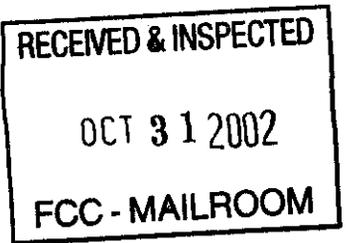


DOCKET FILE COPY ORIGINAL

**DON SCHELLHARDT**  
Government Relations & Family Law Attorney  
45 Bracewood Road  
Waterbury, Connecticut 06706  
[pioneerpath@hotmail.com](mailto:pioneerpath@hotmail.com)  
(203) 757-1790



October 25, 2002

Federal Communications Commission  
C/o Marlene H. Dortch, Secretary  
The Portals -- 445 12<sup>th</sup> Street S.W.  
Washington, DC 20554

**RE:** Motion For Rehearing, By THE AMHERST ALLIANCE And 33 Others,  
Of The Commission's Selection Of In Band On Channel (IBOC) Technology  
For Radio Digitalization -- In FCC Docket **MM 99-325**

Dear Commissioners and Commission Staff:

On behalf of THE AMHERST ALLIANCE and 33 other parties, I hereby submit this Motion For Rehearing of the Commission's October 11, 2002 Report & Order in Docket MM 99-325. In this Report & Order, the Commission has selected In Band On Channel (IBOC) technology as the only technology which may be used for Radio Digitalization.

We acknowledge the FCC's announcement of a *future* rulemaking, designed to resolve the many details of IBOC implementation. However, this Motion For Rehearing appears to be our final non-judicial opportunity to challenge the selection of IBOC itself.

The 34 parties to this Motion For Rehearing are as follows:

THE AMHERST ALLIANCE, *Connecticut*  
VIRGINIA CENTER FOR THE PUBLIC PRESS (VCP), *Virginia*  
CITIZENS MEDIA CORP/ALLSTON-BRIGHTON FREE RADIO, *Massachusetts*  
WILW, *Connecticut*  
AURICLE COMMUNICATIONS (Licensee of WFMU and WXHD), *New Jersey*  
KOL A M I HAVURAH (Licensee of WVJW-LP), *West Virginia*  
SPRYEX COMMUNICATION, *Ohio*  
JAMRAG MAGAZINE AND GREENHOUSE NEWS, *Michigan*  
BEATRADIO, *Minnesota*  
KIPB-LP, *Texas*  
CHALK HILL EDUCATIONAL MEDIA, *Texas*  
REC NETWORKS, *Arizona*  
ROGUE COMMUNICATION, *Washington State*  
JAMES JASON WNTWORTH, *Alaska*  
MATTHEW HAYES, *Oregon*

No. of Copies rec'd  
List ABCDE

0/11

FCC Docket MM 99-325  
AMHERST ALLIANCE, VCPP Et Al.  
Transmission of Petition For Reconsideration  
October 25, 2002

JOHN DAVIDSON, *California*  
ROD SEGO, *Utah*  
KYLE DRAKE, *Minnesota*  
JOHN ANDERSON, *Wisconsin*  
WILLIAM G. HEBBERT, *Wisconsin*  
JOHNATHAN GRANT, *Indiana*  
ERICH LOEPKE, *Texas*  
ROBERT CHANEY, *Louisiana*  
STEPHEN C. BRINGHURST, *Alabama*  
NICKOLAUS E. LEGGETT, N3NL, *Virginia*  
JOHN ROBERT BENJAMIN, *Pennsylvania*  
WILLIAM H. BEYRER, *Pennsylvania*  
W. REECE NEWTON, *Pennsylvania*  
RICHARD H. SHIVERS, KB3FGJ, *Pennsylvania*  
**MIKE** ERICKSON, *New York*  
GERALD JOHN **MEHRAB**, WA2FNQ, *New York*  
KEVIN JOHNSTON, *New York*  
WESLE ANNEMARIE DYMOKE, *Rhode Island*  
JACK FLANAGAN, *Massachusetts*

This Motion For Rehearing is being filed electronically, via the Commission's Electronic Comment Filing System (ECFS) at [www.fcc.gov](http://www.fcc.gov). In addition, a signed original and 11 hard copies are being sent to the Commission's Capitol Heights facility.

