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March 28, 2002

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VIA HAND DELIVERY

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MAR 28 2002

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.,  
Suite 110  
Washington, DC 20002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: EB Docket No. 02-21  
Peninsula Communications, Inc.

Dear Ms. Salas;

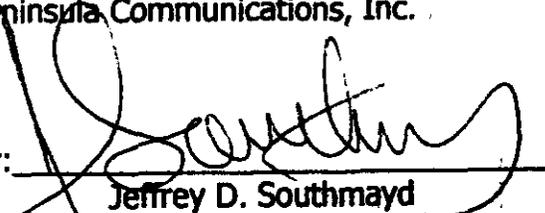
On behalf of Peninsula Communications, Inc., I am transmitting answers to the Enforcement Bureau's "Request for Admission of Facts and Genuineness of Documents."

Copies are being served on the Presiding Judge and the Enforcement Bureau.

Please contact the undersigned should you have any questions on this matter.

Very truly yours,

Peninsula Communications, Inc.

By:   
Jeffrey D. Southmayd

Its Attorney

cc: Administrative Law Judge Richard L. Sippel  
Mr. James Shook

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	EB Docket No. 02-21
	)	
<b>Peninsula Communications Inc.</b>	)	
	)	File No. EB 01-IH-0609
Licensee of stations	)	FRN:0001-5712-15
KGTL, Homer, Alaska;	)	Facility ID NOS. 52152
KXBA(FM), Nikiski, Alaska;	)	86717
KWVV-FM, Homer, Alaska; and	)	52145
KPEN-FM, Soldotna, Alaska.	)	52149
	)	
Licensee of FM translator statiions	)	
K292ED, Kachemak City, Alaska;	)	52150
K285DU, Homer, Alaska;	)	52157
K285EG and K272DG, Seward, Alaska	)	52158 and 52160
	)	
Former licensee of FM translator stations	)	
K285EF, Kenai, Alaska;	)	
K283AB, Kenai/Soldotna, Alaska	)	
K257DB, Anchor Point, Alaska	)	
K265CK, Kachemak City, Alaska	)	
K272CN, Homer, Alaska; and	)	
K274AB and K285AA, Kodiak, Alaska	)	

To: The Commission

**ANSWER**

Peninsula Communications Inc. (PCI) **answers** the Enforcement Bureau's Request for Admission of Facts and Genuineness of Documents as follows:

:

1. PCI admits the allegations of paragraph 1 of the Request.
2. PCI admits the allegations of paragraph 2 of the Request.
3. PCI admits the allegations of paragraph 3 of the Request.
4. PCI admits the allegations of paragraph 4 of the Request.

5. PCI admits the allegations of paragraph 5 of the Request.
6. PCI admits the allegations of paragraph 6 of the Request.
7. PCI admits the allegations of paragraph 7 of the Request.
8. PCI admits the allegations of paragraph 8 of the Request.
9. PCI admits the allegations of paragraph 9 of the Request.
10. PCI admits the allegations of paragraph 10 of the Request.
11. PCI admits the allegations of paragraph 11 of the Request.
12. PCI admits the allegations of paragraph 12 of the Request.
13. PCI admits the allegations of paragraph 13 of the Request.
14. PCI admits the allegations of paragraph 14 of the Request.
15. PCI admits the allegations of paragraph 15 of the Request.
16. PCI admits the allegations of paragraph 16 of the Request.
17. PCI admits the allegations of paragraph 17 of the Request.
18. PCI admits the allegations of paragraph 18 of the Request.
19. PCI admits the allegations of paragraph 19 of the Request.
20. PCI admits the allegations of paragraph 20 of the Request.
21. PCI denies the allegations of paragraph 21 of the Request. Station K285EF was authorized and licensed in writing by the Commission pursuant to the “Alaska Exception” policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commission’s FM translator rules to allow for the operation of translators

Answer

Page 2

in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed for such operation, the Commission expressly and implicitly “waived” its rules and policies in issuing the underlying authorization and license. Moreover, the Commission’s Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modification in the FM translator rules adopted therein did not affect authorizations at variance with those new rules that were issued pursuant to the “Alaska Exception”, as in this case. See footnote 59 to the Report.

22. PCI denies the allegations of paragraph 22 as noted above.

23. PCI denies the allegation of paragraph 23 of the request. The FCC 01-159 dismissed PCI’s application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to the law.

Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Section 309(k)(3)(A), PCI’s licenses “continue in effect” pursuant to 47 U.S.C Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

24. PCI denies the allegations of paragraph 24 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI’s primary station, as well as on all of the associated translator stations. There is no way to tell what revenues are allocable to each translator and, therefore whether they operate profitably or not.

