

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

FILED/ACCEPTED

JAN 30 2007

Federal Communications Commission
Office of the Secretary

In re Application of

SIRIUS SATELLITE RADIO, INC.)

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File No. SAT-STA-20061107-00131

For Special Temporary Authority to Operate)

)

Four SDARS Terrestrial Repeaters in)

)

Alaska and Hawaii)

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To: Office of the Secretary

Attention: Chief, International Bureau

REPLY TO OPPOSITION TO PETITION TO DENY

Mt. Wilson FM Broadcasters, Inc. ("Petitioner"), by its attorneys hereby files its reply to the opposition of Sirius Satellite Radio, Inc. ("Applicant") to Petitioner's petition to deny the above-captioned application for special temporary authority ("STA") to operate four Satellite Digital Audio Radio Service ("SDARS") terrestrial repeaters in Alaska and Hawaii. In support thereof the following is set forth.

Applicant states, at footnote 13 of its opposition, that "Sirius customers today receive satellite radio service in each state." However, Applicant has not established to the Commission that it has any customers in Fairbanks, Anchorage and Juneau, Alaska or Honolulu, Hawaii, where it proposes to locate the requested terrestrial repeaters; indeed, its application merely states that authorization of the requested terrestrial repeaters in Alaska and Hawaii are "essential" as its "satellites are focused over the continental United States and Sirius does not use spot beams for Alaska and Hawaii...." Attachment to Application.

Section 25.148 (c) of the rules would require DBS service to Alaska and Hawaii only "where such service is technically feasible from the authorized orbital location." It would appear

that (and Applicant has not established otherwise) since Alaska and Hawaii are, for the most part, outside of the footprint of its satellite, Applicant's above-captioned request for terrestrial repeaters is based not on the effects of satellite signal blockage or multipath interference within the vicinity of the requested repeaters, but, rather, because Applicant effectively has little or no satellite signal in those areas due to its orbital location or satellite design.

If the purpose of the requested terrestrial repeaters is to provide service in areas where the Applicant cannot technically provide service via satellite, Petitioner contends that the purpose of such repeaters cannot be of a "complimentary nature" to overcome the effects of signal blockage and multipath interference, *i.e.*, a terrestrial gap-filer, but, rather, is for the purpose of retransmitting programming which cannot be directly transmitted via satellite to a subscriber located in Alaska or Hawaii and, therefore, outside of the intended use of terrestrial repeaters by a SDARS provider. See Order and Authorization, 16 FCC Rcd 16773, 16779 (2001).

Based on Applicant's showing, or lack thereof, the Commission should deny the above-captioned STA request for terrestrial repeaters in Alaska and Hawaii. Alternatively, the Commission should set aside such request until such time as it adopts final rules clarifying the permissible use to terrestrial repeaters by SDARS providers, especially since the Applicant has disclosed to the Commission that it has constructed and deployed terrestrial repeaters which did not conform to the terms and conditions of the STA's by which the Commission gave its authorization. Application for Space Station Special Temporary Authority, Sirius Satellite Radio, Inc., File Number SAT-STA-20061013-0012, filed October 13, 2006.

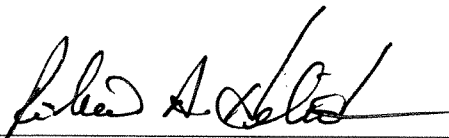
Simply stated, the current STA process for seeking STA authorization to use terrestrial repeaters has been abused by the Applicant and the Commission should not further abet that abuse by granting the above-captioned application.

Applicant submits that Petitioner does not have standing to oppose grant of its STA request because Petitioner will not be affected by Applicant's use of terrestrial repeaters in Alaska and Hawaii. Opposition at pages 2-3. Petitioner never claimed standing on that basis, but, rather on the basis that Commission action on Applicant's STA request will establish a precedent which directly impacts Applicant and all other radio broadcast stations as to their competitive posture vis-à-vis SDARS providers and their use of terrestrial repeaters for unauthorized or impermissible purposes. However, should the Commission find that Petitioner lacks standing, nevertheless, it must consider the substantive matters raised by Petitioner and on that basis it should deny or defer action on the above-captioned application.

Petitioner renews its contention that the proposed terrestrial repeater facilities requested by Applicant are, without further information, inconsistent with the complementary terrestrial repeater network facilities previously and conditionally authorized by the Commission and, therefore, should be denied.

Respectfully submitted

MT. WILSON FM BROADCASTERS, INC.

By 

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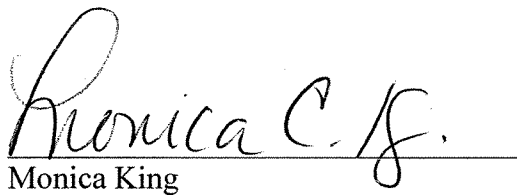
January 30, 2007

CERTIFICATE OF SERVICE

I, Monica King, hereby certify that a true and correct copy of the foregoing Petition to Deny was sent by first-class postage prepaid mail this 5th day of January 2007 to the following:

Mr. Patrick L. Donnelly
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Monica King