Sincerely,



Don Schellhardt  
Attorney For THE AMHERST ALLIANCE,  
Acting On Behalf Of All Patties To This Motion  
45 Bracewood Road  
Waterbury, Connecticut 06706  
[pioneerpath@hotmail.com](mailto:pioneerpath@hotmail.com)  
(203) 757-1790

RECEIVED & INSPECTED  
OCT 3 12002  
FCC - MAILROOM

UNITED STATES OF AMERICA  
Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

Digital Audio Broadcasting Systems )  
And Their Impact On Terrestrial ) FCC Docket MM 99-325  
Radio Broadcast Service )

MOTION FOR REHEARING BY:  
THE AMHERST ALLIANCE, VIRGINIA CENTER FOR THE PUBLIC  
PRESS, CITIZENS MEDIA CORP IALLSTON-BRIGHTON  
FREE RADIO, WILW, KOL AMI HAVURAH (Licensee of WVJW-LP),  
**JAMRAG** MAGAZINE AND **GREENHOUSE NEWS**, BEATRADIO,  
REC NETWORKS, AURICLE COMMUNICATIONS (Licensee of  
WFMU and WXHD), ROGUE COMMUNICATION, SPRYEX  
COMMUNICATION, KIPB-LP, CHALK HILL EDUCATIONAL MEDIA,  
MATTHEW HAYES, JOHN ANDERSON, NICKOLAUS E LEGGETT,  
JOHN ROBERT BENJAMIN, WESLE ANNEMARIE DYMOKE,  
JAMES JASON WENTWORTH, WILLIAM G HEBBERT,  
JOHN DAVIDSON, ROD SEGO, JOHNATHAN GRANT, KYLE  
DRAKE, ERICH LOEPKE, STEPHEN C. BRINGHURST, ROBERT  
CHANEY, WILLIAM H. BEYRER, W. REECE NEWTON, RICHARD H.  
SHIVERS, MIKE ERICKSON, GERALD JOHN MEHRAB, KEVIN  
JOHNSTON AND JACK FLANAGAN

---

TABLE OF CONTENTS

	<b><u>Page</u></b>
<u>Introduction</u>	<b>1</b>
<u>Identification of the Parties</u>	
<u>To This Motion For Rehearing</u>	<b>2</b>

SUBSTANTIVE PORTIONS  
OF THE MOTION FOR REHEARING

A.	<i>THE COMMISSION'S OCTOBER 11, 2002 DECISION TO APPROVE IBOC RADIO DIGITALIZATION IS PROCEDURALLY PREMATURE</i>	<b>6</b>
1.	<i>The Commission Has Acted While A July 18, 2002 Multi-Party Request For Preparation Of An Environmental Impact Statement (EIS) Is Still Pending</i>	<b>9</b>
2.	<i>The Commission Has Acted While An April 17, 2002 Multi-Party Petition For Rulemaking, Which Seeks Comparative Testing And Evaluation Of IBOC And Competing Radio Digitalization Technologies, Is Still Pending</i>	<b>11</b>
3.	<i>The Commission Has Acted While An October 25, 2001 Petition For Rulemaking On Electromagnetic Radiation (EMR) Is Still Pending</i>	<b>12</b>
4.	<i>The Commission Has Acted While A Commission-Proposed Rulemaking On "Blanketing Interference" With Electronic Equipment (Docket 96-62) Is Still Pending</i>	<b>13</b>

<b>B. THE COMMISSION'S OCTOBER 11,2002 DECISION IS BASED ON THE "ARBITRARY AND CAPRICIOUS" APPLICATION OF CRITERIA</b>	<b>14</b>
<b>1. The Commission Sought Public Comments On The National Audubon Society% December 19, 1998 Request For Preparation Of An EIS On TV Digitalization, While Failing To Solicit Public Comments On The July 18, 2002 Multi-Party Request For An EIS On IBOC Radio Digitalization</b>	<b>15</b>
<b>2. The Commission Has Severely Restricted Low Power Radio Licensing In Order To Minimize Alleged Interference With Larger Radio Stations, But The Commission Did Not Restrict IBOC Digitalization In Order To Minimize Fully Acknowledged Interference With Smaller Radio Stations</b>	<b>16</b>
<b>C. IBIQUITY DIGITAL CORPORATION HAS MIS-IDENTIFIED PARTIES TO THE JULY 18,2002 REQUEST FOR PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT (EIS)</b>	<b>16</b>

***F. CONCLUSION***

**19**

**Signatory Pages**

**20**

UNITED STATES OF AMERICA  
Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

Digital Audio Broadcasting Systems )  
And Their Impact On Terrestrial ) FCC Docket MM **99-325**  
Radio Broadcast Service )

