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June 11, 1998

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: MD Docket No. 98-36

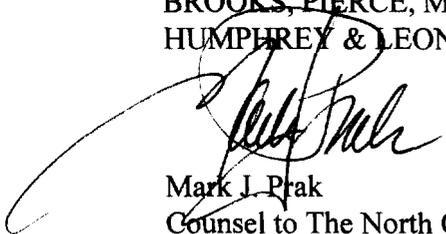
Dear Ms. Salas:

Transmitted herewith are an original and five (5) copies of the joint Ex Parte Comments of the North Carolina Association of Broadcasters and the Virginia Association of Broadcasters in MD Docket No. 98-36 pertaining to the assessment and collection of regulatory fees for Fiscal Year 1998.

Should any questions arise in connection with your consideration of this matter, please contact the undersigned.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.


Mark J. Prak
Counsel to The North Carolina and
Virginia Associations of Broadcasters

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In re Petitions of)
)
Assessment and Collection)
of Regulatory Fees for)
Fiscal Year 1998)

MD Docket No. 98-36

To: The Commission

**EX PARTE COMMENTS OF THE
NORTH CAROLINA ASSOCIATION OF BROADCASTERS
AND THE VIRGINIA ASSOCIATION OF BROADCASTERS**

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June 11, 1998

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Petitions of)
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Assessment and Collection) MD Docket No. 98-36
of Regulatory Fees for)
Fiscal Year 1998)

To: The Commission

**EX PARTE COMMENTS OF THE
NORTH CAROLINA ASSOCIATION OF BROADCASTERS
AND THE VIRGINIA ASSOCIATION OF BROADCASTERS**

The North Carolina Association of Broadcasters (“NCAB”) and the Virginia Association of Broadcasters (“VAB”) hereby jointly submit these Ex Parte Comments in response to the Commission’s *Notice of Proposed Rulemaking*, MD Docket No. 98-36, FCC 98-40, released March 25, 1998 (the “*NPRM*”), as well as to the Comments and Reply Comments submitted therein. As set forth below, the NCAB and VAB approve of the Commission’s proposal to use city grade contours to determine a station’s service population and support the Commission’s proposed “alternate” method for computing regulatory fees.

Parties that have filed comments in this *NPRM* have expressed their preference for “a regulatory fee system that takes into account the true revenue potential of a station in determining the fee that it will pay.”¹ In previous years, the Commission has chosen to calculate regulatory fees using population figures in accordance with protected signal contours. This methodology, however,

¹ *Joint Comments of the Named State Broadcaster Associations at 2.*

has produced inequitable results, primarily because large urban populations are attributed to suburban or rural stations. While the latter stations' signals might be protected in those communities, they simply are not effectively received outside of their immediate service area.² For example, under the current rules, a licensee located in Lexington, North Carolina with a potential market of 50,000 listeners is still partly included in the more densely populated Greensboro market. Not surprisingly, under this inequitable system, stations in rural areas have been saddled with disproportionately high fees. Therefore, like other commenters in this proposed rulemaking, the NCAB and VAB enthusiastically support the Commission's proposal to reduce the applicable signal contours to 5 mV/m for AM radio stations and 70 dBuV/m for FM radio stations.³

In addition, commenters in this *NPRM* have supported the second alternative fee schedule proposed by the Commission. The first fee schedule proposal, which is based exclusively on a station's service area, divides stations into ten different classifications groups: the lowest fee is \$250 and the highest is \$2,500, with uniform increments of \$250 between classification groups. The second proposed fee schedule is based on specific population figures and is subdivided according to the different classes of service. For example, an AM class A station serving a population of less than 20,000 would pay a fee of \$500, whereas an AM class C station would only pay a fee of \$250.

The NCAB and the VAB endorse the second proposal because it better promotes the Commission's avowed goal of achieving fairness in the assessment of regulatory fees. Simply put, the second proposal better accounts for the different earning potential of different stations and more

² See *Comments of the National Association of Broadcasters* at 2.

³ See *Comments of the National Association of Broadcasters* at 2; *Comments of the Named State Broadcaster Associations* at 3.

fairly distributes the costs of paying for the Commission's regulatory oversight.⁴ If the Commission implements this second proposal, AM daytime station owners in small towns will be treated more equitably. As one knowledgeable commenter stated:

I realize that all the consolidation in the large and major markets would give the impression that money grows on trees, however, this is not the case here in the hinterlands where the rubber meets the road. . . . Our little AM station is class IV 1000 watts and pays \$500! My AM station is barely hanging on by a thread and is heavily subsidized by the FM station . . . ANY additional costs are prohibitive.⁵

In sum, the second alternative fee schedule distributes the regulatory fee burden more equitably and has the support of the NCAB and VAB.

⁴ See *Comments of National Association of Broadcasters* at 4-5; *Comments of Named State Broadcaster Associations* at 3.

⁵ See *Comments of Ruston Broadcasting Co., Inc.* at 1.

Conclusion

For the foregoing reasons, the Commission should use city grade contours as a basis for determining regulatory fees and should adopt its second alternative fee schedule based on the earning potential of different stations.

Respectfully submitted,

**NORTH CAROLINA ASSOCIATION
OF BROADCASTERS**

**VIRGINIA ASSOCIATION
OF BROADCASTERS**

By 
Wade H. Hargrove

By 
Mark J. Pfak

Their Attorneys

June 11, 1998

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