

ORIGINAL

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

RECEIVED

NOV 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FRANK U. FLETCHER
(1939-1985)
ROBERT L. HEALD
(1956-1983)
PAUL D.P. SPEARMAN
(1936-1962)
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

(703) 812-0511

estevez@fhh-telcomlaw.com

November 20, 1998

BY HAND DELIVERY

Magalie Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

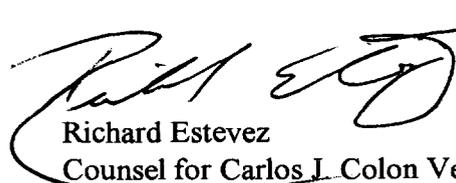
Re: 1998 Biennial Regulatory Review
Streamlining of Radio Technical Rules
MM Docket No. 98-93

Dear Ms. Salas:

Transmitted herewith, on behalf of Carlos J. Colon Ventura, are an original and four copies of Reply Comments 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 there be any questions regarding this matter, kindly communicate directly with the undersigned.

Yours very truly,
FLETCHER, HEALD & HILDRETH, P.L.C.


Richard Estevez
Counsel for Carlos J. Colon Ventura

Enclosures

No. of Copies rec'd 04
List ABCDE

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

NOV 20 1998

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

REPLY COMMENTS OF CARLOS COLON VENTURA

Carlos J. Colon Ventura ("Mr. Colon"), by his attorneys, hereby respectfully submits his Reply 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 reasons stated herein and in his original comments, Mr. Colon ***strongly supports*** this proposed amendment. With respect thereto, the following is stated:

1. The overwhelming majority of the comments filed addressing the proposed amendment to reduce the minimum separation requirements under Section 73.215(e) support the proposed reduction.¹ Generally, the comments support the Commission's amendment as originally proposed. Other commenters seek additional flexibility beyond that proposed by the

¹ See Comments filed by: *Communications Technologies, Inc.*, October 14, 1998, page 5; *Hardy & Carey*, October 19, 1998, page 17; *Graham Brock, Inc.*, October 20, 1998, page 4 (proposes additional reduction of spacing requirements to 8.0 km); *du Treil, Lundin & Rackley, Inc.*, October 20, 1998, page 7; *Association of Federal Communications Consulting Engineers*, October 20, 1998, page 5; *Mullaney Engineering, Inc.*, October 19, 1998, pages 5-7 (proposes elimination of spacing requirements under Section 73.215); *V-Soft Communications / Doug Vernier*, October 9, 1998, page 5; *West Virginia Radio Corporation*; October 20, 1998, page 4-5; *Richard L. Harvey (WBHX)*, October 20, 1998, page 7 (proposes elimination of spacing requirements under Section 73.215).

Commission. Mr. Colon continues to strongly support the Commission's proposal as originally stated in the NPRM. Moreover, Mr. Colon will support any additional modifications to Section 73.215 that will afford second- and third- adjacent channel stations greater latitude in site location.

The leading opponent to the proposed reduction was The National Association of Broadcasting ("NAB"). Without any technical support, the NAB claims that the change would result in actual interference. This objection follows NAB's long established policy of objecting to any changes in the FCC's technical rules regardless of their possible benefits.² The NAB provides no support whatsoever as to how a reduction in the spacing minima under Section 73.215 will increase interference. The basic premise behind Section 73.215 is to afford stations site flexibility while ensuring short-spaced stations are provided with equivalent protection. Stations that seek processing under Section 73.215, regardless of the minimum spacing requirements, must still provide information to the Commission demonstrating that the proposed site will comply with the protected contour requirements and/or will provide short-spaced stations equivalent protection as specified by the rule. Thus, the NAB's argument that new or additional interference will be created is unsupported, ill-founded and contrary to what is allowed under Section 73.215.

NAB also states that the proposed reduction will impact the IBOC DAB system currently under development.³ Again, the NAB does not provide any specific information or support of this proposition. NAB's opposition is clearly just another attempt to prevent any technical changes to

² See comments filed by *National Association of Broadcasters*, October 20, 1998, page 23.

³ *Id.*

the Commission's rules despite the overwhelming positive effects such changes may bring.

As is evident from the various comments submitted in this proceeding, the vast majority who commented on this amendment support the Commission's efforts to provide stations with additional site location flexibility. In particular, there exists strong support to afford all FM stations a minimum of six (6) kilometers of relief from the applicable Section 73.207(a) standards.

This modest change to the rules, if adopted, will provide significant relief to various stations in a time where it is becoming increasingly difficult to find adequate transmitters sites.

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
November 20, 1998