---

MOTION FOR REHEARING BY:  
THE AMHERST ALLIANCE, VIRGINIA CENTER FOR THE PUBLIC  
PRESS, CITIZENS MEDIA CORP/ALLSTON-BRIGHTON  
FREE RADIO, WILW, KOL AMI HAVURAH,  
**JAMRAG** MAGAZINE AND **GREENHOUSE NEWS**, BEATRADIO,  
REC NETWORKS, ROGUE COMMUNICATION, AURICLE  
COMMUNICATIONS (Licensee of WFMU and WXHD), SPRYEX  
COMMUNICATIONS, KIBP-LP, CHALK HILL EDUCATIONAL MEDIA,  
MATTHEW HAYES, JOHN ANDERSON, NICKOLAUS E. LEGGETT,  
JOHN ROBERT BENJAMIN, WESLE ANNEMARIE DYMOKE,  
JAMES JASON WENTWORTH, WILLIAM G. HEBBERT,  
JOHN DAVIDSON, JOHNATHAN GRANT, ROD SEGO,  
KYLE DRAKE, ERICH LOEPKE, STEPHEN C. BRINGHURST,  
ROBERT CHANEY, WILLIAM H. BEYRER, W. REECE NEWTON,  
RICHARD H. SHIVERS, MIKE ERICKSON, GERALD JOHN MEHRAB,  
KEVIN JOHNSTON AND JACK FLANAGAN

We are a coalition of **13** organizations and **21** individuals.

We are united in urging the FCC to reconsider its decision to  
select In Band On Channel (IBOC) technology for Radio

Digitalization. This decision was made in an October 11, **2002**

Report & Order in FCC Docket MM **99-325**.

Identification of the Parties To  
This Motion For Rehearing

The 34 parties to this Motion For Hearing can be classified into one of 4 sub-categories. In the case of each sub-category, organizations and other institutions are listed first, followed by individuals.

1. The following 9 parties to this Motion For Rehearing are also parties to both the July 18, 2002 Request For Preparation of an Environmental Impact Statement (EIS) and the April 17, 2002 Petition For Rulemaking (currently placed in **PRM02MB**) on comparative evaluation of IBOC and other Digitalization technologies:

THE AMHERST ALLIANCE, Waterbury, Connecticut  
A Net-based, nationwide citizens' advocacy group for media diversity

VIRGINIA CENTER FOR THE PUBLIC PRESS (VCP), Richmond,  
Virginia

An information and advocacy center for media diversity,  
whose Secretary is seeking a Low Power FM license for WRFR

CITIZENS MEDIA CORP IALSTON-BRIGHTON FREE RADIO,  
Boston, Massachusetts  
A Part 15 radio broadcaster

REC NETWORKS, Tempe, Arizona  
An information and advocacy center for media diversity  
and an aspiring Low Power FM broadcaster

ROGUE COMMUNICATION, Lake Forest Park, Washington  
An information and advocacy center, and consulting firm,  
on mass communications and media diversity

JAMRAG MAGAZINE AND GREENHOUSE NEWS, Ferndale,  
Michigan  
A magazine covering the music scene in metropolitan Detroit and  
the official publication of the Green Party of Michigan

MATTHEW HAYES, Portland, Oregon  
An aspiring Low Power FM broadcaster

NICKOLAUS E. LEGGETT, N3NL, Reston, Virginia  
A concerned citizen, Amateur Radio Service operator and author  
or co-author of several Petitions For Rulemaking to the FCC  
(including RM-9208, which triggered the FCC deliberations that  
ultimately led to the new Low Power Radio Service)

JOHN ANDERSON, Madison, Wisconsin  
An established journalist on **“mainstream”** radio and  
an Internet broadcaster

2 The following 2 parties to this Motion For Rehearing  
are also parties to the July 18, 2002 Request for an EIS:

BEATRADIO, Minneapolis, Minnesota  
Internet broadcaster and aspiring Low Power FM broadcaster

JOHN ROBERT BENJAMIN, *Marienville, Pennsylvania*  
An aspiring Low Power FM broadcaster

3. The following 3 parties to this Motion For Rehearing are also parties to the April 17, 2002 Petition For Rulemaking on comparative evaluation of IBOC and other Digitalization technologies:

KOL AMI HAVURAH, *Benwood, West* Virginia  
Licensee of WVJW-LP,  
a Low Power FM broadcaster

**WILW**, West Hartford, Connecticut  
A Part 15 radio broadcaster,  
owned by an expert on Low Power AM technology

WESLE ANNEMARIE DYMOKE, *Providence, Rhode Island*  
Co-founder of PROVIDENCE COMMUNITY RADIO,  
an aspiring Low Power FM broadcaster,  
and former National Coordinator of THE AMHERST ALLIANCE

4. 20 parties to this Motion For Rehearing are not parties to either the July 18, 2002 Request for an EIS *or* the April 17, 2002 Petition For Rulemaking.

