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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Assessment and Collection of Regulatory Fees for Fiscal Year 2015
MD Docket 15-121

We submit this letter on behalf of the Puerto Rico Broadcasters Association ("PRBA") in response to the Commission's *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*¹ Report and Order released on September 2, 2015. We are writing to respectfully disagree with the Commission's decision to delay action on PRBA's request for regulatory fee relief for Puerto Rican stations, and instead require stations in need of such relief for FY 2015 to file individualized waivers.

PRBA first approached the Commission via a letter sent on September 30, 2014, seeking discussion of the way annual regulatory fees for broadcasters are calculated for the island of Puerto

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order, and Further Notice of Proposed Rulemaking, FCC 15-108 (2015) (*Report & Order*).

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Rico.² PRBA requested that the Commission take into consideration the significant population decline and severe depression facing Puerto Rico when determining the regulatory fees owed by the island's stations. The PRBA subsequently filed an *ex parte* letter and formal comments along the same lines, laying out in detail the situation faced by the island and its stations.³ Recognizing the seriousness of the situation, the Commission sought comment in its FY 2015 Regulatory Fee NPRM on whether Puerto Rico's unique circumstances should result in: (i) moving the Puerto Rico Market stations to a different rate because of the downward trend in the population and other factors; (ii) creating a separate fee category for the Puerto Rico market at a lower rate; or (iii) adopting a special provision in the rules for economically depressed geographic areas to seek a "fast track" waiver of regulatory fees.⁴ There was no suggestion in the NPRM that the Commission would foreclose for Puerto Rican stations any relief for FY 2015; the Commission's request for comment was framed as an effort to reach appropriate methods for relief, not whether the relief itself was warranted.

All parties filing comments strongly favored relief option (ii),⁵ and identified option (iii) – the adoption of a "fast track" waiver of regulatory fees – as the least desirable solution.⁶ As petitioners stated in their *Joint Comments*:

The purpose of the FCC's proposal is to reduce the burden the regulatory fees place on Puerto Rico's broadcasters; requiring each to submit a waiver request, especially one containing station-specific financial information, would undermine or even negate the actual benefit of the Commission's efforts. The legal and accounting costs associated with producing and analyzing the data required, and then drafting and filing the waiver request, would use up a large portion, if not the majority, of the relief the Commission would provide to those who are granted a waiver...[S]hifting the burden of proving hardship to

² See Letter from Mr. Francisco Montero, Esq., Counsel for the Puerto Rico Broadcasters Association, to Marlene Dortch, Secretary, Federal Communications Commission (Sept. 30, 2014) (*Initial Request Letter*).

³ See Letter from Messrs. Francisco Montero, Esq. and Jonathan R. Markman, Esq., Counsel for the Puerto Rico Broadcasters Association, filed in Docket No. 14-92, to Marlene Dortch, Secretary, Federal Communications Commission (Dec. 10, 2014).

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Notice of Proposed Rulemaking, Report and Order, and Order, 30 FCC Rcd 5354, at ¶ 17 (2015) (*NPRM*).

⁵ See *Joint Comments of Puerto Rico Broadcasters Association, International Broadcasting Corporation, Eastern Television Corporation, America-CV Station Group, Inc., and R&F Broadcasting, Inc.*, filed in Docket No. 15-121 (June 22, 2015) (*Joint Comments*); *Comments of ARSO Radio Corporation*, filed in Docket No. 15-121 (June 22, 2015) (*ARSO Comments*).

⁶ See *Joint Comments*, at *5 ("[A]ny relief which comes contingent on individualized waivers, even if put on a "fast track," at the Commission, would be limited by the counter-productive burden which these waivers would impose."); *ASRO Comments*, at *5 ("Option (iii)...is the least plausible solution for a number of reasons.").

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individual broadcasters who are already struggling to run their stations and serve their communities in the face of the island's current difficulties seems farcical at best, and may result in a perversion of the FCC's good intentions, as only the better-funded and -resourced stations may be able to expend the time and resources to request a waiver.⁷

The Commission's decision in the *Report & Order* to delay action and direct desperate stations to the traditional waiver process⁸ (not even the "fast track" as proposed in the NPRM's option (iii)) is wholly inadequate, is contrary to the Commission's proposal in the NPRM, and is without support in the record.

The Commission stated that "additional time is needed to further consider th[e] petition" "[d]ue to the complexities of th[e] proposal and time constraints imposed by the annual regulatory fee process."⁹ While PRBA recognizes that the regulatory fee process is complicated, requiring much internal discussion and planning, this issue was first brought to the Commission's attention on September 30, 2014, nearly a year ago. It is hard to imagine how the Commission could have any more time to consider changes to a system it implements every year. In the time since, the Commission sought and received comment from interested parties providing statistics and data illustrating the unique economic and population crisis facing the island of Puerto Rico, only further emphasizing the desperate need for immediate action.

The traditional waiver system will not provide any assistance. The administrative and legal costs of preparing a waiver, which would be several hundred dollars at minimum for the smallest licensees, and more than a thousand dollars for most others, cannot be justified by the negligible amount of fee relief which might be granted, if at all.¹⁰ We do not expect that many broadcasters in Puerto Rico will run the risk of applying for a waiver as most will recognize the high likelihood that, as happened here, the Commission will deny them actual relief.

Puerto Rico's broadcasters do not have the luxury of waiting for a separate proceeding. The dire financial situation of the island of Puerto Rico and its broadcast stations is only getting worse,¹¹ and an individualized waiver done through the traditional waiver process does nothing to

⁷ *Joint Comments*, at *2.

⁸ *Report & Order*, at ¶ 25.

⁹ *Id.*

¹⁰ The Office of Managing Director, which processes all fee waiver requests, has made clear in recent years that waiver requests which formerly had been routinely granted now have a high, perhaps insurmountable, hurdle.

¹¹ Surely, the desperate situation in Puerto Rico has not been lost on anyone. *See, e.g., CNN Money*, "Get Ready: Puerto Rico is Likely to Default August 1," July 31, 2015, <http://money.cnn.com/2015/07/31/investing/puerto-rico-debt-default-august/>; *The Washington Post*, "Things in Puerto Rico Are Getting Really Bad: What You Need to Know," June 29, 2015, <http://www.washingtonpost.com/news/wonkblog/wp/2015/06/29/things-in-puerto-rico-are-getting-really-bad-what-you-need-to-know/>; *The Washington Post*, "Debt-Plagued Puerto Rico

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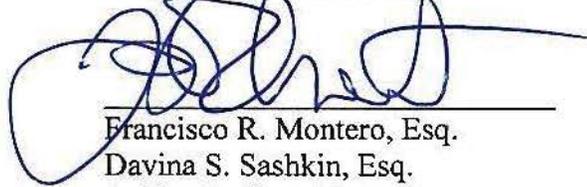
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alleviate the financial crisis. Paying FY 2015 fees, or spending the time and money applying for a waiver which will almost certainly not be granted, does not help Puerto Rican broadcasters. These broadcasters need real relief, not additional administrative and legal costs.

Despite its recognition of Puerto Rico's uniquely grave situation, and its stated desire in the NPRM to assist, the Commission has ultimately proposed no new solution other than that which was already available and deemed inadequate. PRBA therefore respectfully opposes the Commission's decision to delay action on the PRBA request for regulatory fee relief in lieu of waivers for this FY 2015 regulatory fee cycle.

Respectfully submitted,



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