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File Number: SAT-STA-20081029-00212  
Callsign:

FEDERAL COMMUNICATIONS COMMISSION  
APPLICATION FOR SPACE STATION SPECIAL TEMPORARY AUTHORITY  
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APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:  
Request for Extension of Special Temporary Authority to Operate a Terrestrial Repeater in Cincinnati, OH

1. Applicant

Name:	XM Radio Inc.	Phone Number:	202-380-4000
DBA Name:		Fax Number:	202-380-4981
Street:	1500 Eckington Place, NE	E-Mail:	james.blitz@xmradio.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20002
Attention:	James S Blitz		



File # SAT-STA-20081029-00212

Call Sign \_\_\_\_\_ Grant Date 11/10/08  
(or other identifier)

Term Dates  
From \_\_\_\_\_ To: \_\_\_\_\_

Approved: 

**Application of XM Radio Inc.  
IBFS File No. SAT-STA-20081029-00212**

Special temporary authority (STA) is granted to XM Radio Inc. (XM) to continue to operate for a period of 30 days the Satellite Digital Audio Radio Service (SDARS) terrestrial repeater in Cincinnati, OH, specified in Attachment C to the Consent Decree adopted on July 25, 2008 (FCC 08-177) before bringing this repeater into compliance with existing authorized parameters. This grant of STA is subject to the conditions below.

1. Any actions taken as a result of this STA are solely at the applicant's own risk. This STA shall not prejudice the outcome of the final rules adopted by the Commission in IB Docket No. 95-91. The issue concerning average versus peak EIRP raised by the WCS Coalition will be addressed in that proceeding. Operations prior to such action will be subject to condition 2 below.
2. Operation of terrestrial repeaters authorized pursuant to this STA is on a non-interference basis with respect to all permanently authorized radiocommunication facilities. XM shall provide the information and follow the process set forth in paragraphs 14 and 17 in 16 FCC Rcd 16773 (Int'l Bur. 2001) and 16 FCC Rcd 16781 (Int'l Bur. 2001), as modified by 16 FCC Rcd 18481 (Int'l Bur. 2001) and 16 FCC Rcd 18484 (Int'l Bur. 2001).
3. Terrestrial repeaters are restricted to the simultaneous retransmission of the complete programming, and only that programming, transmitted by the satellite directly to SDARS receivers.
4. Coordination of terrestrial repeater operations shall be completed with all affected Administrations prior to operation, in accordance with all applicable international agreements including those with Canada and Mexico.
5. Terrestrial repeaters shall comply with Part 17 of the Commission's rules - Construction, Marking, and Lighting of Antenna Structures.
6. Terrestrial repeaters shall comply with Part 1 of the Commission's rules, Subpart I - Procedures Implementing the National Environmental Policy Act of 1969, including the guidelines for human exposure to radio frequency electromagnetic fields as defined in Sections 1.1307(b) and 1.1310 of the Commission's rules.
7. The out-of-band emissions of terrestrial repeaters shall be limited to  $75 + \log(\text{EIRP})$  dB less than the transmitter EIRP.



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Approved: [Signature]

2. Contact

<b>Name:</b>	James S. Blitz	<b>Phone Number:</b>	202-380-4000
<b>Company:</b>	XM Satellite Radio Inc.	<b>Fax Number:</b>	202-380-4981
<b>Street:</b>	1500 Eckington Place NE	<b>E-Mail:</b>	james.blitz@xmradio.com
<b>City:</b>	Washington	<b>State:</b>	DC
<b>Country:</b>	USA	<b>Zipcode:</b>	20002 -
<b>Attention:</b>		<b>Relationship:</b>	Same

(If your application is related to an application filed with the Commission, enter either the file number or the IB Submission ID of the related application. Please enter only one.)

3. Reference File Number SATSTA2008100200198 or Submission ID

4a. Is a fee submitted with this application?

- If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).
- Governmental Entity
- Noncommercial educational licensee
- Other (please explain):

4b. Fee Classification CRY – Space Station (Geostationary)

5. Type Request

- Change Station Location
- Extend Expiration Date
- Other

6. Temporary Orbit Location

7. Requested Extended Expiration Date

8. Description (If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)

XM Radio Inc. (XM) requests an extension of its Special Temporary Authority to continue to operate a terrestrial repeater in Cincinnati, OH for 30 days.

9. By checking Yes, the undersigned certifies that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.

10. Name of Person Signing James S. Blitz	11. Title of Person Signing Vice President, Regulatory Counsel
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12. Please supply any need attachments.