AURICLE COMMUNICATIONS, New Jersey  
Licensee of WFMU and WXHD

KIPB-LP, Texas  
A Low Power FM broadcaster

JAMES JASON WENTWORTH, Fairbanks, Alaska  
Aspiring Part 15 broadcaster

JOHN DAVIDSON, La Jolla, California  
Concerned citizen

ROD SEGO, Provo, Utah  
Concerned citizen

KYLE DRAKE, Plymouth, Minnesota  
Radio engineer and concerned citizen

WILLIAM G. HEBBERT, Bayside, Wisconsin  
Concerned citizen

JOHNATHAN GRANT, Kokomo, Indiana  
Aspiring Low Power FM broadcaster

ERICH LOEPKE, *Fort* Worth, Texas  
Concerned citizen

ROBERT CHANEY, Baton Rouge, Louisiana  
Concerned citizen

STEPHEN C. BRINGHURST, Jacksonville, Alabama  
Concerned citizen

WILLIAM H. BEYRER, Chambersburg, Pennsylvania  
Concerned citizen

W. REECE NEWTON, *Cleona, Pennsylvania*  
Concerned citizen

RICHARD H. SHIVERS, **KB3FGJ**, *Philadelphia, Pennsylvania*  
Amateur Radio Service operator and concerned citizen

MIKE ERICKSON, *North Babylon, New York*  
Concerned citizen

GERALD JOHN MEHRAB, **WA2FNQ**, *Northport, New York*  
**Radio/TV** engineer, Amateur Radio Service operator and  
concerned citizen

KEVIN JOHNSTON, *Johnson City, New York*  
Part 15 broadcaster

JACK FLANAGAN, *Acton, Massachusetts*  
Concerned citizen

**A. THE COMMISSION'S OCTOBER 11, 2002  
DECISION TO APPROVE IBOC RADIO DIGITALIZATION  
IS PROCEDURALLY PREMATURE**

The Commission made its decision to approve **IBOC Radio** Digitalization while directly relevant Commission proceedings were still pending. By making its selection of IBOC technology **before** completing its work on several ongoing and relevant proceedings, the Commission has undercut the Administrative

Procedure Act, as well as the “**due process**” clause of the Constitution, in at least two fundamental respects.

**First:** To the extent that the approval of IBOC precludes or erodes the Commission’s future ability to adopt policies advocated by parties to the ongoing proceedings, the Commission is functionally denying those parties their right to be heard by the Commission. That is: The practical result of approving **IBOC** Radio Digitalization, without first concluding other proceedings that are related to and/or affected by that decision, is a functional pre-judgment of some or all of the issues raised in those other proceedings. Whatever the Commission’s judgments in those proceedings may ultimately be, they must be judgments, **On The Record**, rather than pre-judgments, achieved indirectly and, from the public’s perspective, invisibly.

Those parties who have initiated and/or engaged in these pending proceedings are legally entitled to responses from the Commission, **On The Record**, which are detailed enough to reflect careful consideration of the record and also official

enough to be appealable to a court, if one or more of the parties deem it necessary. These are fundamental procedural rights, which the decision on IBOC has indirectly, but tangibly, denied to participants in these pending proceedings.

**Second:** The Commission's effective pre-judgment of other relevant proceedings also means that the Commission, when reaching its decision on IBOC, acted in the absence of relevant information that might have been generated by first bringing those other proceedings to completion. In effect, the Commission deliberately deprived itself of potentially available information, when there was no compelling reason to do so.

The very process of processing the pending proceedings in question, which are enumerated below, would have made available to the Commission important new information on the human health effects of Radio Frequency emissions; the effects on electronic equipment of "blanketing interference"; other possible environmental implications of IBOC Radio Digitalization and also the merits of technological alternatives to IBOC,

including (but not limited to) the globally popular Eureka-147.

Instead, the Commission has approved IBOC in reliance on an information base that the Commission itself has artificially narrowed. Contrary to fundamental concepts of **“due process of law”**, the Commission has blinded itself, by its own hand.

The specific pre-judged proceedings are discussed below.

