

FCC Revises Rules for Reporting Ex Parte Communications

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On Monday, May 2, 2011, the *Federal Register* published the Federal Communications Commission's (FCC) March 2011 Report and Order (R&O) and Further Notice of Proposed Rule Making (FNPRM) to amend its rules governing *ex parte* presentations made in rule making and other permit-but-disclose proceedings. The *Federal Register* publication of the R&O and FNPRM establishes the effective date of the new rules and the comment and reply dates for the FNPRM.

Barring further complications, the new *ex parte* rules adopted in the R&O will become effective on June 1, 2011. In the R&O, the FCC generally expanded parties' obligations to file "*ex parte* notices" to describe meetings with FCC staff in rule making and permit-but-disclose proceedings. Under the revised rules, *ex parte* notices must be filed in connection with all oral *ex parte* presentations in such proceedings. The revised requirement applies even if the *ex parte* presentation is limited to issues and arguments that are already contained in a proceeding's record. Under the new rules, *ex parte* notices must also contain a list of all individuals present at the presentation, as well as a complete description of the arguments made. However, arguments that are already in the record may be disclosed through a citation rather than a full summary.

Through the R&O, the Commission also implemented several technical changes to its *ex parte* rules. The agency has mandated that parties file *ex parte* notices through the Commission's ECFS system in a searchable electronic format. (The FCC also revised its rule to accommodate *ex parte* notices that contain confidential information.) In part because of the new electronic filing requirement, the Commission extended the deadlines to file *ex parte*

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notices.

In the FNPRM, the Commission seeks comment on a proposal to require parties to provide enhanced disclosure about real parties-in-interest. Specifically, the FNPRM asks whether it is sufficient to apply enhanced disclosure obligations on *ex parte* filings or whether such a rule should be expanded to apply to all or certain categories of FCC proceedings. The item also solicits comments on how enhanced disclosure requirements would apply to different categories of entities. Finally, the FNPRM queries whether disclosure is appropriate in cases where the information is easily found among the Commission's records or on an entity's website. Comments must be filed by June 16, 2011, and reply comments must be filed by July 18, 2011.