Attachment 1: Extension Request	Attachment 2:	Attachment 3:
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WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT  
(U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION  
(U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

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**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.**

### Request for Special Temporary Authority

XM Radio Inc. ("XM"), pursuant to 47 C.F.R. § 25.120 of the Commission's Rules, hereby requests an extension of its Special Temporary Authority ("STA") to continue to operate a single repeater in Cincinnati, OH at its current technical parameters for an additional 30-days while XM resolves certain tower and leasing issues.<sup>1</sup>

As the Commission is aware, XM entered into a Consent Decree which ended the Commission's investigation into XM's operation of certain terrestrial repeaters at technical parameters in variance from its existing STAs.<sup>2</sup> As part of this Consent Decree, XM agreed to shut off fifty repeaters and bring an additional fifty repeaters into compliance with existing authorized parameters by October 4, 2008.<sup>3</sup> The repeater that is the subject of this request was among the fifty that XM has been working diligently to bring into compliance and is designated as CIN025C on Attachment C of the *XM Radio Consent Decree*. Specifically, this repeater which is located in downtown Cincinnati, requires modifications to the antenna model and downtilt and a 50 foot increase in the antenna height to comply with the existing authorization.

Unfortunately, due to circumstances out of XM's control, and despite XM's diligent efforts, XM was unable to implement the necessary modifications prior to the October 4 deadline. Recognizing the difficult and unforeseen circumstances facing XM, the Commission granted the Cincinnati STA, allowing XM to continue to operate this repeater at its current parameters while these issues were resolved. Since that time, XM has continued to make efforts to bring this repeater into compliance, but requires additional time to do so, which necessitates this extension request. Because this request is timely, pursuant to Section 1.62 of the Rules, this STA will continue in effect without further action by the Commission until such time as the Commission makes a final determination with respect to this request.<sup>4</sup>

As XM noted in its application for this STA, XM's lease to use this tower precludes XM from making any changes to its facilities without the landlord's express prior written consent. On September 30, the landlord informed XM that it would not consent to any changes to XM's equipment on the tower unless XM agreed to unreasonable terms regarding improvements to the tower's structural integrity that are well beyond XM's responsibility to finance. The landlord further informed XM that it

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<sup>1</sup> See XM Radio Inc., SAT-STA-20081002-00198, (grant stamp Oct. 3, 2008) ("Cincinnati STA"). Because XM is requesting an extension not exceeding 30 days, the Commission may grant this application without placing it on Public Notice. 47 C.F.R. § 25.120(b)(4). XM provided the current technical parameters for this facility in Exhibit A of the initial application for STA. Cincinnati STA, Exhibit A.

<sup>2</sup> *XM Radio, Inc.*, Consent Decree, File Nos. EB-06-SE-148 and EB-06-SE-356, 23 FCC Rcd 12327, FCC 08-177 (rel. Aug. 5, 2008) ("*XM Radio Consent Decree*").

<sup>3</sup> *XM Radio Consent Decree* at ¶ 9.

<sup>4</sup> See 47 C.F.R. § 1.62.

would not know more about the tower's structural integrity and the need for any improvements until it had completed a structural analysis, which had not been conducted and could not be finalized until October 21, 2008. Unfortunately, the structural analysis has been delayed and now will not be completed until November 7, 2008. In addition, it has been determined that permit approval from the local government will be required prior to any changes, which will further delay the site alterations. That permit application has been filed and a response from the governmental authority is expected shortly.

As a result, XM hereby requests that the Commission extend its existing STA to allow it to continue to operate this repeater at the current technical parameters for an additional 30 days while it obtains an updated structural analysis and finalizes the changes to this repeater. This extension will allow XM to avoid shutting down the repeater, which is essential to providing uninterrupted service to XM subscribers in downtown Cincinnati. If XM is required to shut down this repeater without an adequate alternative site, thousands of subscribers could lose reliable service, yet absent grant of this STA, temporarily shutting down the repeater is the only other way that XM can comply with the Consent Decree.

XM does not anticipate any in-band or out of band interference from the continued operation of this repeater which has operated at the requested parameters for nearly 7 years. Indeed, XM has never received any complaint of interference regarding the operation of this repeater. Therefore, XM respectfully requests that the Commission promptly grant its requested extension.

XM understands that the operation of this repeater continues to be subject to the conditions placed upon that operation by the Commission's grant of XM's original repeater STA.<sup>5</sup> Grant of the requested STA extension will not alter XM's obligations to protect authorized radiocommunications facilities from interference. Further, XM understands that the final characteristics of this and the other XM terrestrial repeaters remain subject to the outcome of the Commission's rulemaking proceeding.<sup>6</sup>

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<sup>5</sup> See *XM Radio Inc. Application for Special Temporary Authority To Operate Satellite Digital Audio Radio Service Terrestrial Repeaters*, Order and Authorization, 16 FCC Rcd. 16781 (2001).

<sup>6</sup> See *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, IB Docket No. 95-91, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 22 FCC Rcd 22123 (2007).