7. The Commission Has Acted While A July 78, 2002 Multi-Party Request For Preparation Of An Environmental Impact Statement (**EIS**) Is Still Pending

On July 18, **2002**, many of the parties to this Motion For Rehearing filed, in FCC Docket MM **99-325** (the IBOC Radio Digitalization Docket), a Multi-Party Request for a programmatic EIS on the overall consequences of the radio broadcasting **industry's** contemplated conversion to IBOC Digitalization.

This EIS Request was filed by a coalition of 13 parties: THE AMHERST ALLIANCE, VIRGINIA CENTER FOR THE PUBLIC PRESS (VCP), CITIZENS MEDIA CORP/ALLSTON-BRIGHTON FREE RADIO, WLYC-AM, BEATRADIO, REC NETWORKS, ROGUE COMMUNICATION, JAMRAG MAGAZINE AND GREENHOUSE

NEWS, MATTHEW HAYES, JOHN ANDERSON, JOHN ROBERT BENJAMIN and NICKOLAUS E. LEGGETT.

The Commission did address this Multi-Party EIS Request in paragraphs 39 and 40 of the IBOC decision. For various reasons, the Commission declined to act upon the EIS Request.

This rejection of the EIS Request was not an official denial of the EIS Request. That is: No public comments on the EIS Request were ever solicited, meaning that the Commission's rejection of the EIS Request was never based on a record of input from interested parties and the general public, meaning in turn that the Request rejection did not result from the kind of publicly accessible deliberative process envisioned by the the National Environmental Policy Act (NEPA), the Administrative Procedure Act and the **"due process"** clause of the Constitution.

The EIS Request, then, was not so much denied as it was disregarded. The EIS Request is still pending, in the sense that the parties to the EIS Request have never received a response

based on the **Commission's** evaluation of views and information received from interested parties and the general public.

2 The Commission Has Acted While An April 17,2002  
Multi-Party Petition For Rulemaking, Which Seeks  
Comparative Testing And Evaluation Of IBOC  
And Competing Radio Digitalization Technologies,  
Is Still Pending

On April 17, 2002, many of the parties to this Motion For Rehearing filed a Petition For Rulemaking that would mandate more complete testing and evaluation of the IBOC technology and also require comparable, comparative testing and evaluation of competing Digitalization technologies, notably including the Eureka-147 technology. The Petition For Rulemaking was filed by a coalition of 12 parties: THE AMHERST ALLIANCE, VCPP, CITIZENS MEDIA CORP IALLSTON-BRIGHTON FREE RADIO, WILW, KOL AMI HAVURAH, REC NETWORKS, ROGUE COMMUNICATION, JAMRAG MAGAZINE AND GREEN HOUSE NEWS, MATTHEW HAYES, JOHN ANDERSON, NICKOLAUS E. LEGGETT and WESLE ANNEMARIE DYMOKE.

This Petition was placed in the **PRM02MB** section of the **FCC's** Electronic Comment Filing System (ECFS). There it remains, un-Docketed. No public comments have been sought.

**3 The Commission Has Acted While An October 25, 2007 Petition For Rulemaking On Electromagnetic Radiation (EMR) Is Still Pending**

On October 25, 2001, a Petition For Rulemaking on EMR was filed by THE EMR NETWORK. THE EMR NETWORK is a nationwide **citizens'** advocacy group, whose goal is more stringent safety standards to limit maximum exposure to EMR emissions, including Radio Frequency (RF) emissions.

THE EMR NETWORK'S October 25, 2001 Petition for more stringent standards was denied by the Commission's Engineering and Technology Office on December 11,2001. THE EMR NETWORK then filed a Petition For Reconsideration (which, for some reason, is not recorded in the **PRM01ET** section of the **FCC's** ECFS), seeking review of the staffs decision by the full Commission. Since then, no apparent action has been taken by the full Commission on this matter.

However, in paragraph 40 of its IBOC decision, while discussing its decision to disregard the EIS Request made by many of the parties to this Motion For Rehearing, the Commission declared flatly that “existing RF safeguards are adequate”.

This declaration constitutes a functional pre-judgment of THE EMR NETWORK’S Petition For Reconsideration of the FCC **staff’s** denial of the Petition For Rulemaking.

4 The Commission Has Acted While A  
Commission-Proposed Rulemaking On  
“Blanketing Interference” With Electronic  
Equipment (Docket 96-92) Is Still Pending

The Commission has already acknowledged that IBOC will create significant radio interference, and precedents with other EMR emissions indicate that some of this interference may also affect appliances, computers and other electronic equipment in areas near the station. Therefore, it is puzzling that the Commission has authorized immediate commencement of “interim” IBOC broadcasts without first concluding its own pending deliberations on such “blanketing interference”.

