

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Revisions to Broadcast Auxiliary Service)
Rules in Part 74 and Conforming Technical)
Rules for Broadcast Auxiliary Service,)
Cable Television Relay Service and Fixed)
Services in Parts 74, 78 and 101 of the)
Commission's Rules)

Federal Communication Commission
ET Docket No. 01-75 Bureau / Office

To: Chief, Office of Engineering and Technology

JOINT COMMENTS IN SUPPORT
OF REQUEST FOR EXTENSION OF TEMPORARY STAY

Viacom Inc. ("Viacom"), Entercom Communications Corp. ("Entercom") and Sarkes Tarzian, Inc. ("STI," and collectively, the "Joint Commenters"), by their attorneys, hereby submit these Joint Comments in support of the request filed by The Society of Broadcast Engineers ("SBE") that the Office of Engineering and Technology ("OET") further delay the effective date of the prior coordination notice ("PCN") procedures for most fixed point-to-point Aural and TV Broadcast Auxiliary Service (BAS) stations adopted by the Commission in the above-captioned proceeding upon the expiration of a stay granted on April 15, 2003. The new PCN procedures are scheduled to become effective on October 16, 2003.

Viacom controls the Viacom Television Station Group, which consists of 39 television stations, and Infinity Broadcasting Corporation, the owner and operator of 185 radio stations. Entercom is the owner and operator of 102 radio stations. STI is the owner and operator of four radio stations and two television stations. Viacom, Entercom

and STI collectively hold hundreds of BAS licenses that are subject to the new PCN procedures, and may be adversely affected if those procedures are implemented before information required for the proper functioning of the PCN process can be submitted.

In its initial request for a one-year stay of the effective date of the PCN rules, SBE pointed out that an independent analysis of all fixed link BAS records in the Universal Licensing System (“ULS”) conducted by the engineering consulting firm Cavell, Mertz, and Davis, Inc. revealed that nearly one-third of all fixed, point-to-point BAS stations identified in ULS were lacking receive end geographic coordinates. For this reason, SBE argued that the ULS database could not be relied upon to support mandatory PCN procedures. *SBE Request for Temporary Stay of the PCN Requirement* at 2. Although OET acknowledged that “legacy database inaccuracies in the ULS could seriously affect the efficacy of prior coordination procedures, which was not anticipated when the Order setting these procedures was adopted[,]” it concluded that a stay of only six months was sufficient in order to correct ULS database inaccuracies. *Order*, ET Docket No. 01-75 (released April 15, 2003) at 2.

On September 29, 2003, SBE filed a request for a six-month extension of the temporary stay on the grounds additional time is needed to permit BAS licensees to supply missing ULS database information. SBE pointed out that a study conducted on August 22, 2003 revealed that the deficiencies in the ULS database were more widespread than had previously been recognized. Specifically, more than half of the ULS listings for fixed point-to-point links in the 2 GHz band are missing receive-site information. In addition, errors in site coordinates and antenna height, make and model were noted. *SBE Request for Extension of Temporary Stay* at 2. The delay in supplying

missing ULS database information is in part the result of confusion over whether BAS licensees would be required to pay a filing fee in connection with applications that sought only to supply information that was missing from the ULS database. It should be noted that many of the BAS authorizations subject to the new procedures have been licensed and in use for decades. Prior to 1974, FCC Form 313 did not even have a question for the identification of geographic coordinates of the receive end of a fixed, point-to-point link, or for the specification of the make, model or height of the receive antenna. At present, this data can only be provided through the filing of a complete application on FCC Form 601, as if the authorization were to be modified. Although SBE filed on June 2, 2003 an Emergency Request for a waiver of the filing fee for such applications with the Commission's Office of the Managing Director, the decision denying that waiver request was not issued until September 3, 2003 – only six weeks before the new PCN rules become effective.

The Joint Commenters submit that the continuing, widespread inaccuracies in ULS database will make implementation of mandatory frequency coordination under the PCN rules impossible at this time. Indeed, mandatory frequency coordination conducted on the basis of the incomplete ULS database will result in interference being caused to existing BAS facilities from newly coordinated facilities, to the detriment of incumbent BAS licensees.

The National Spectrum Managers Association (“NMSA”), in its Opposition to the Request for Extension of Temporary Stay, dated October 7, 2003 (the “*NMSA Opposition*”), recognized that “[a]ny given interference analysis is obviously only as good (or bad) as the database on which it relies[.]” NMSA further conceded that “at the

outset . . . inaccurate path data may prevent coordinators from performing the most accurate interference analysis before issuing a PCN for a new or modified path,” and that missing path data in the ULS or industry databases “could result in a failure to distribute a PCN to one or more ‘affected parties’ because of missing path data.” *NMSA Opposition* at 4-5. Despite its recognition of these glaring deficiencies in the ULS database, NMSA argues that the PCN process nevertheless should be allowed to take effect on October 16, 2003. According to NMSA, until the deficiencies in the ULS database can be corrected, BAS licensees should rely on the “reply” portion of that process to protect themselves from harmful interference from newly coordinated BAS licenses. The Joint Commenters respectfully disagree. Should the PCN process proceed in the manner suggested by NMSA, it is likely that BAS licensees will not receive relevant PCN notices and therefore will have no opportunity to respond to those notices. NMSA’s suggested solution to this problem -- blanketing an affected market with PCN notices, such that each BAS licensee receives a copy of each PCN relating to that market -- may well provide the requisite “notice” of the coordination process, but would be highly inefficient and unworkable, and would force BAS licensees to bear the principal burden of implementing the Commission’s PCN rules.

Since there appears to be no dispute that the ULS database is seriously flawed, through no fault of BAS licensees, the principal goal of OET and the broadcast industry should be to facilitate the submission of missing information to the ULS database. Extending the temporary stay of the effective date of the PCN procedures for an additional six months not only will give BAS licensees a reasonable amount of time to correct the widespread errors and omissions in that database, but also will reduce the

possibility that existing BAS facilities will be subjected to interference from newly coordinated facilities.

For the reasons set forth herein, the Joint Commenters respectfully request that OET grant SBE's request for a six month extension of the temporary stay of the effective date of the PCN procedures

Respectfully submitted,

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CERTIFICATE OF SERVICE

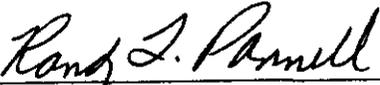
I, Randy L Pannell, certify that a true and correct copy of the foregoing Joint Comments In Support of Request for Extension of Temporary Stay was sent by first-class, postage prepaid mail this 10th day of October, 2003, to the following:

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