

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the matter of )  
 )  
Sirius XM Radio Inc. )  
 ) File No. SAT-STA-20090701-00071  
Request for 180-Day Special Temporary )  
Authority to Modify Terrestrial Repeaters in )  
Cincinnati, Ohio )

To: Acting Chief, International Bureau

**OPPOSITION TO INFORMAL OBJECTION**

Sirius XM Radio Inc. (“Sirius XM”), by counsel and pursuant to Section 25.154 of the Commission’s rules,<sup>1</sup> hereby opposes the informal objection filed by the WCS Coalition<sup>2</sup> in response to Sirius XM’s above-referenced application for authority to operate terrestrial repeaters in Cincinnati, Ohio (the “Application”). The Commission should deny the WCS Objection and expeditiously grant the Application to allow Sirius XM to provide uninterrupted, quality satellite radio service to its Cincinnati customers.

In its filing, the WCS Coalition claims that Sirius XM should not be permitted to deploy its proposed repeaters until Sirius XM shows that it cannot serve the Cincinnati market simply by deploying more 2,000 watt repeaters.<sup>3</sup> However, as the Application explains, the purpose of the Application is effectively to modify five repeaters in the Cincinnati area – four repeaters in the

---

<sup>1</sup> 47 C.F.R. § 25.154.

<sup>2</sup> WCS Coalition, Informal Objection, File No. SAT-STA-20090701-00071 (filed Aug. 10, 2009) (“WCS Objection”).

<sup>3</sup> WCS Objection at 2-3.

former XM Radio Inc. (“XM”) frequency band (2332.5-2345 MHz) and one repeater in the former Sirius Satellite Radio Inc. (“Sirius”) frequency band (2320-2332.5 MHz). Of these five total repeaters, the Application seeks authority to operate three repeaters at power levels above 2,000 watts and two repeaters under 2,000 watts.<sup>4</sup> Although the Commission initially gave Sirius XM broad discretion to identify low power terrestrial repeaters that it sought to operate,<sup>5</sup> the Commission did not give Sirius XM unlimited authority to operate repeaters at this power level and moreover, Sirius XM has no obligation to utilize *only* repeaters operating at 2,000 watts or below. Concluding that Sirius XM had “provided sufficient facts in its request to meet the standard required by the statute and our rules,”<sup>6</sup> the Bureau’s 2001 order initially authorizing terrestrial repeaters granted Sirius XM authority for repeaters at power levels both above and below 2,000 watts.<sup>7</sup>

Sirius XM has provided ample evidence of extraordinary circumstances which necessitate the instant STA. As explained in the Application, the need for this STA arose because Sirius XM suffered severe damage to the 5,738 watt CIN025C repeater that was critical to Cincinnati residents’ ability to receive reliable satellite radio service. Loss of this repeater meant that Sirius XM could not provide a large portion of the downtown Cincinnati area with repeater service. Once it became clear that it was impractical for Sirius XM to repair the CIN025C repeater and

---

<sup>4</sup> Application at 4.

<sup>5</sup> *Sirius Satellite Radio Inc.*, Order and Authorization, 16 FCC Rcd 16773, ¶ 17 (2001), *modified on recon.* Order, 16 FCC Rcd 18481 (2001) (“2001 Sirius STA Order”); *XM Radio Inc. Application for Special Temporary Authority to Operate Satellite Digital Audio Radio Service Complementary Terrestrial Repeaters*, Order and Authorization, 16 FCC Rcd 16781, ¶ 17 (2001) (“2001 XM STA Order”).

<sup>6</sup> 2001 Sirius STA Order, ¶ 9; 2001 XM STA Order, ¶ 9.

<sup>7</sup> 2001 Sirius STA Order, ¶ 17; 2001 XM STA Order, ¶ 17.

operations would be permanently discontinued, Sirius XM promptly sought a new 60-day STA to effectively modify its other Cincinnati repeaters and add one new repeater to restore reliable service and minimize disruption to its customers in Cincinnati.

