

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 DISCOVERY**

The Corporation for Public Broadcasting (“CPB”), National Public Radio, Inc. (“NPR”), the Public Broadcasting Service (“PBS”), American Society of Composers, Authors and Publishers (“ASCAP”), and Global Music Rights, LLC (“GMR”) respectfully submit this request to postpone the deadlines for submission of direct witness statements and the end of discovery.

CPB, NPR, and PBS (collectively, “CPB”) are or will be responsible for a vast amount of the broadcast programming at issue in this proceeding. And, as in prior periods, CPB anticipates that its payment of royalties pursuant to 37 CFR § 381.4 will primarily be accomplished through direct agreements with performing rights organizations (“PROs”). To that end, CPB has already finalized agreements with each of Broadcast Music, Inc. (“BMI”), SESAC Performing Rights, LLC (“SESAC”), and The Harry Fox Agency LLC (“HFA”), which will soon be submitted to the Judges. CPB has also reached an agreement in principle with ASCAP and is in the final stages of negotiating the specifics of that license agreement, which CPB and ASCAP expect to be completed within the next several days. CPB and the one remaining PRO with which it has not reached agreement, GMR, have engaged in productive settlement negotiations and believe full settlement

is likely. In light of this, CPB, ASCAP, and GMR jointly request that the Judges grant a postponement for 21 days (until November 1, 2021) of the time to submit written direct statements and for 35 days (until December 14, 2021) of the time for end of discovery, 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”), as amended on September 10, 2021. 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 Order provides for the opportunity for parties to file a “motion stating good cause to vary the schedule”; 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, CPB, ASCAP, and GMR submit that good cause has here been shown. H.R. REP. 108-408, at 24 (2004); S. REP. 104-128, at 39 (1995).

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. Even with such an extension, and even in the unlikely event that CPB and GMR are unable to enter into a settlement, 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, which retains all

current deadlines other than the date for submission of written direct cases and the discovery deadline.)

For these reasons, the undersigned participants respectfully request that this motion be granted and that the parties be allowed until and including November 1, 2021 to file a Notice of Settlement or written direct statements.

DATED: October 11, 2021

Respectfully submitted,

/s/ Kenneth L. Steinthal

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EXHIBIT A
PB IV Proposed Proceeding Schedule

Case Event	Date
Non-Settling Parties file Written Direct Statements Commencement of Discovery Period	November 1, 2021
End of Discovery	December 14, 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 Monday, October 11, 2021, I provided a true and correct copy of the JOINT MOTION REQUESTING POSTPONEMENT OF SUBMISSION OF WRITTEN DIRECT STATEMENTS AND DISCOVERY to the following:

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

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

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

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

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

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

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

Signed: /s/ David P Mattern