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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

MAY - 4 2006

Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Mercer and Hermitage, Pennsylvania))

Federal Communications Commission
Office of Secretary

MB Docket No. 05-145
RM - 11212

To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

REQUEST FOR WITHDRAWAL

Cumulus Licensing LLC ("Cumulus"), licensee of Station WWIZ(FM), Mercer, Pennsylvania, by its counsel, hereby withdraws its Petition for Rule Making in this proceeding. This withdrawal is necessary due to the Bureau's decision in the *Galaxy* case (the "Galaxy Decision"),¹ and demonstrates the consequences of the Galaxy Decision on applications and proposals that do not result in a new ownership violation. In support hereof, Cumulus states as follows:

1. The community of license (Mercer, Pennsylvania) of Station WWIZ(FM) is not located within the geographic boundaries of any Arbitron Metro, but, according to BIA, Station WWIZ(FM) is "home" to the Youngstown-Warren Arbitron Metro. In this Arbitron Metro there are 25 commercial and noncommercial educational full-power radio stations 8 of which are attributable to Cumulus. Pursuant to the Commission's multiple ownership rules, in a Metro reported by BIA as having between 15 and 29 commercial and noncommercial educational full-power radio stations, a party may have a cognizable interest in up to 6 commercial full-power

¹ See Letter from Peter H. Doyle, Chief, Audio Division, to Sally A. Buckman, counsel to Galaxy Communications, L.P., March 23, 2006 (DA 06-644).

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radio stations, not more than 4 of which are in the same service (AM or FM).² Therefore, Cumulus' cluster does not comply with Section 73.3555 in the Youngstown-Warren Arbitron Metro. However, in the *Report and Order* implementing the new ownership rules, the Commission recognized that "there may be some existing combinations of broadcast stations that exceed the new ownership limits," but that "we are persuaded by the record to grandfather existing combinations of radio stations."³ Cumulus' cluster in the Youngstown-Warren Arbitron Metro qualifies for such grandfathering status.

2. Note 4 to 73.3555 provides that, if a station in a grandfathered cluster files a minor change application to implement an approved change in a FM station's community of license, the owner of that station must come into compliance with the multiple ownership rules (i.e. divest enough stations to meet the numerical ownership limits in a specific Arbitron Metro) before the Commission will grant the minor change application.⁴ This section of the multiple ownership rule is applicable here because Cumulus is petitioning the Commission to change the community of license of Station WWIZ(FM) from Mercer to Hermitage, Pennsylvania.⁵ If the Commission granted this rule making, Cumulus would have to file a minor change application to implement this change and, in doing so, Cumulus would need to divest two stations in this Arbitron in order to comply with Note 4. Cumulus (and several other parties) have filed an Application for Review of the Galaxy Decision.

3. Rather than wait for action of its Application for Review, however, and risk a grant of this rule making (which would force Cumulus to file a minor change application and to

² See 47 C.F.R. § 73.3555.

³ *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules*, Report and Order, 18 FCC Rcd 13620, ¶¶ 482-84 (2003).

⁴ See 47 C.F.R. § 73.3555, Note 4.

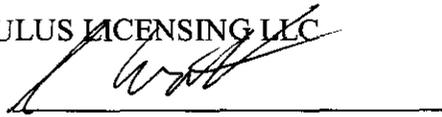
⁵ Like Mercer, Hermitage is not located in a county that comprises any Arbitron Metro.

divest two stations), Cumulus has decided to withdraw its rule making proposal. This result is not in the public interest for several reasons. First, in Cumulus' rule making there is no change in transmitter site proposed and the change in community of license involves communities outside any Arbitron Metro. On the other hand, a minor change application which does not involve a community of license change, such as a one-step upgrade in class, could have a much more dramatic effect on competition within an Arbitron Metro, but would not require divesture. Second, based on the Galaxy Decision, Cumulus is forced to dismiss a rule making that would serve the public interest by providing a first local service to the larger community of Hermitage, Pennsylvania even though there is no articulated public interest reason for forcing Cumulus to divest stations in its grandfathered cluster. This is not the result that the Commission envisioned when it implemented the new ownership rules. Nevertheless, Cumulus believes it must withdraw its rule making proposal at this time.

Respectfully submitted,

CUMULUS LICENSING LLC

By:


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May 4, 2006

Its Counsel

CERTIFICATE OF SERVICE

I, Scott Woodworth, hereby certify that on this 4th day of May, 2006, copies of the foregoing "**Request for Withdrawal**" were hand delivered to the following:

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