

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Petition of StogMedia)	Docket No. 17-314
)	
v.)	
)	
Cox Communications Las Vegas, Inc.)	CSR-8947-L
d/b/a Cox)	
To: Chief, Media Bureau		

**MOTION FOR LEAVE TO SUBMIT COMMENTS
REGARDING UNAUTHORIZED RESPONSE**

Cox Communications Las Vegas, Inc. d/b/a Cox (“**Cox**”), by its attorneys and pursuant to Sections 76.7 and 76.975(e) of the Commission’s rules, 47 C.F.R. §§ 76.7 and 76.975(e), hereby submits this Motion for Leave to Submit Comments regarding the unauthorized StogMedia Response to Opposition and Motion to Dismiss apparently filed electronically on December 26, 2017 and served on Cox’s attorneys January 4, 2018 (the “**Unauthorized Response**”).¹

At the risk of engendering a ceaseless stream of incoherent rantings from StogMedia similar to its Petition and Unauthorized Response — to which Cox has no intention to respond further — Cox requests leave to comment that the Bureau has neither a reason nor an obligation to accept or consider StogMedia’s baseless Unauthorized Response.

Section 76.975 of the Commission’s Rules provides only for the filing of a petition for relief and a response and does not provide for the submission of additional pleadings.² Although in rare cases the Bureau has accepted additional pleadings in leased access matters “to the extent

¹ StogMedia filed its Petition for Relief (the “**Petition**”) on or about November 14, 2017, and Cox submitted its Opposition and Motion to Dismiss (the “**Opposition**”) on December 13, 2017 pursuant to 47 C.F.R. §§ 76.7(b)(2)(ii) and 76.975(e). As Cox observed in its Opposition, the Petition essentially seeks to compel the carriage of leased access programming that StogMedia neither produces nor controls on Cox’s cable television system serving the Las Vegas, Nevada area (the “**System**”) without insurance of any kind to protect Cox from liabilities arising from the transmission of such programming on the System.

² Additional pleadings such as the Unauthorized Response are not permitted and therefore violate Section 76.7(d) of the Rules. 47 C.F.R. § 76.7(d).

that the information offered therein clarifies or attempts to clarify arguments made in the original pleadings and is not merely cumulative of earlier arguments,”³ it has rejected additional pleadings such as the Unauthorized Response, “which provide no material information that could not have been included in the petition.”⁴

In this case, beyond regurgitating its earlier claims, StogMedia’s Unauthorized Response neither clarifies nor attempts to clarify any previously made argument; nor does it even attempt to provide any material information that could not have been included in the Petition. Instead, the Unauthorized Response seeks to obfuscate the documented fact that StogMedia refused to provide insurance covering any of the programming it now demands Cox carry on the System, and which StogMedia’s insurance carrier specifically confirmed its insurance did not cover.⁵ Needless to say, the Bureau’s policies and precedents disfavor the acceptance of pleadings such as the Unauthorized Response, which are nothing more than an abuse of the Commission’s processes.

To the extent the Bureau nevertheless wishes to consider the Unauthorized Response, Cox observes that while StogMedia now disingenuously claims that its insurance carrier “explain[ed] that the show[s] . . . were covered under our policy” and “provide[d] and endorsement naming Jon Basso as an additional insured,”⁶ the last unnumbered exhibit in the Unauthorized Response (a September 15, 2017 message from Mr. Stogner to his insurance agent) confirms these claims are patently untrue:

Kristie [of StogMedia’s insurance carrier] says Basso’s show is ‘un-insurable’ under our policy. . . .

Remember this started because Cox noticed the ‘Media Perils’ entry in the wrong window on the ACORD form. Once corrected they asked more about the actual

³ *Lorlei Communications, Inc. d/b/a The Firm v. Southeast Florida Cable, Inc. d/b/a Adelphia Cable Communications*, 12 FCC Rcd 11597, 11601 at para. 13 (Cab. Serv. Bur. 1997).

⁴ *Lorlei Communications, Inc. d/b/a The Firm v. Scripps Howard Cable Company, d/b/a Lake County Cablevision*, 11 FCC Rcd 10431 at n.1 (Cab. Serv. Bur. 1996).

⁵ See Opposition, Exhibit 6 (StogMedia correspondence dated September 14, 2017 confirming “there is no coverage afforded under this policy” for the Heart Attack Grill programming). In fact, as Cox’s Opposition and its previous conversations with Mr. Stogner made clear, had StogMedia simply provided insurance covering the programming it wished Cox to distribute on the System, Cox would be carrying that programming now.

⁶ Unauthorized Response at (unnumbered page) 10.

policy and when they were provided a copy determined there was something amiss with the policy. If my memory serves me correctly, they were right and there were some changes made to the policy. . . . After that the back and forth attempts to appease them on making Basso 'additional insured' took place, ending in Kristie saying he was un-insurable under the policy.⁷

Cox believes this exchange disposes with StogMedia's claims in the Petition and the Unauthorized Response should the Bureau decide to consider them. The Bureau therefore should deny and dismiss the Petition with prejudice.

Respectfully submitted,

COX COMMUNICATIONS LAS VEGAS, INC.
d/b/a/ COX

By:



Gary S. Lutzker
Scott S. Patrick

Its Attorneys

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January 10, 2018

VERIFICATION

To the best of my knowledge, information and belief formed after reasonable inquiry, the foregoing Motion for Leave to Submit Comment Regarding Unauthorized Response is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and it is not interposed for any improper purpose.



Gary S. Lutzker

January 10, 2018

⁷ Unauthorized Response, last (unnumbered) page (italics in original) (emphasis added).

CERTIFICATE OF SERVICE-

I, Sandra Dallas Jeter, hereby certify that a true and correct copy of the foregoing Motion for Leave to Submit Comment Regarding Unauthorized Pleading was submitted electronically to the Secretary's Office in Docket No. 17-314, and otherwise sent by first class U.S. mail, postage prepaid, except where hand-delivery is indicated, on this tenth day of January 2018 to the following:

Marlene H. Dortch, Esq.
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Sandra Dallas Jeter

*By Hand


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To: Chief, Media Bureau

DECLARATION OF DERRICK HANSON

1. My name is Derrick Hanson and I am Director FCC Regulations and Engineering for Cox Communications, Inc., the parent of Cox Communications Las Vegas, Inc. d/b/a Cox (collectively, "Cox"), which operates a cable system in the Las Vegas, Nevada metropolitan area. Among other things, I am primarily responsible for all leased access matters at Cox.
2. I have read the foregoing "Motion for Leave to Submit Comment Regarding Unauthorized Pleading" (the "Motion") and I am familiar with the contents thereof.
3. The facts contained herein and within the foregoing Motion are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry. The Motion is well grounded in fact and warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and is not interposed for any improper purpose.
4. I declare under penalty of perjury that the foregoing is true and correct.



Derrick Hanson
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Executed on: January 10, 2018