25. PCI admits the allegation of paragraph 25 of the Request.

Answer

Page 3

26. PCI admits the allegation of paragraph 26 of the Request.

27. PCI admits the allegation of paragraph 27 of the Request.

28. PCI denies the allegations of paragraph 28 of the Request. Station K283AB was authorized and licensed in writing by the Commission pursuant to the "Alaska Exception" policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commission's FM translator rules to allow for the operation of translators in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed for such operation, the Commission expressly and implicitly "waived" its rules and policies in issuing the underlying authorization and license. Moreover, the Commission's Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modification in the FM translator rules adopted therein did not affect authorizations at variance with those new rules that were issued pursuant to the "Alaska Exception", as in this case. See footnote 59 to the Report.

29. PCI denies the allegations of paragraph 29 as noted above.

30. PCI denies the allegation of paragraph 30 of the Request. The FCC 01-159 dismissed PCI's application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to the law. Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Section 309(k)(3)(A), PCI's licenses "continue in effect" pursuant to 47 U.S.C. Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

Answer

Page 4

31. PCI denies the allegations of paragraph 31 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI's primary station, as well as on all of the associated translator stations. There is no way to tell what revenues are allocable to each translator and, therefore whether they operate profitably or not.

32. PCI admits the allegation of paragraph 32 of the Request.

33. PCI admits the allegation of paragraph 33 of the Request.

34. PCI admits the allegation of paragraph 34 of the Request.

35. PCI denies the allegations of paragraph 35 of the Request. Station K257DB was authorized and licensed in writing by the Commission pursuant to the "Alaska Exception" policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commission's FM translator rules to allow for the operation of translators in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed for such operation, the Commission expressly and implicitly "waived" its rules and policies in issuing the underlying authorization and license. Moreover, the Commission's Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modification in the FM translator rules adopted therein did not affect authorizations at variance with those rules that were issued pursuant to the "Alaska Exception", as in this case. See footnote 59 to the Report.

36. PCI denies the allegations of paragraph 36 as noted above.

Answer

Page 5

37. PCI denies the allegation of paragraph 37 of the Request.. The FCC 01-159 dismissed PCI's application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to the law. Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Section 309(k)(3)(A), PCI's licenses "continue in effect" pursuant to 47 U.S.C. Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

38. PCI denies the allegations of paragraph 38 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI's primary station, as well as on all of the associated translator stations. There is no way to tell what revenues are allocable to each translator and, therefore whether they operate profitably or not.

39. PCI admits the allegation of paragraph 39 of the Request.

40. PCI admits the allegation of paragraph 40 of the Request.

41. PCI admits the allegation of paragraph 41 of the Request.

42. PCI denies the allegations of paragraph 42 of the Request. Station K265CK was authorized and licensed in writing by the Commission pursuant to the "Alaska Exception" policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commission FM translator rules to allow for the operation of translators in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed such operation, the Commission expressly and implicitly "waived" its rules and

Answer

Page 6

policies in issuing the underlying authorizations and license. Moreover, the Commission's Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modifications in the FM translator rules adopted therein did not affect authorizations at variance with those new rules that were issued pursuant to the "Alaska Exception", as in this case. See footnote 59 to the Report.

43. PCI denies the allegations of paragraph 43 as noted above.

44. PCI denies the allegation of paragraph 44 of the Request. The FCC 01-159 dismissed PCI's application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to law.

Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Sections 309(k)(3)(A), PCI's licenses "continue in effect" pursuant to 47 U.S.C. Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

45. PCI denies the allegations of paragraph 45 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI's primary station, as well as on all the associated translator stations. There is no way to tell what revenues are allocable to each translator and, therefore whether they operate profitably or not.

46. PCI admits the allegation of paragraph 46 of the Request.

47. PCI admits the allegation of paragraph 47 of the Request.

48. PCI admits the allegation of paragraph 48 of the Request.

Answer

Page 7

49. PCI denies the allegations of paragraph 49 of the Request. Station K272CN was authorized and licensed in writing by the Commission pursuant to the "Alaska Exception" policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commissions FM translator rules to allow for the operation of translators in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed for such operation, the Commission expressly and implicitly "waived" its rules and policies in issuing the underlying authorization and license. Moreover, the Commissions's Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modification in the FM translator rules adopted therein did not affect authorizations at variance with those new rules that were issued pursuant to the "Alaska Exception", as in this case. See footnote 59 to the Report.