In 1996, the Commission was concerned enough about “blanketing interference” to initiate a rulemaking, on its own motion, in Docket 98-92. That was 6 years ago, the final comment deadline has long since come and gone, a substantial body of input from interested parties is now On The Record in this Docket, but no action has ever been taken to either abandon the proposed rule or proceed with a final rule.

Surely, the Commission should first review the collected evidence on “blanketing interference” before it authorizes immediate use of a technology which may create more of it.

***B. THE COMMISSION’S OCTOBER 11,2002  
DECISION IS BASED ON THE  
“ARBITRARY AND CAPRICIOUS”  
APPLICATION OF CRITERIA***

Just as the right of parties to be heard, and not pre-judged, lies at the foundation of the law, so does the principle that the law should be impartial. While there are endless

exceptions to the law's general rules, and while even a uniform rule may sometimes be tailored to particular circumstances, those who shape the law are accountable for explaining why different parties are treated differently.

Further, if different treatment and/or impact appears to be attributable to race or gender, or even --- as in this case ---- to differences in wealth and/or class, the differing treatment and/or impact becomes **"suspect"** under the "equal protection" clause of the Constitution's Fourteenth Amendment.

**1** The FCC Sought Public Comments On The National Audubon Society's December **11**, 1998 Request For An EIS On **TV** Digitalization, While Failing To Solicit Public Comments On The July **18**, 2002 Multi-Party Request For An EIS On **IBOC** Radio Digitalization

The Report & Order does not explain, or even acknowledge, the different treatment.

**2. In Its January 28, 2000 Final Rule On Establishment Of A Low Power Radio Service, The Commission ~~Withdrew~~ The Proposed Rule's Full Liberalization Of Adjacent Channel Spacing, Citing Concerns About Alleged Radio Interference By 100-Watt Low Power FM Broadcasters —**

**But Now The Commission Is Permitting Virtually Unrestricted IBOC Transmissions, By 50,000-Watt and **100,000-Watt** Full Power Broadcasters, Even In The Face Of Fully Acknowledged Radio Interference That This Will Cause**

*The Report & Order does not explain, or even acknowledge, this different treatment. Why must extreme caution be exercised when a 100-watt station might interfere with a 100,000-watt station ... but not when it is fully acknowledged that a 100,000-watt station will interfere with a 100-watt station?*

**C. IBIQUITY DIGITAL CORPORATION HAS MIS-IDENTIFIED PARTIES TO THE JULY 18,2002 REQUEST FOR PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT (EIS)**

*We take this opportunity to correct, **On The Record**, a minor factual error with major legal implications.*

In its August 6, 2002 Supplemental Response to the July 18, 2002 Multi-Party EIS Request, **iBiquity** Digital Corporation incorrectly identifies the parties to the EIS Request. These parties are mis-identified as “**Don Schellhardt Et Al.**”, rather than correctly described as “**THE AMHERST ALLIANCE Et Al.**”

We presume that this error was unintentional, but it is nevertheless more than merely a semantic point. Potentially, the error in identification poses serious legal implications. It implies, in effect, that Don Schellhardt and THE AMHERST ALLIANCE are one and the same.

However, Don Schellhardt only represents THE AMHERST ALLIANCE, as its current attorney. Although he was one of 2 co-founders of THE AMHERST ALLIANCE, at a **1998** meeting in Amherst, Massachusetts, and although he also served as **Amherst's** first National Coordinator from **1998** into 2000, he is still only one Member of a nationwide organization.

With or without Don Schellhardt, Amherst is a collective and independent entity, governed through Internet consultations

among its active Members across the United States.

Whether or not Don Schellhardt continues to serve as the attorney for THE AMHERST ALLIANCE, Amherst as an institution retains the right to prepare and submit future regulatory filings on IBOC Radio Digitalization, on other Radio Digitalization technologies and, indeed, on any matters which could expand or contract the number of independent voices in America's mass media. Amherst, as an institution, also retains the right to seek injunctive relief in court, when and if such action is timely and appropriate, regardless of who its counsel might be at the time.

By the same token, each and every one of the 34 other parties to this Motion For Rehearing reserves, expressly, its own independent rights to prepare and submit future regulatory filings, and/or to seek timely and appropriate injunctive relief in court, either individually or in concert with others, regardless of whether or not THE AMHERST ALLIANCE chooses to join in one or more of these activities.

