

ANN BAVENDER*
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
RICHARD J. ESTEVEZ
PAUL J. FELDMAN
ROBERT N. FELGAR*
ERIC FISHMAN
RICHARD HILDRETH
FRANK R. JAZZO
ANDREW S. KERSTING
EUGENE M. LAWSON, JR.
HARRY C. MARTIN
GEORGE PETRUTSAS
LEONARD R. RAISH
JAMES P. RILEY
KATHLEEN VICTORY
HOWARD M. WEISS

* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET
ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

www.fhh-telcomlaw.com

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OFFICE OF THE SECRETARY

FRANK U. FLETCHER
(1939-1985)
ROBERT L. HEALD
(1956-1983)
PAUL D. P. SPEARMAN
(1936-1982)
FRANK ROBERSON
(1936-1961)
RUSSELL ROWELL
(1948-1977)

RETIRED

EDWARD F. KENEHAN

CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS

SHELDON J. KRYS
U. S. AMBASSADOR (ret.)

OF COUNSEL

EDWARD A. CAINE*

MITCHELL LAZARUS*

EDWARD S. O'NEILL*

JOHN JOSEPH SMITH

WRITER'S DIRECT

October 20, 1998

BY HAND DELIVERY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: 1998 Biennial Regulatory Review-
Streamlining of Radio Technical Rules
MM Docket No. 98-93

Dear Ms. Salas:

Transmitted herewith are an original and four copies of the Comments of Carlos Colon Ventura with regard to the above-referenced proceeding addressing the Commission's Biennial Regulatory Review - Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, MM Docket No. 98-93.

Should any further information be required concerning this matter, please communicate with this office.

Very truly yours,
FLETCHER, HEALD & HILDRETH, P.L.C.


Anne Goodwin Crump

Counsel for Carlos Colon Ventura

Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
1998 Biennial Regulatory Review –)	MM Docket No. 98-93
Streamlining of Radio Technical Rules in)	
Parts 73 and 74 of the Commission’s Rules)	

To: The Commission

COMMENTS OF CARLOS COLON VENTURA

Carlos J. Colon Ventura (“Mr. Colon”), licensee of FM broadcast station WSAN, Vieques, Puerto, Rico, by his attorneys, hereby respectfully submits his Comments with regard to the Commission’s *Notice of Proposed Rulemaking*, FCC 98-117, released June 15, 1998 (“NPRM”), which proposes, in part, the amendment of Section 73.215(e) of the Commission’s Rules to reduce the minimum separation requirements for second- and third- adjacent channel stations. For reason stated herein, Mr. Colon strongly supports this proposed amendment. With respect thereto, the following is stated:

1. In the FCC’s *Report and Order* adopting Section 73.215, the Commission stated that “. . . the future improvement of FM service may depend in part upon the licensees having greater freedom in selection of antenna sites, including consideration of potential sites that do not meet the domestic minimum distance separation requirements in the rules [Section 73.207].”¹ Recognizing the need for a balance between site flexibility and maintaining a fair distribution of

¹ See, *In the Matter of Amendment of Part 73 of the Commission’s Rules to Permit Short-Spaced FM Station Assignments by Using Directional Antennas*, 6 FCC Rcd 5356 (1991).

service, the Commission retained minimum but lesser short-spacing requirements for Section 73.215 applicants.² For many stations, Section 73.215(e) provides sufficient flexibility to locate suitable transmitter sites. As the Commission notes, however, in comparing the minimum separation requirements under both Sections 73.207 and 73.215, in almost all circumstances, the spacing minima under Section 73.215(e) provide second- and third- adjacent channel stations little to no relief. Second- and third-adjacent channel stations, in most instances, have less flexibility now to relocate facilities than under the former Section 73.207 waiver policies that permitted the staff to grant spacing waivers of up to six kilometers.

2. The NPRM proposes to amend the Section 73.215(e) spacing table to afford all FM stations a minimum of six (6) kilometers of relief from the applicable Section 73.207(a) standards.³ Such a proposal, if adopted, will provide second- and third-adjacent channel stations with the much needed flexibility in locating transmitter sites. At a minimum, the amendment will afford second- and third-adjacent channel stations the same flexibility to relocate facilities that existed under the former Section 73.207 waiver policies. Moreover, as stated in the attached Engineering Statement, the current restrictive requirements have no engineering basis.

3. Stations today are faced with numerous challenges in finding suitable transmitter sites, including zoning restrictions, limited tower space, FAA restrictions, and environmental concerns. Further, in areas of mountainous and uneven terrain, such as Puerto Rico and the

² Id.

³ See Paragraph 37 of NPRM

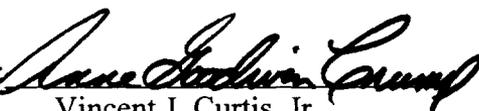
Virgin Islands, stations have the additional challenge of finding an accessible site that will enable the provision of an adequate city grade signal over their city of license.

4. Mr. Colon, as licensee of WSAN, can personally attest to the difficulties of finding suitable transmitter sites. For over three years, Mr. Colon has been attempting to relocate WSAN's transmitter site in order to provide Las Piedras, Puerto Rico, with its first local service. The mountainous terrain, zoning restrictions and limited tower availability in the area, however, have made it nearly impossible to locate a site that both complies with the spacing requirements of either Sections 73.207 or 73.215 and still provides the required coverage to the city of license. Adoption of the reduced minimum spacing standard will provide Mr. Colon and many other stations the needed flexibility to locate at the best available sites to serve the public. Furthermore, as the current spacing standards are without an engineering basis, no party is likely to suffer any actual injury as a result of the proposed changes. Thus, the Commission's proposed revisions to Section 73.215 would provide significant public interest benefits without any countervailing detriment.

Accordingly, for such reasons, Mr. Colon strongly supports the Commission's proposal to revise Section 73.215(e) to afford all FM commercial stations a minimum of six (6) kilometers of relief from the applicable Section 73.207 standards.

Respectfully submitted,

CARLOS J. COLON VENTURA

By: 

Vincent J. Curtis, Jr.

Anne Goodwin Crump

Richard J. Estevez

His Attorneys

Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209
(703) 812-0400

October 20, 1998

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of CARLOS J. COLON VENTURA ("Colon"), licensee of WSAN(FM), Vieques, Puerto Rico, in support of his Comments in MM Docket No. 98-93, in which the Commission proposes a number of changes in its Technical Rules on FM Broadcasting. These comments are directed toward two proposed changes in the provisions of §73.215.

The first change is the proposal to incorporate into the Rules the standards of contour protection for Puerto Rico and the Virgin Islands specified in *St. Croix Wireless Co.* Since an applicant in the Caribbean area must use these standards, it only makes sense for them to be in the Rules, to which all parties have easy access.

Second is to reduce the minimum separation requirements in §73.215(e) for second- and third-adjacent-channel stations to permit a shortage of at least 6 kilometers. Having experienced the difficulty in which one seeks to employ §73.215 but finds that a shortage of more than, say, 2 kilometers is not permitted, Colon strongly supports this change. The minimum separation requirements have no engineering basis and are not necessary for the protection of other stations.

The importance of this revision of the Rules is magnified in Puerto Rico because of its mountainous terrain. Finding a proper transmitter site is a particularly difficult task because of potential shadowing in one's community of license. Further, the rugged terrain causes a great lack of uniformity of service and interference contours. Under such circumstances, maximum flexibility in selecting a transmitter site is vital, and §73.215 can be of significant help, if only

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these non-engineering-based restrictions can be relaxed.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, consisting of a stylized 'N' followed by a horizontal line.

NEIL M. SMITH

October 12, 1998