

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

XM RADIO, INC. )

Request for Special Temporary Authority )  
To Operate Terrestrial Repeaters in the )  
Satellite Digital Audio Radio Service )

File No. SAT-STA-20010712-00063

NOV 19 2001

Satellite Policy Branch  
International Bureau

REPLY TO OPPOSITION TO APPLICATION FOR REVIEW

AT&T Wireless Services, Inc. ("AWS"), pursuant to Section 1.115(d) of the Commission's rules,<sup>1</sup> hereby responds to the Opposition of XM Radio, Inc. ("XM") to AWS' Application for Review of the International Bureau's grant of special temporary authority ("STA") to XM.<sup>2</sup> In its Application, AWS alleges that grant of the STA was in clear violation of Section 25.120 of the Commission's rules because XM had not disclosed the location and technical parameters of **all** repeaters to be operated pursuant to the STA. Specifically, the XM's Request expressly stated that it did not include **any** information on the low power repeaters it sought to operate pursuant to the STA.

XM argues that the Bureau's decision was correct because of a position taken by certain wireless communications services ("WCS") licensees in the course of a separate rulemaking proceeding concerning blanketing interference to WCS receivers caused by satellite Digital Audio Radio Service ("SDARS") terrestrial repeaters. Specifically, XM

<sup>1</sup> 47 C.F.R. § 1.115(d).

<sup>2</sup> *XM Radio Inc. Request for Special Temporary Authority to Operate Satellite Digital Audio Radio Service Terrestrial Repeaters*, File No. SAT-STA-20010724-00063, DA 01-2172 (Sept. 17, 2001)(STA Order).

alleges that “AWS and other WCS licensees have conceded the operation of repeaters at up to 2 kW EIRP and have stated that the [sic] such repeaters do not present an interference concern.”<sup>3</sup> AWS would dispute the accuracy of this statement, but that is beside the point. Technical and policy analysis offered in a rulemaking proceeding is simply inapposite to the grant of the STA. And it would be a novel expansion of the Commission’s STA precedent if bureaus were free to grant STAs on the basis of their own view of the likelihood of a particular outcome in an ongoing rulemaking proceeding – especially an outcome that has nothing to do with the ability to operate on a non-interference basis as required under the STA.

Section 25.120 of the Commission’s rules, governing the grant of special temporary authority, requires that any request contain the “full particulars of the proposed operations.”<sup>4</sup> Disclosure is not optional. The Bureau, in granting the STA, did not have authority to waive the disclosure of information concerning untold numbers of low power repeaters operating pursuant to a blanket authorization.


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<sup>3</sup> Opposition of XM, at 4.  
<sup>4</sup> 47 C.F.R. § 25.120

XM's Opposition can repair none of the Bureau's errors. The Commission must grant the application for review and reverse the Bureau's grant of the STA.

Respectfully submitted,

**AT&T WIRELESS SERVICES, INC.**

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Dated: November 13, 2001

CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of November, 2001, a copy of the foregoing Reply to Opposition to Application for Review was served by first class mail, postage prepaid, upon:

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A handwritten signature in black ink, appearing to read "Lon C. Levin", written over a horizontal line.