyright Royalty Judges grant a postponement for 30 days (until October 11, 2021) of the time to submit written direct statements, or such other period that the Judges believe provides a reasonable period of time within which the parties should be able to settle the issues in this proceeding.

The undersigned are mindful that the Judges wish the parties to adhere to the schedule set forth in the February 9, 2021 Case Scheduling Order (the “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 full settlement without the parties having to incur the added obligations and potentially unnecessary costs of the immediately upcoming phases of the proceeding (including written direct statements and discovery). 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 reached separate agreements in principle (except as to GMR, with whom CPB has exchanged settlement proposals and has had fruitful settlement discussions), and are scheduling follow-up discussions to the extent necessary to execute their contemplated settlement agreements. The governing scheduling Order provides for the opportunity for parties to file a “motion stating good cause to vary the schedule”; and given that 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, we collectively submit that good cause has here been shown. H.R. REP. 108-408, at 24 (2004); S. REP. 104-128, at 39 (1995). Indeed, the Judges have granted modifications to the

¹ See Notice of Settlement of Broadcast Music, Inc. and the Public Broadcasting Entities (May 18, 2021), submitted in the above-captioned proceeding.

Scheduling Order in similar circumstances in prior Public Broadcasting Proceedings. *See* Order Postponing Case Schedule (July 22, 2016), *In re PBR-III*, No. 16-CRB-0002 PBR (2018-2022).

The undersigned 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 unlikely event significant settlements are not achieved. The undersigned also believe that, even with such an extension, in the unlikely event that CPB is unable to enter into a settlement with any of the undersigned, the Judges will still be able to render a decision on rates and terms in this proceeding prior to December 16, 2022 (*see* proposed revised schedule, attached as Exhibit A). For clarity, at this time the undersigned are only asking for an adjustment to the deadline for submission of written direct statements; the proposed revised schedule attached as Exhibit A retains the deadlines for the remainder of the case schedule set forth in the Order.

For these reasons, the undersigned participants respectfully request that this motion be granted, and that the parties be allowed until and including October 11, 2021 to file a Notice of Settlement or written direct statements.

DATED: September 9, 2021

Respectfully submitted,

/s/ Kenneth L. Steinthal

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EXHIBIT A
PB IV Proceeding Schedule

Case Event	Date
Non-Settling Parties file Written Direct Statements Commencement of Discovery Period	October 11, 2021
End of Discovery	November 9, 2021
Settlement Conference Period	December 27, 2021- January 17, 2022
Deadline to file Amended Written Direct Statements	November 24, 2021
Deadline for Written Rebuttal Statements	December 27, 2021
Deadline for Joint Settlement Conference Report	January 18, 2022
Hearing	TBD
Proposed Findings and Conclusions	TBD
Responsive Findings and Conclusions	TBD
Closing Arguments	TBD
Initial Determination	Not later than December 16, 2022

Proof of Delivery

I hereby certify that on Thursday, September 09, 2021, I provided a true and correct copy of the Joint Motion Requesting Postponement of CRB Schedule to the following:

American Society of Composers, Authors and Publishers, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Educational Media Foundation, represented by David Oxenford, served via ESERVICE at doxenford@wbklaw.com

National Religious Broadcasters Noncommercial Music License Committee, represented by Karyn K Ablin, served via ESERVICE at ablin@fhhlaw.com

Church Music Publishers' Association, Inc., represented by Carroll C Rigler, served via ESERVICE at cheshirerigler@shrumhicks.com

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

Broadcast Music, Inc., represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@faegredrinker.com

The Harry Fox Agency LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Signed: /s/ David P Mattern