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Federal Communication Commission
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Application of
WPAT Licensing, Inc.

WPAT(FM), Paterson, NJ
(Facility ID No. 51663)

To: Chief, Media Bureau

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) File No. BPH-20021107AAD
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OPPOSITION TO PETITION FOR RECONSIDERATION

On August 21, 2003, WPAT Licensing Inc. ("WLI"), licensee of WPAT-FM, Paterson, New Jersey, sought reconsideration of the staff's July 28, 2003 letter denying its request for waiver of § 73.213(a) of the rules and dismissing its above-captioned application. The staff found that the facilities specified by WLI would increase existing short-spacing to WHYN-FM, Springfield, MA, licensed to Clear Channel Broadcasting Licenses, Inc. ("CCBL"). According to the staff, new interference would be caused to 23,354 persons within an additional area of 102 sq. km of the WHYN-FM protected service area. It further found that WLI had not cited to "any instances of the Commission granting an interference waiver of the magnitude proposed in the application."

CCBL hereby opposes the petition for reconsideration. It would have opposed the initial application but that filing was not served upon it and, as a result, CCBL was unaware of the adverse impact of the proposed facilities upon WHYN until after release of the staff's letter.

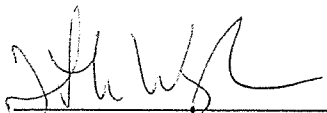
The Commission's FM spacing rules are well-founded and should be waived only sparingly. WLI's argument here is that the staff should break with precedent and waive its spacing rules based upon a Longley-Rice Irregular Terrain Model. The staff has never accepted Longley-Rice for this purpose, a fact which WLI concedes in the petition (p. 7 at fn 7), and it

should not depart from this well-established policy here. This is especially the case where WLI has available to it a viable alternative – operation from the proposed site at 4.9kw – which is consistent with the separation rules and would provide CCBL with the interference protection to which it is entitled.

CCBL also notes that WLI still has not cited to any case where an interference waiver of this magnitude has been granted.

For these reasons, the subject petition for reconsideration should be dismissed or denied.

Respectfully submitted,

By: 
Kenneth Wyker

General Counsel
Clear Channel Communications, Inc.

Dated: September 4, 2003