

"Permit-but-disclose" Ex Parte Status only

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File # SAT-STA-20090701-00071

Call Sign _____ Grant Date 09/16/09
(or other identifier)

Term Dates duration of
From _____ To: proceeding

Approved: Stephen J. Duall
Stephen J. Duall
Chief, Satellite Policy Branch

September 10, 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 Modify
Terrestrial Repeaters in Cincinnati, Ohio for 180 Days
File No. SAT-STA-20090701-00071**

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 requested permission to modify and operate several repeaters in Cincinnati, Ohio for 180 days. Sirius XM seeks authority to modify and operate these repeaters so as to minimize disruption of service to subscribers in the Cincinnati area. One of Sirius XM's repeaters in Cincinnati suffered catastrophic damage in April 2009. The resulting evaluation by Sirius XM engineers determined that the best way to mitigate service disruption in Cincinnati was to reconfigure the existing repeater network serving that city. The Commission placed Sirius XM's application on public notice and, on August 10, 2009, the WCS Coalition filed an Informal Objection. Sirius XM filed its Opposition on August 25, 2009 to which the WCS Coalition filed a Reply on September 4, 2009. Because Sirius XM's application seeks authority under Title III of the Communications Act and involves more than one "party" as


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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. Lastly, changing the *ex parte* status of Sirius XM’s request to modify and operate terrestrial repeaters in Cincinnati as requested would be consistent with the “permit but disclose” status already in effect for the terrestrial repeater rulemaking.¹

Please direct any questions regarding this matter to the undersigned.

Very truly yours,



James S. Blitz

Vice President, Regulatory Counsel

cc: Paul J. Sinderbrand
Mary N. O’Connor

¹ *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, FCC 07-215 ¶ 58 (rel. Dec. 18, 2007).*