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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of	)	EB Docket No 02-21
)	
PENINSULA COMMUNICATIONS, INC.)	
	)	File No EB 01-IH-0609
Licensee of stations	)	FRN: 0001-5712-15
KGIL, 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 stations)	
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

REQUEST FOR ORAL ARGUMENT

Peninsula Communications, Inc., (hereafter "PCI"), by its attorney, and pursuant to Section 1.277(c) of the Commission's Rules and Regulations, hereby respectfully requests oral argument on the Initial Decision, FCC 03D-01, released on Jun 19, 2003 (hereafter the "ID"), PCI's Exceptions And Brief, and the Enforcement Bureau's (hereafter the "Bureau") Reply Brief To Exceptions in this proceeding. In support whereof, PCI respectfully submits the following:

C.F. 14

1 The Commission grants oral argument “ ..where such oral presentations will assist in the resolution of the issues presented ” 48 C.F.R. 1.277(c). However, the Commission has also found that oral argument is necessary and appropriate where extraordinary circumstances exist that need further clarification in such a context. The subject proceeding presents such unique and extraordinary circumstances warranting an oral argument.

2 PCI has been a Commission broadcast licensee since the 1970's, is a pioneer broadcast licensee in the State of Alaska, and is a classic “Ma and Pa” business owned and operated by Dave and Eileen Becker, husband and wife. One day in 1995, PCI was informed by the FCC's staff that certain of the FM translator stations it had operated for decades in the State of Alaska pursuant to licenses issued by the Commission (the “Wrangell Translators”) had to cease operation due to the staff's irrational and arbitrary interpretation of an action taken by the Commission in a rule making proceeding in 1990. Specifically, in 1990, the Commission adopted stricter FM translator rules and standards. *See Amendment of Part 74 of the FM Commission Rules Concerning Translator Stations, Report and Order, 5 F.C.C. Rcd 7212 (1990) (“Report and Order”) recon- demed, Memorandum, Opinion and Order, 8 F.C.C. Rcd 5093 (1993).* ID at paras. 20-21. After 1990, FM translator waivers were generally only allowed in areas which otherwise received no signal, or so- called “white” areas. FM translators, such as PCI's Wrangell Translators, that were operating before March 1, 1991, could only continue to operate until March 1, 1994. However, the Commission indicated that it

would continue to make special allowance for *Wrangell* style translators, previously granted or prospective, in Alaska, noting in Footnote 59¹ to the *Report and Order* that:

We intend that our decisions herein not alter in any fashion the special treatment we accord Alaska, Wrangell Radio Group, 75 FCC2d 404 (1980). Upon appropriate showing the Commission has accommodated Alaska's unique lack of adequate communications services by granting waivers allowing program origination, alternative signal delivery, and cross-service translating.

Thus, although the PCI translator licenses were issued pursuant to the *Wrangell Radio Group* policy, were licensed to operate in the State of Alaska, and were therefore not altered " . in any fashion. ." by the *Report and Order*, the FCC's staff insisted that PCI terminate the operation of the Wrangell Translators in clear conflict with the Commission's intent, and express language, in promulgating the *Report and Order*. The foundation of this proceeding implemented against PCI is its attempt to have the Commission explain how the 1990 *Report and Order* required the termination of its Wrangell Translators in light of the clear exception expressly carved out for such stations in the 1990 *Report and Order*

3 In the ID, it is concluded that PCI operated the Wrangell Translators pursuant to legitimate *Wrangell Radio Group* waivers, but PCI is then subjected to the draconian sanction of the license revocation of two of its full power FM broadcast stations, KWVV-FM, Homer, Alaska, and KPEN-FM, Soldotna, Alaska, for its failure to immediately terminate the operation of its Wrangell Translators when ordered to do so by the FCC's staff, and even though the 1990 *Report and Order* did not require such termination. Moreover, this selective license revocation came pursuant to an *Order to Show Cause* that specified only one issue for determination:

¹ 5 F. C. C. Recd 7212, 7245 n. 59 (1990).

(a) To determine the facts and circumstances surrounding Peninsula Communications, Inc.'s operation of former FM translator stations 285EF, Kenai; K283AB Kenai/Soldotna; K257DB Anchor Point; K265CK, Kachemak City; K272CN, Homer, and K274AB and K285AA, Kodiak, all in Alaska, subsequent to August 29, 2001, contrary to the Commission's order in Peninsula Communications, Inc., 16 F.C.C. Rcd 11364 (2001), and related violation of § 416(c) of the Act:

(b) To determine, in light of the evidence adduced pursuant to issue (a), **whether Peninsula Communications, Inc. has the requisite character qualifications to be a Commission licensee and thus whether its captioned broadcast and FM translator licenses, including any former licenses reinstated, should be revoked.**

Matter of Peninsula Communications, Inc. Order to Show Cause, 17 F.C.C. Rcd 2838

(2002) ("OSC"). The ID found that PCI prevailed on the issue concerning its qualifications to remain a Commission broadcast licensee, that PCI was qualified to continue hold its broadcast licenses, but then nevertheless subjected PCI to an arbitrary revocation of the licenses for two of its full power FM stations. The sanction of the revocation of only a portion of PCI's broadcast licenses after a finding that PCI was fully qualified to continue to hold such licenses was not contemplated in the OSC, and the ID exceeded the authority granted in the proceeding by taking such an arbitrary action.

4 Moreover, at a time when the Commission is expanding the broadcast ownership abilities of large group owners through its proposed relaxation of the multiple ownership rules², is expanding the use of the FM broadcast spectrum through the implementation of the Low Power FM service³, and the FM translator service, it is nonsensical for the FCC's staff to be revoking the broadcast licenses of a licensee who was a pioneer in such expansion through its operation of the subject FM translator

² *Report and Order in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244*, FCC 03-127 (adopted June 2, 2003)

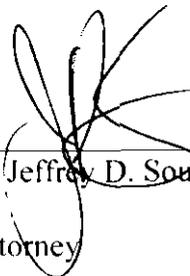
³ *Low Power FM Memorandum Opinion and Order on Reconsideration*, MM Docket 99-

stations, and who has operated all of its broadcast stations for over 25 years without a single regulatory blemish on its record.

Wherefore, Peninsula Communications, Inc. respectfully requests the opportunity to further enlighten the Commission in its determination on this matter.

Respectfully submitted,

Peninsula Communications, Inc.

By  _____
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Its Attorney

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Date September 9, 2003

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were sent by first class United States mail, postage pre-paid, and email on this 9th day of September, 2003

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The Honorable Kathleen Q Abernathy
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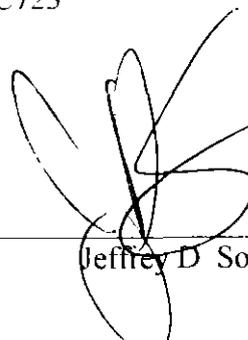
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