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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of)	MM Docket No. 93-88
)	
EZ COMMUNICATIONS, INC.)	File No. BRH-910401C2
)	
For Renewal of License of FM)	DOCKET FILE COPY ORIGINAL
Radio Station WBZZ(FM) on)	
Channel 229B at)	
Pittsburgh, Pennsylvania)	
)	
ALLEGHENY COMMUNICATIONS GROUP,)	File No. BPH-910628MC
INC.)	
)	
For a Construction Permit for a)	
New FM Broadcast Station on)	
Channel 229B at)	
Pittsburgh, Pennsylvania)	

To: Administrative Law Judge
Edward Luton

**MASS MEDIA BUREAU'S COMMENTS ON
JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**

1. On November 12, 1996, EZ Communications, Inc. ("EZ") and Allegheny Communications Group, Inc. ("ACGI") filed a joint request for approval of settlement agreement. In the alternative, the parties request that the Presiding Judge certify the settlement to the Commission for its determination. The Mass Media Bureau hereby files its comments on the joint request.

2. The settlement agreement provides for the dismissal of ACGI's application, with prejudice, and grant of EZ's renewal application. In exchange for ACGI dismissing its application, EZ will reimburse ACGI in an amount in excess of its legitimate and

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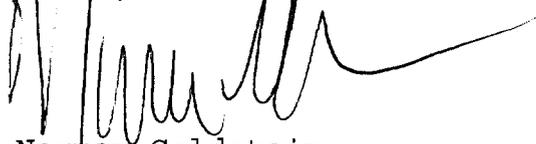
prudent expenses incurred in the prosecution of its application.

3. As noted in the joint request, approval of the settlement agreement will require waiver of Section 73.3523 of the Commission's Rules because the settlement payment would be made prior to release of an Initial Decision in this case and because the payment specified in the agreement exceeds the amount permitted by that rule. The Bureau supports certification to the Commission of the question as to whether waiver of the rule is warranted in the instant case. In this regard, the Bureau agrees with the parties that the public interest supports a waiver. Since the adoption of Rule 73.3523, there has been the extraordinary superseding event of the passing of the Telecommunications Act of 1996, Section 309(k) of which eliminates the right of challengers to file applications that conflict with an incumbent licensee's renewal application. Thus, to the extent that the motivation for limiting reimbursement in comparative renewal cases was to deter the filing of competing applications by applicants seeking private enrichment rather than vindication of the public interest, the rule is no longer necessary. No such application may now be filed. Moreover, in the instant case there is no reason to believe that ACGI filed its application for the purpose of obtaining monetary gain because ACGI's application was filed after the rules limiting reimbursement to legitimate and prudent expenses were adopted.

4. But for the fact that a waiver of the rule necessarily

involves a policy question, the Bureau would support outright approval of the joint agreement. Given the policy question as to whether waiver is warranted, the Bureau recommends that the Presiding Judge certify the settlement agreement to the Commission for its determination.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Norman Goldstein
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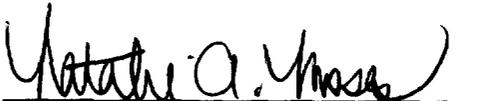
November 21, 1996

CERTIFICATE OF SERVICE

Natalie Moses, a secretary in the Hearing Branch, Mass Media Bureau certifies that she has on this 21st day of November 1996, sent by regular United States mail, copies of the foregoing "Mass Media Bureau's Comments on Joint request for Approval of Settlement Agreemen" to:

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