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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 92-64
)	
WIND 'N SEA FM LIMITED)	FILE NO. BPH-901224ME
PARTNERSHIP)	
)	
<u>et al.</u>)	
)	
For a Construction Permit for a)	
New FM Station on Channel 295A)	
Ocean City, Maryland)	

To: Administrative Law Judge
Edward Luton

**MASS MEDIA BUREAU'S OPPOSITION TO
MOTION TO STRIKE**

1. On May 28, 1992, the Mass Media Bureau filed comments on a petition by P.M. Broadcast Engineering, Inc. (PM), licensee of WQMR(FM), Federalsburg, Maryland, seeking leave to intervene in this proceeding. On June 3, 1992, PM filed a motion to strike the Mass Media Bureau's comments on the ground that they were untimely filed. The Bureau hereby opposes PM's motion to strike.

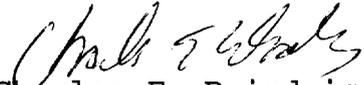
2. PM's petition to intervene was filed on May 15, 1992. PM contends that the Bureau's comments were due on May 21, 1992, but were filed a week late on May 28, 1992. PM contends that the Bureau was not entitled to three days for mailing because, although PM's petition was served by mail on the other parties, it was hand served on the Bureau. PM is incorrect. When a pleading is served by mail on one or more parties to a proceeding, all parties are entitled to three days for mailing.

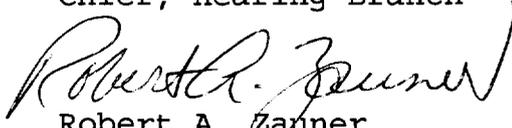
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The reason for this is so that all responsive pleadings are filed on the same date. See Marc A. Albert, FCC 89M-2098 (Chief, ALJ 1989).¹

3. After arguing that the Bureau's comments should be stricken, PM goes on to offer its reply to those comments. Thus, it would appear that the real purpose of PM's pleading is to permit PM to provide the Presiding Judge with an unauthorized substantive reply to the Bureau's pleading. See § 1.294(d) of the Rules. In sum, the Bureau urges that the motion to strike be denied.

Respectfully submitted,
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June 9, 1992

¹ In reviewing the pleadings the Bureau has discovered that, in fact, its comments filed on the 28th were due on the 27th (not the 21st as alleged by PM). Consequently, the Bureau hereby requests that the Presiding Judge consider its pleading despite its having been filed one day late.

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 9th day of June 1992, sent by regular United States mail; U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Opposition to Motion to Strike"** to:

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