***F. CONCLUSION***

For the reasons we have set forth herein, THE AMHERST ALLIANCE, and the **33** other undersigned parties, strongly urge the Federal Communications Commission to reconsider its October 11, 2002 Report & Order in FCC Docket MM **99-325**, selecting IBOC technology as the technology for Radio Digitalization.

We reserve the right to file supplemental documents with respect to this Motion For Rehearing.

Respectfully submitted,



**Don Schellhardt**  
**Attorney for THE AMHERST ALLIANCE**  
**45 Bracewood Road**  
**Waterbury, Connecticut 06706**  
**pioneeraath@hotmail.com**  
**(203) 757-1790**



**Christopher Maxwell**  
**Secretary**  
**VIRGINIA CENTER FOR**  
**THE PUBLIC PRESS**  
**1621 Broad Street**  
**Richmond, Virginia 23220**  
**WRFR@aol.com**  
**(804) 649-9737**



**Stephen Provizer**  
**For CITIZENS MEDIA CORP/**  
**ALLSTON-BRIGHTON**  
**FREE RADIO**  
**451 Cambridge Road**  
**Boston, Massachusetts 02134**  
**improv@speakeasv.net**

Michelle Eyre — per djs

Michelle Eyre  
For REC NETWORKS  
P.O. Box 2408  
Tempe, Arizona 85280-2408  
[michelleeyre@awest.net](mailto:michelleeyre@awest.net)

Ted M. Coopman — per djs

Ted M. Coopman  
For ROGUE COMMUNICATION  
19551 38<sup>th</sup> Avenue  
Lake Forest Park, Washington 98155  
[rogue@roguecom.com](mailto:rogue@roguecom.com)  
(206)361-0501

William C. Walker — per djs

William C. Walker III  
For WILW  
225 Brighthurst Lane  
West Hartford, Connecticut  
[wilw@wilw.com](mailto:wilw@wilw.com)

Rabbi Bryan K. French — per djs

Rabbi Bryan K. French  
For KOL AMI HAVURAH,  
Licensee of WJVV-LP  
489 Benwood Hill Drive  
Benwood, West Virginia 26031  
[bryan27@vahoo.com](mailto:bryan27@vahoo.com)

Alan Freed — per djs

Alan Freed  
For BEATRADIO  
P.O. Box 3333  
Minneapolis, Minnesota 55403  
[beatradio@beatworld.com](mailto:beatradio@beatworld.com)

Tom and Susan Ness — per djs

Tom and Susan Ness  
Co-Publishers,  
JAMRAG MAGAZINE  
Co-Administrators,  
GREEN HOUSE NEWS  
P.O. Box 70006  
Ferndale, Michigan 48220  
[jamrag@glis.net](mailto:jamrag@glis.net)

Ken Freedman — per djs

Ken Freedman  
For AURICLE COMMUNICATIONS,  
Licensee of WFMU and WXHD  
P.O. Box 2011  
Jersey City, New Jersey 07303-2011  
[Freedman.Ken@wfmu.org](mailto:Freedman.Ken@wfmu.org)

William C. Doerner — per djs

William C. Doerner  
For KIBP-LP, *Padre Island*  
P.O. Box 18400  
Corpus Christi, Texas  
[wdoerner@stx.rr.com](mailto:wdoerner@stx.rr.com)

Charles Conrad — per djs

Charles Conrad  
For CHALK HILL EDUCATIONAL  
MEDIA  
P.O. Box 1008  
Kilgore, Texas 75663  
(903) 643-7711

William Spry — per djs

**William Spry**  
**For SPRYEX COMMUNICATIONS,**  
**Applicant for Class A**  
**Non-Commercial Educational**  
**Station License**  
**Hamilton, Ohio**  
**radupa@radupa.net**

Matthew Hayes — per djs

**Matthew Hayes**  
**7756 Southeast 17<sup>th</sup> Avenue**  
**Portland, Oregon 02906**  
**matthewhades@hotmail.com**

John Anderson — per djs

**John Anderson**  
***Radio and Internet Journalist***  
**5227 Spaanem Avenue**  
**Madison, Wisconsin 53716-2076**  
**phlegm@tds.net**

John Robert Benjamin — per djs

**John Robert Benjamin**  
**P.O. Box 47**  
**Marienville, Pennsylvania 16239**  
**Garfield25@qay.com**

Nickolaus E. Leggett — per djs

Nickolaus E. Leggett  
**N3NL**  
1432 Northgate Square  
#2A  
Reston, Virginia 20190  
[nleggett@earthlink.net](mailto:nleggett@earthlink.net)  
(703) 709-0752

