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Before the  
Federal Communications Commission  
Washington, DC 20554

DEC - 8 2004

Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcasting Stations )  
(Milner, Georgia) )  
(Ellaville, Georgia) )  
(Plains, Georgia) )

MM Docket No. \_\_\_\_\_  
RM- \_\_\_\_\_

To: Secretary  
Attn: Deputy Chief, Media Bureau, Audio Division

**SUPPLEMENT TO MOTION TO DENY  
OR DISMISS PETITION FOR RULEMAKING**

Southern Broadcasting Companies, Inc. ("Southern") hereby supplements the Motion to Deny Or Dismiss Petition for Rulemaking, filed by Southern on August 3, 2004 (the "Motion"), to report subsequent events concerning the feasibility of the site specified by the proponent in the above-referenced Petition for Rulemaking. In support hereof, the following is submitted:

1. In the Motion, Southern argued that the only suitable site area for placement of the broadcast tower for the proposed new allotment would create electromagnetic interference ("EMI") to aeronautical services. Southern based this prediction on the advice of its aeronautical consultant. She, in turn, relied on simulations by the Federal Aviation Administration ("FAA") Airspace Analysis Model ("AAM"), reflecting established FAA EMI guidelines in force for years. These guidelines indicated that where, as here, two navigational aids with so-called frequency protected

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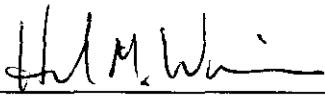
service volumes would fall partially within a thirty nautical mile zone measured from the proposed tower, prohibited EMI would be predicted to occur. It was Southern's consultant's understanding, based on prior cases, that any EMI predicted by the AAM was sufficient to result in a Hazard Determination. The only way for the rule making proponent to address this issue, according to Southern's consultant, would be to provide funding for modification of FAA localizers at airports, which would cost a huge sum of money. In order to confirm this prediction, Southern filed a Notice with the FAA for the site proposed in the Petition for Rule Making.

2. On September 11, 2004, however, the FAA's regional staff issued a Determination of No Hazard to Air Navigation (Aeronautical Study 2004-ASO-4213-OE) for the site specified in the Petition for Rulemaking. Subsequently, Southern's aeronautical consultants have inquired of the FAA as to the basis for the Determination. They have been advised that mitigating factors are now considered by the FAA in evaluating EMI in situations like the instant one. A "bright line" prohibition based on EMI prediction by the AAM is no longer applied. The FAA has not specified what mitigating factors were present here.

3. In light of this change in FAA policy, of which Southern was unaware until the issuance of the Determination of No Hazard, Southern hereby withdraws the argument in the Motion that the Petition for Rulemaking should be denied or dismissed on aeronautical grounds. Southern continues to object to the Petition for Rulemaking on the other grounds cited in the Motion. Further, should the Motion be denied, and the FCC issue a Notice of Proposed Rulemaking pursuant to the Petition for Rulemaking,

Southern reserves the right to raise again the aeronautical argument, depending on the FAA's EMI policy at the time the FCC's Notice is released.

Respectfully submitted,  
SOUTHERN BROADCASTING COMPANIES, INC.

By:  \_\_\_\_\_

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Its Counsel

December 8, 2004

**CERTIFICATE OF SERVICE**

I, Evelyn Thompson, a secretary at Fletcher, Heald & Hildreth PLC, hereby certify that a true and correct copy of the foregoing "Supplement To Motion To Deny Or Dismiss Petition For Rulemaking" was sent on this 8<sup>th</sup> day of December, 2004, via First-Class United States mail, postage pre-paid, to the following:

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\*Denotes Hand Delivery

  
Evelyn Thompson