50. PCI denies the allegations of paragraph 50 as noted above.

51. PCI denies the allegation of paragraph 51 of the Request. The FCC 01-159 dismissed PCI's application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to the law. Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Section 309(k)(3)(A), PCI's licenses "continue in effect" pursuant to 47 U.S.C. Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

52. PCI denies the allegations of paragraph 52 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI's

Answer

Page 8

primary station, as well as on all the associated translator stations. There is no way to tell what revenues are allocable to each translator and, therefore whether they operate profitably or not

53. PCI admits the allegation of paragraph 53 of the Request.

54. PCI admits the allegation of paragraph 54 of the Request.

55. PCI admits the allegation of paragraph 55 of the Request.

56. PCI denies the allegations of paragraph 56 of the Request. Station K274AB was authorized and licensed in writing by the Commission pursuant to the “Alaska Exception” policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commissions FM translator rules to allow for the operation of translators in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed for such operation, the Commission expressly and implicitly “waived” its rules and policies in issuing the underlying authorization and license. Moreover, the Commission’s Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modification in the FM translator rules adopted therein did not affect authorizations at variance with those new rules that were issued pursuant to the “Alaska Exception”, as in this case. See footnote 59 to the Report. Furthermore, at the time K274AB, Kodiak, Alaska was licensed by the FCC to PCI, no written waiver was required under the then current version of Section 74.1234(d) which permitted PCI to own K274AB because the operation of the station did not fall within the predicted 1 mV/m field strength contour of any other commercial FM broadcast station assigned to Kodiak, Alaska, as its principal community of license.

Answer

Page 9

57. PCI denies the allegations of paragraph 57 as noted above.

58. PCI denies the allegation of paragraph 58 of the Request. The FCC 01-159 dismissed PCI's application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to law.

Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Section 309(k)(3)(A), PCI's licenses "continue in effect" pursuant to 47 U.S.C. Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

59. PCI denies the allegations of paragraph 59 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI's primary station, as well as on all of the associated translator stations. There is no way to tell what revenues are allocable to each translator and therefore whether they operate profitably or not..

60. PCI admits the allegation of paragraph 60 of the Request.

61. PCI admits the allegation of paragraph 61 of the Request.

62. PCI admits the allegation of paragraph 62 of the Request.

63. PCI denies the allegations of paragraph 63 of the Request. Station K285AA was authorized and licensed in writing by the Commission pursuant to the "Alaska Exception" policy developed under the Wrangell Radio Group of waiving certain of the normal restrictions in the Commission's FM translator rules to allow for the operation of translators

Answer

Page 10

in the State of Alaska at variance with those rules. To the extent that the FCC authorization allowed for such operation, the Commission expressly and implicitly “waived” its rules and policies in issuing the underlying authorization and license. Moreover, the Commission’s Report and Order in MM Docket 88-140, FCC 90-375, 5 FCC Rcd 7212(1990) made it clear that the modification in the FM translator rules adopted therein did not affect authorizations at variance with those new rules that were issued pursuant to the “Alaska Exception”, as in this case. See footnote 59 to the Report. Furthermore, at the time K285AA, Kodiak, Alaska was licensed by the FCC to PCI, no written waiver was required under the then current version of Section 74.1234(d) which permitted PCI to own K285AA because the operation of the station did not fall within the predicted 1 mV/m field strength contour of any other commercial FM broadcast station assigned to Kodiak, Alaska, as its principal community of license.

64. PCI denies the allegations of paragraph 64 as noted above.

65. PCI denies the allegation of paragraph 65 of the Request. The FCC 01-159 dismissed PCI’s application for license renewal without notice and opportunity for a hearing mandated by 47 U.S.C. Section 309(k)(3) and Section 312(c), contrary to the law. Because a **hearing is required** prior to issuing an order denying a license renewal pursuant to Section 309(k)(3)(A), PCI’s licenses “continue in effect” pursuant to 47 U.S.C. Section 307(c)(3) pending the required hearing and final decision, or any rehearing pursuant to Section 405 or judicial appeal pursuant to 47 U.S.C. Section 402.

Answer

Page 11

66. PCI denies the allegations of paragraph 66 on the grounds that PCI does not sell advertising specifically allocated to each translator. Advertising purchased airs on PCI's primary station, as well as on all of the associated translator stations. There is no way to tell what revenues are allocable to each translator and, therefore whether they operate profitably or not.

**DECLARATION OF DAVID F. BECKER**

I, David F. Becker, have reviewed the Answers to the Enforcement Bureau's Request for Admission of Facts and Genuineness of Documents being filed by Peninsula Communications, Inc. (PCI) and I hereby swear and affirm that the facts contained therein, except those of which official notice may be taken, are true and correct to the best of my personal knowledge and belief.

Date: March 19, 2002

A handwritten signature in black ink that reads "David F. Becker". The signature is written in a cursive style and is positioned above a horizontal line.

Answer

Page 12