

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Petition by)	
)	
NATIONAL PUBLIC RADIO)	
)	RM 11579
To Repeal Section 73.525 of the)	
Commission's Rules)	
)	
)	
)	

To: The Commission, Office of the Secretary

COMMENTS OF SAN DIEGO STATE UNIVERSITY

The Board of Trustees of the California State University, for San Diego State University ("SDSU"), by its attorneys, hereby submits its comments in the above captioned proceeding.

SDSU fully supports National Public Radio's Petition to Repeal Section 73.525 of the Commission's rules.

1. Introduction

SDSU is the licensee of noncommercial educational TV and radio Stations KPBS(TV) and KPBS-FM, San Diego, California, as well as noncommercial educational Station KQVO, Calexico, California, providing public broadcast programming to those areas. SDSU is a state governmental institution of higher learning, dedicated to educating and enriching the lives of citizens in the communities it serves. SDSU's academic faculty recognized early on that the university's educational mission could be greatly enhanced by the provision of broadcasting programs to the community. Thus, beginning in 1960 with the launch of KPBS-FM (then called KEBS), SDSU took a leadership role in providing high-quality educational public radio (and later television) programming to the San Diego community and surrounding areas. SDSU

continues to provide award-winning public broadcast programming to its communities, in furtherance of the public interest.

2. Comments

For many years, SDSU's efforts to improve the facilities of Station KPBS-FM were stymied, primarily due to Section 73.525 protection concerns raised by a non-US TV Channel 6 station. See FCC File Nos. BPED-19970211IA and BMPED-20010321ABF and related pleadings. In fact, Station KPBS-FM currently transmits from Mt. San Miguel, instead of its preferred Mt. Soledad transmission location, due in large part to the inappropriate application of Section 73.525 to its circumstances. The preferred Mt. Soledad location would provide far superior coverage for Station KPBS-FM, allowing it to serve more population and area, including people and area currently unable to receive any public radio stations. See FCC File Nos. BPED-19970211IA and BMPED-20010321ABF and related pleadings. Thus, the existence and restrictions imposed by Section 73.525 have had a very real consequence for SDSU and for the San Diego community because that rule has inappropriately limited new and improved service to the area, contrary to the public interest.

Despite the fact that Section 73.525 "predicts" widespread interference to TV Channel 6 reception in and around San Diego from Station KPBS-FM's prior, present and proposed (but never authorized) technical facilities, SDSU is not aware of any such interference, past or present. Simply put, Section 73.525 does not comport with current real world conditions, if it ever did. The TV Ch. 6 protection rule is a hold-over from a bygone era.

SDSU's experience is not unique. Another San Diego area noncommercial educational station, Station KSDS(FM), fought a long and hard FCC battle to upgrade its facilities in the face of TV Ch. 6 protection concerns for a non-US TV Station. See FCC File No. BPED-19930802MA, as amended, and related pleadings. Again, "massive interference" to TV viewers

was predicted. Based on information and belief, no such massive interference materialized. Indeed, given the interference reporting condition imposed by the FCC on KSDS(FM) would allow the FCC to verify whether there were any unresolved TV Ch. 6 interference complaints.

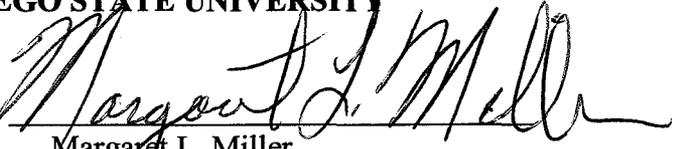
For the reasons specified by NPR and other noncommercial educational station commenters, as well as SDSU's rationale explained above, SDSU submits that Section 73.525 is obsolete. The rule serves no real interference protection purpose. The rule is particularly inappropriate now that there are so very few full-service TV stations licensed to use DTV Channel 6. The continued existence of Section 73.525 serves no legitimate FCC purpose, but it operates to limit meritorious and legitimate public radio expansion and upgrade projects, like SDSU's project for KPBS-FM, that would have resulted in significant new and improved public radio service to the public.

CONCLUSION

For all these reasons, SDSU urges the Commission to commence a rulemaking proceeding to repeal Section 73.525 of the Commission's Rules. Section 73.525 is obsolete and in need of review and repeal.

Respectfully submitted,

**BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY, SAN
DIEGO STATE UNIVERSITY**

By: 

Margaret L. Miller
Its Attorney

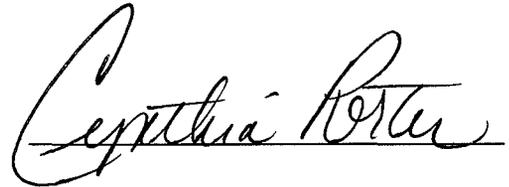
DOW LOHNES PLLC
1200 New Hampshire Avenue, N.W., Ste 800
Washington, DC 20036
202-776-2000

December 2, 2009

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments" was served on December 2, 2009, by first class mail, postage prepaid, upon the following:

Gregory A. Lewis
Associate General Counsel
635 Massachusetts Ave, NW
Washington, DC 20001

A handwritten signature in cursive script, reading "Cynthia Porter". The signature is written in black ink and is positioned to the right of the recipient's address.