

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(The Dalles, Tualatin, Eugene, Albany, Lebanon,)
Paisley, and Diamond Lake, Oregon and)
Goldendale, Washington))

MB Docket No. 05-10
RM-11279

FILED/ACCEPTED

DEC 10 2008

Federal Communications Commission
Office of the Secretary

To: The Office of the Secretary
Attention: Chief, Audio Division, Media Bureau

MOTION TO STRIKE REPLY TO OPPOSITION TO MOTION FOR STAY

Portland Broadcasting, LLC ("PB"), licensee of Station KXPC-FM, Lebanon, Oregon, Bicoastal Media Licenses IV, LLC (successor in interest to Columbia Gorge Broadcasters, Inc. and M.S.W. Communications, LLC), licensee of Station KACI-FM, The Dalles, Oregon and Station KMSW(FM), The Dalles, Oregon and Extra Mile Media, Inc., licensee of Station KHPE(FM), Albany, Oregon (collectively, the "Joint Petitioners"), hereby move to strike the Reply to Opposition to Motion for Stay filed by Cumulus Licensing, LLC ("Cumulus"). In support of their position, the Joint Petitioners submit the following:

Cumulus filed a Motion for Stay and the Joint Petitioners filed an Opposition to the Cumulus Motion for Stay. On December 4, 2008, Cumulus filed a Reply to Opposition to Motion for Stay ("Reply").

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The Cumulus Reply is an unauthorized pleading and is specifically barred by the Commission's rules. Section 1.45(d) of the rules states that "replies to oppositions should not be filed and will not be considered." The language of the rule could hardly be clearer. Accordingly, the Commission should strike the Cumulus Reply as unauthorized. *See Smaller Market UHF Television Stations Group*, 48 RR 2d 393, 398 (1980).¹

¹ While the filing of a Reply by Cumulus may have been an inadvertent error, it is ironic in the extreme that Cumulus would file an unauthorized pleading with respect to its Motion for Stay, since the Motion is premised on an unauthorized pleading filed with the Federal Aviation Administration (the "FAA"). Cumulus filed a Request for Termination of Reimbursable Agreement with the FAA, citing no precedent in support of its request that the FAA terminate a third-party agreement or defer implementation of that Agreement. This was not surprising since, apparently, no such supporting precedent exists. Moreover, the very relief sought by Cumulus, the termination or deferred implementation of the Reimbursable Agreement, was impossible to approve, since the action called for under the Agreement, the changing of localizer frequencies at the Eugene Airport, had already been carried out. So, basically, Cumulus has asked the FCC to stay its own rule making proceeding so that the FAA can determine whether it will defer implementation of actions that have already occurred. From that perspective, the mere filing of an unauthorized Reply is not inconsistent.

In view of the above, the Joint Petitioners move that the Cumulus Reply to Opposition to Motion for Stay be stricken as unauthorized under the Commission's rules.

Respectfully submitted,

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Dated: December 10, 2008

CERTIFICATE OF SERVICE

I, Malinda L. Ellerman, hereby certify that on this 10th day of December, 2008, true and correct copies of the foregoing "Motion to Strike Reply to Opposition to Motion for Stay" have been served via U.S. mail, postage prepaid, upon the following persons:

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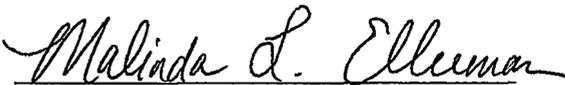
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