

# SIRIUS XM RADIO INC.

1500 Eckington Place, N.E.  
Washington, D.C. 20002  
Tel: 202-380-4000  
Fax: 202-380-4500  
www.sirius.com www.xmradio.com



File # SAT-STA-20081027-00210  
Call Sign \_\_\_\_\_ Grant Date 07/22/09  
(or other identifier) \_\_\_\_\_  
Term Dates for duration  
From 07/22/09 To: \_\_\_\_\_ of proceeding  
Approved: Stephen J. Dvall  
Stephen J. Dvall  
Chief, Policy Branch

July 13, 2009

## VIA IBFS

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Sirius XM Radio Inc., Request for Special Temporary Authority to Operate  
Terrestrial Repeaters in the Commonwealth of Puerto Rico  
File No. SAT-STA-20081027-00210**

### Request for "Permit But Disclose" *Ex Parte* Status

Dear Ms. Dortch:

Sirius XM Radio Inc. ("Sirius XM") hereby requests that the above-referenced proceeding be designated as "permit-but-disclose" under the Commission's *ex parte* rules. 47 C.F.R. § 1.1200 *et seq.* According to these rules, "[w]here the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice." 47 C.F.R. § 1.1200(a).

In this proceeding, Sirius XM has applied to use terrestrial repeaters to provide satellite radio service to the Commonwealth of Puerto Rico. Sirius XM seeks authority to operate these repeaters in Puerto Rico as required by the Commission's order approving the merger of Sirius Satellite Radio Inc. and XM Radio Inc.<sup>1</sup> The Commission placed Sirius XM's application on public notice and, on June 5, 2009, the Puerto Rico Radio Broadcasters Association filed a Petition to Deny. Sirius XM filed its Opposition on June 18, 2009 and the Puerto Rico Radio Broadcasters Association did not file a Reply. Because Sirius XM's application seeks authority

<sup>1</sup> *Applications of XM Satellite Radio Holdings Inc. and Sirius Satellite Radio Inc. for Consent to Transfer Control of Licenses*, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, Appendix B (2008).


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under Title III of the Communications Act and involves more than one "party" as defined in 47 C.F.R. §1.1202(d), this proceeding is currently "restricted" and *ex parte* presentations are prohibited. 47 C.F.R. §1.1208.

Changing the *ex parte* status of this proceeding to "permit but disclose" under Section 47 C.F.R. § 1.1206 would serve the public interest. Grant of this request would better allow the Commission to develop a full and complete record in this proceeding. The provision of satellite radio service to Puerto Rico is also of widespread interest to residents of the Commonwealth. Finally, changing the *ex parte* status of Sirius XM's request to operate terrestrial repeaters in Puerto Rico as requested would be consistent with the "permit but disclose" status already in effect for two other related proceedings: the Sirius XM merger<sup>2</sup> and the terrestrial repeater rulemaking.<sup>3</sup>

Please direct any questions regarding this matter to the undersigned.

Very truly yours,



James S. Blitz  
Vice President, Regulatory Counsel

cc: John Giusti  
Robert Nelson  
Stephen Duall  
Francisco Montero, *counsel to* Puerto Rico Broadcasters Association

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<sup>2</sup> *XM Satellite Radio Holdings Inc. and Sirius Satellite Radio Inc. Seek Approval to Transfer Control of Licensee Entities Holding FCC Licenses and Other Authorizations*, MB Docket No. 07-57, DA 07-1435 (Mar. 29, 2007) (Public Notice).

<sup>3</sup> *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band* WT Docket No. 07-293, Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 22123, para. 58 (2007).