

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FILED/ACCEPTED  
MAR 31 2008  
Federal Communications Commission  
Office of the Secretary

In the Matter of: )  
)  
Creation of a Low Power Radio Service )  
)  
Media Bureau Invites Applicants to ) MM Docket No. 99-25  
Select FM Translator Applications for )  
Voluntary Dismissal to Comply with )  
Processing Cap )

REQUEST FOR WAIVER OF 47 C.F.R. § 1.45(d) AND  
ACCEPTANCE OF REPLY TO OPPOSITION FOR STAY

Pursuant to 47 C.F.R. § 1.3, Educational Media Foundation, Gold Coast Broadcasting, LLC, Bridgelight, LLC, Calvary Chapel of the Finger Lakes, Inc., E-String Wireless, Ltd., Edgewater Broadcasting, Inc., Living Proof, Inc., Radio Assist Ministry, Inc., Educational Communications of Colorado Springs, Inc., and Eastern Sierra Broadcasting ("Petitioners") hereby request a waiver of 47 C.F.R. § 1.45(d) to the extent it prevents the filing, or Commission consideration, of the Reply to Opposition to Request for Stay ("Reply"), filed by Petitioners in this matter on March 25, 2008. The Reply for which waiver is sought relates to Petitioners' collective requests for reconsideration and for a stay of the requirement that FM translator applicants in Auction No. 83 identify, by April 3, 2008, which of their pending FM translator applications to "voluntarily" dismiss, so that they have no more than ten proposals remaining on file.<sup>1</sup>

Section 1.3 of the Commission's rules provides that "[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown." 47 C.F.R. § 1.3. In this case, at issue is the very survival of hundreds, and potentially thousands,

<sup>1</sup> See *Media Bureau Invites Applicants to Select FM Translator Applications for Voluntary Dismissal to Comply with Processing Cap*, DA 08-496 (MB Mar. 4, 2008) ("Public Notice"), applying ¶ 56 of *Creation of a Low Power Radio Service*, 22 FCC Rcd. 21912 (2007) ("Third R&O"). On March 27, 2008, Prometheus Radio Project ("Prometheus"), which opposes reconsideration of the *Third R&O* and Petitioners' request for stay of the *Public Notice*, moved to strike the Reply relating to the stay request.

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of legitimately filed FM translator applications that the Commission has now ordered dismissed for reasons, Petitioners have shown, for which there is no record evidence they will advance any regulatory or policy goal.<sup>2</sup> Given the extent to which FM translators “provide valuable service” offering broadcast alternatives in areas where they are “unsatisfactory due to distance or intervening terrain obstacles,”<sup>3</sup> and/or due to listeners’ interests in niche formats not otherwise available to them off-air, the *Third R&O* and *Public Notice* raise important issues that significantly affect the public interest, as do the reconsideration and stay pleadings by extension. Waiver is warranted to afford the Commission the fullest opportunity to consider those issues.

Moreover, as Prometheus has offered the same arguments – that are in all but minor ways word-for-word identical – in its opposition on reconsideration and in opposing the instant stay, the Commission ultimately must consider Petitioners’ responses thereto on reconsideration, in any event. Though the rules do not require Petitioners to file the reply on reconsideration until April 9, 2008, we are filing it concurrently herewith to ensure the arguments in the reply are properly considered before the April 3, 2008, deadline for Petitioners to identify all but ten of their now-pending FM translator applications for dismissal. Accordingly, there is no additional burden to the Commission, or harm to any party, if those arguments are considered in association with the stay as well, given the substantial public interest issues created by the *Public Notice* and *Third R&O*. Because consideration whether to stay that deadline warrants as complete an analysis as possible given the significant public interest and legal issues involved, the Commission should grant a waiver to allow earlier consideration of Petitioners’ response to Prometheus’ pleadings.

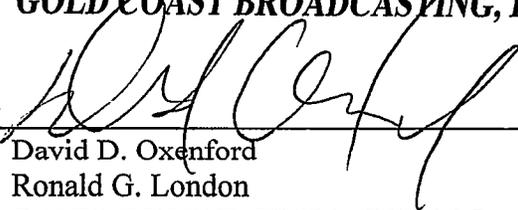
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<sup>2</sup> See Request for Stay of Educational Media Foundation, *et al.*, MM Docket No. 99-25, March 13, 2008, at 8-14 (copy attached as Appendix A); Petition for Reconsideration of Educational Media Foundation, *et al.*, MM Docket No. 99-25, Feb. 19, 2008, at 6-19 (attached as Exhibit 1 to Request for Stay).

<sup>3</sup> See *Creation of a Low Power Radio Service*, 20 FCC Rcd. 6763, 6776-78 (2005).

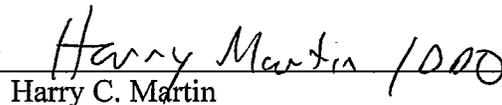
Respectfully submitted,

**EDUCATIONAL MEDIA FOUNDATION  
GOLD COAST BROADCASTING, INC.**

By 

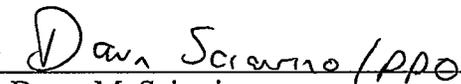
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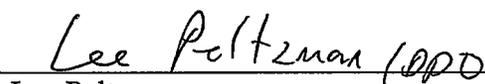
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Dated: March 31, 2008

## CERTIFICATE OF SERVICE

I, Rhea Lytle, a secretary with the law firm of Davis Wright Tremaine LLP, do hereby certify that I have this 31st day of March 2008, mailed by first-class United States mail, postage prepaid, copies of the foregoing "REQUEST FOR WAIVER OF 47 C.F.R. § 1.45(d)" to the following:

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