Contrary to the WCS Coalition's allegation, Sirius XM's Cincinnati STA applications are neither contradictory nor confusing.<sup>8</sup> To minimize the loss of Cincinnati service as expeditiously as possible, Sirius XM first filed for a 60-day STA proposing to operate the repeaters at no more than 2,000 watts.<sup>9</sup> The 60-Day STA Application specifically explained that Sirius XM would file for a 180-day STA and would likely seek to operate at higher powers "due to the need to fully restore repeater coverage for Cincinnati area subscribers."<sup>10</sup> After evaluating how the repeater network operated using 2,000 watt repeaters, Sirius XM determined that some of these repeaters needed to operate at higher powers to resume the provision of service and minimize disruption to customers in the Cincinnati area. Consequently, as forecasted in the 60-Day STA Application and as explained in the Application, Sirius XM asked for authority in the Application to operate some of the Cincinnati area repeaters at higher levels than requested in the 60-day STA.

Notably, however, all three of the repeaters that Sirius XM proposes to operate at over 2,000 watts will transmit with significantly lower power than the currently-authorized Cincinnati repeaters. As Sirius XM clearly showed in the Application,<sup>11</sup> comparing the requested facilities

---

<sup>8</sup> WCS Objection at 2.

<sup>9</sup> *Sirius XM Radio Inc., Request for Special Temporary Authority to Modify Low Power Terrestrial Repeaters in Cincinnati, Ohio for 60 Days*, File No. SAT-STA-20090612-00069, at 2, note 2 (filed June 12, 2009) ("60-Day STA Application").

<sup>10</sup> *Id.*

<sup>11</sup> Application at 4.

to the Cincinnati market repeaters before and after the loss of CIN025C shows that the three repeaters Sirius XM seeks to operate at over 2,000 watts are actually being *reduced* in average power by 13,540 watts (XM CIN037A), 4,600 watts (XM CIN029B), and 1,900 watts (Sirius 08-02, on each of two sectors). In addition, the CIN025C repeater, which formerly operated at 5,738 watts, has been turned off entirely.

This effective reduction in power is especially significant not because of what the WCS Objection says but because of what it does not say: nowhere does the document even allege that a WCS member will suffer interference as a result of the Application. Since Sirius XM has operated multiple repeaters at over 2,000 watts in the Cincinnati market for many years – with no allegations of interference from any party – it is theoretically impossible that these repeaters operating at significantly *lower* power with other comparable specifications will lead to any outcome other than to reduce the possibility of interference. Moreover, the Application itself includes multiple protections to WCS operations including a 24-hour hotline to report any suspected interference<sup>12</sup> as well as Sirius XM’s express recognition that granting this STA “will not alter [its] obligation to protect authorized radiocommunications facilities from interference, and it will not prejudice the outcome of the Commission’s ongoing rulemaking pertaining to the deployment and operation of terrestrial repeaters.”<sup>13</sup> Given these protections, and absent even an allegation that the proposed operations might cause interference, granting the Application would clearly serve the public interest.

---

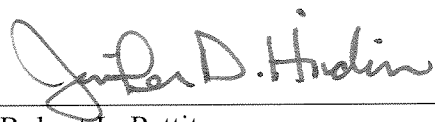
<sup>12</sup> Application at 5, note 11.

<sup>13</sup> Application at 6.

Accordingly, for the above-stated reasons, Sirius XM respectfully requests that the Commission deny the WCS Coalition's informal objection and grant Sirius XM's pending STA request expeditiously.

Respectfully submitted,

Wiley Rein LLP

By:  \_\_\_\_\_

Robert L. Pettit  
Jennifer D. Hindin  
Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006  
TEL: 202.719.7000  
FAX: 202.719.7049

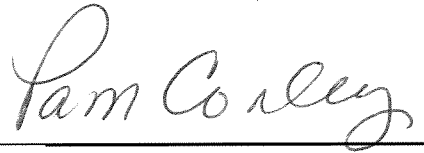
Dated: August 25, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that on August 25, 2009, I caused a true and correct copy of the foregoing to be served by first-class mail on the following:

Paul J. Sinderbrand  
Mary N. O'Connor  
WILKINSON BARKER KNAUER, LLP  
2300 N Street, NW  
Suite 700  
Washington, DC 20037-1128

*Attorneys for the WCS Coalition*

A handwritten signature in cursive script that reads "Pam Conley". The signature is written in black ink and is positioned above a solid horizontal line.

Pam Conley