Wesle AnneMarie Dymoke — per djs

Wesle AnneMarie Dymoke  
P.O. Box 2346  
East Side  
Providence, Rhode Island 02906  
[procomrad@as220.org](mailto:procomrad@as220.org)

James Jason Wentworth — per djs

James Jason Wentworth  
213 2<sup>nd</sup> Avenue  
Fairbanks, Alaska 99701-4810  
[gida@chugach.net](mailto:gida@chugach.net)  
(907) 457-6682

John Davidson — per djs

John Davidson  
1425 Deer Hill Court  
La Jolla, California 92037  
(858) 4594200

Rod Sego — per djs

Rod Sego  
P.O. Box 2074  
Provo, Utah 84603

Kyle Drake — per djs

Kyle Drake  
12810 37<sup>th</sup> Avenue North  
Plymouth, Minnesota 55441  
[vmalloc@usinternet.com](mailto:vmalloc@usinternet.com)

William G. Hebbert — per djs

William G. Hebbert  
8965 North Fielding Road  
Bayside, Wisconsin 53217  
(414) 352-5236

Johnathan Grant — per djs

Johnathan Grant  
1407 Schuler Drive  
Kokomo, Indiana 46901  
[me@johnathangrant.com](mailto:me@johnathangrant.com)

Erich Loepke — per djs

Erich Loepke  
1833 Canyon Ridge Street  
Fort Worth, Texas  
(817) 306-7610  
[radioTV72@aol.com](mailto:radioTV72@aol.com)

Robert Chaney — per djs

Robert Chaney  
6888 Menlo Drive  
Baton Rouge, Louisiana 70808  
[farverger@cox.net](mailto:farverger@cox.net)  
(225) 767-3014

Stephen C. Bringhurst — per djs

Stephen C. Bringhurst  
205 Clark Road N.E.  
Jacksonville, Alabama 36265-6177  
[sbc@hiwaav.net](mailto:sbc@hiwaav.net)

William H. Beyrer — per djs

William H. Beyrer  
P.O. Box 382  
Chambersburg, Pennsylvania 17201  
[bbevrer@comcast.net](mailto:bbevrer@comcast.net)  
(717) 2647161

W. Reece Newton — per djs

W. Reece Newton  
408 Wilshire Drive  
Cleona, Pennsylvania 17042  
[wrnewton@ioust.net](mailto:wrnewton@ioust.net)  
(717) 272-8071

Richard H. Shivers — per djs

Richard H. Shivers, KB3FGJ  
9029 Eastview Road  
Philadelphia, Pennsylvania 19152  
[KB3FGJ@aol.com](mailto:KB3FGJ@aol.com)

Mike Erickson — per djs

Mike Erickson  
653 Windmill Avenue  
North Babylon, New York 11703  
[wirelessmedia@simpsons.com](mailto:wirelessmedia@simpsons.com)

Gerald John Mehrab — per djs

Gerald John Mehrab, WA2FNQ  
6 Ambrose Lane  
Northport, New York 11768-3205  
[WA2FNG@optonline.com](mailto:WA2FNG@optonline.com)

---

*Kevin Johnston per djs*

Kevin Johnston  
15 Endicott Avenue  
Johnson City, New York 13790  
(607) 644-1046

*Jack Flanagan per djs*

Jack Flanagan  
32 Duggan Road  
Acton, Massachusetts 01720  
[docflan@attbi.com](mailto:docflan@attbi.com)

I hereby certify that copies of this document have been sent, via First Class USPS Mail, postage pre-paid, on this **25<sup>th</sup>** day of October, to the following parties:

Christine Todd **Whitman**  
Administrator  
US. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460

Eric J. Menge  
Assistant Chief Counsel for  
Telecommunications  
US. Small Business Administration  
409 **3<sup>rd</sup>** Street SW.  
Suite 7800  
Washington, DC 20416

Robert A. Mazer and R. Edward Price  
Counsel for *iBiquity* Digital Corporation  
Vinson & Elkins, L.L.P.  
1455 Pennsylvania Avenue NW.  
Washington, DC 20004

Albert Shuldiner  
Vice President & General Counsel for  
*iBiquity* Digital Corporation  
8865 Stanford Boulevard  
Suite 202  
Columbia, Maryland 21045



Don Schellhardt  
Attorney For THE AMHERST ALLIANCE,  
Acting On Behalf Of All Parties To  
This Motion For Rehearing

Dated: October 25, 2002

October 25, 2002