

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP
901 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-2327

DOCKET FILE COPY ORIGINAL

425 PARK AVENUE
NEW YORK, NY 10022-3598
(212) 836-8000
FAX (212) 836-8689

(202) 682-3500
FAX (202) 682-3580

NINE QUEEN'S ROAD CENTRAL
HONG KONG
852-2845-8989
FAX 852-2845-3682

1999 AVENUE OF THE STARS
LOS ANGELES, CA 90067-6048
(310) 788-1000
FAX (310) 788-1200

WRITER'S DIRECT DIAL NUMBER

December 17, 1997

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

DEC 17 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: MM Docket No. 87-268

Dear Ms. Salas:

On behalf of Paging Systems, Inc., there is transmitted herewith and filed an original and four (4) copies of its "Comments in Response to Ex Parte Filings" tendered to the Commission by the Association for Maximum Service Broadcasters and the Association of Local Television Stations, Inc.

Should any questions arise with regard to the attached comments, please communicate directly with the undersigned.

Very truly yours,

KAYE, SCHOLER, FIERMAN,
HAYS & HANDLER, LLP

By: Bruce A. Eisen

Bruce A. Eisen

Enclosure

024

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

RECEIVED

DEC 17 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
and their Impact Upon the Existing)
Television Broadcast Service)

TO: The Commission

COMMENTS OF PAGING SYSTEMS, INC.
IN RESPONSE TO EX PARTE FILINGS

Paging Systems, Inc. (WLMF), by its attorneys, hereby submits its comments in response to the ex parte filings tendered to the Commission by the Association for Maximum Service Broadcasters, Inc. ("MSTV") and the Association of Local Television Stations, Inc. ("ALTV"). In support thereof, the following is shown:

1. Paging Systems, Inc. is the licensee of Low power television WLMF-LP, which operates on Channel 13 at Miami, Florida. In past comments, WLMF has alerted the Commission to the fact that it will be displaced by Television Station WPEC(TV), Channel 12 at West Palm Beach, Florida. This is true because WPEC has been allotted DTV Channel 13, so that the

present WLMF Channel 13 operation faces relocation. In that regard, and noting the urgency of the situation, WLMF filed an application on FCC Form 346 to propose a construction permit to specify operation on Channel 53 from a new transmitter site. That application was filed on June 9, 1997 and remains pending at this time. Moreover, WLMF demonstrated in its September 15, 1997 comments in response to Reallocation of Television Channel 60-69, ET Docket No. 97-157, that there were sound public interest reasons to process and grant the displacement application without delay, and that absent a grant of an alternative channel, WLMF would confront program disruption, even termination. WLMF further argued that the reallocation of Television Channel 60-69 in Miami threatened its continued viability because the possible removal of Channels 60-69 from the broadcast services only helped to insure WLMF's demise. Such reallocation will effectively deny the rights which WLMF had legitimately obtained from the federal government. Displacement absent a reasonable relocation would be no different than the revocation of its license.

2. Now, during the pendency of the DTV allocation proceeding and the future of Channels 60-69, the Commission has chosen to consider out of time, two sets of comments which surely

impact upon WLMF's right to have a speedy determination of its future as a broadcaster. In November, 1997, MSTV submitted several "suggestions" relating to the DTV Table of Allotments. These consisted of no less than 357 changes to the DTV table to purportedly alleviate the extent of interference caused to adjacent channel assignments, and to those stations within the congested areas. Five days subsequent to the MSTV filing, ALTV submitted a proposal which addressed the alleged disparity in the authorized power between the DTV channels assigned to existing UHF facilities, and the power assigned in the UHF band to existing VHF stations. On December 2, 1997, the Commission released a public notice seeking comments on the two proposals.

3. While WLMF takes no broad ranging position on the technical matters set forth by the two ex parte filings, it nevertheless is deeply concerned that the question of expectations of due process that the Commission has previously promised to meet, may not be honored. While the Commission makes allowances to consider MSTV's and ALTV's suggestions to ease the pain of their member stations, WLMF remains suspended in the half

light of uncertainty resulting from its potential displacement; it must plan for the future in the face of continued uncertainty which will now be prolonged by acceptance and consideration of the ex parte filings. The more time the Commission takes to resolve the MSTV/ALTV filing, the increased disadvantage to WLMF and, directly, to the Miami, Florida viewing public.

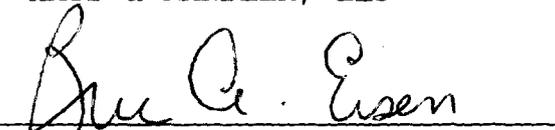
4. Of specific concern to WLMF is MSTV's attempt to revise the Table of Allocations by adding no less than 32 allotments between Channel 62-69. It completely neglects low power television facilities like WLMF and, if implemented, makes WLMF's relocation more difficult. WLMF has already urged the Commission to retain one of the remaining channels within the 60-69 band to accommodate it in Miami. If WLMF's proposed displacement channel 53 proves unavailable, approval of MSTV's scheme would make it even more difficult to utilize Channel 60-69 in the South Florida area. WLMF again requests the Commission to allow it to migrate to an appropriate channel within the Channel 60-69 band, rather than to face displacement and the loss of its valuable programming to the South Florida area. The Commission must include in any final decision on DTV provisions for the relocation of WLMF.

In light of the foregoing, WLMF requests the Commission to expeditiously resolve the various dockets relating to DTV operation, and to issue a Report and Order in accordance with WLMF's prior-filed comments.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN,
HAYS & HANDLER, LLP

By:



Bruce A. Eisen
Its Attorney

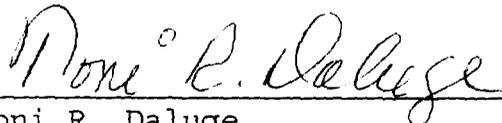
KAYE, SCHOLER, FIERMAN,
HAYS & HANDLER, LLP
901 15th Street, N.W.
Suite 1100
Washington, D.C. 20005

December 17, 1997

CERTIFICATE OF SERVICE

I, Toni R. Daluge, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 17th day of December, 1997, copies of the foregoing "Comments of Paging Systems, Inc. in Response to Ex Parte Filings" have been hand delivered to the following:

Richard M. Smith
Chief, Office of Engineering and Technology
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554



Toni R. Daluge