

Before the
Federal Communications Commission
Washington, DC 20554

DUPLICATE
RIC

2012 SEP -5 A 5:43

In re Application of)
)
6 Johnson Road Licenses, Inc.) File No. BALH-20120509AER
(Assignor)) Facility ID No. 73256
)
and)
) File No. BALH-20120509AES
Cumulus Licensing LLC) Facility ID No. 32946
(Assignee))
)
For Consent to Assignment of)
Licenses for Stations WMEZ(FM),)
Pensacola, Florida, and WXBM-FM,)
Milton, Florida)
)
To: Secretary
Attn: Chief, Media Bureau

FILED/ACCEPTED

AUG 29 2012

Federal Communications Commission
Office of the Secretary

MOTION TO STRIKE

Cumulus Licensing LLC ("Cumulus"), acting pursuant to Section 1.41 of the Commission's rules, 47 C.F.R. §1.41, hereby moves to strike the Supplement to Petition to Deny (the "Supplement") filed on August 10, 2012 by ADX Communications of Escambia and ADX Communications of Pensacola (collectively referred to herein as "ADX") against the above-captioned application (the "Application") requesting Commission consent to assign the licenses for stations WMEZ(FM), Pensacola, Florida, and WXBM-FM, Milton, Florida, from 6 Johnson Road Licenses, Inc. to Cumulus. The Supplement constitutes an unauthorized pleading and should be dismissed without consideration. In support of this conclusion, the following is stated:

1. ADX filed its Petition to Deny the Application on June 13, 2012. Cumulus filed an Opposition on June 27, 2012, and ADX filed its Reply to Opposition to Petition to Deny on July 17, 2012.

2. ADX claims that the filing of its Supplement is “warranted and necessary” (Supplement at 3) because Cumulus entered into a time brokerage agreement (the “TBA”) after the filing of its Reply to provide programming for station WABD(FM), Mobile, Alabama (Facility ID No. 70657), which is in the Mobile Arbitron Metro. According to ADX, the TBA has resulted in Cumulus holding attributable interests in seven (7) FM stations and two (2) AM stations “serving geographic areas comprising the heart of the Mobile *and* Pensacola Metro markets.” Supplement at 3 (emphasis added). ADX recognizes that the holding of those attributable interests in two different Arbitron Metros complies with Commission rules and, for that reason, argues that “a blind application of the Commission Arbitron-based market analysis makes no sense.” *Id.* at 5. In short, ADX wants the Commission to deviate from Section 73.3555(a) of its rules to consider a different market definition that would account for the contour coverage of the Cumulus stations.

3. The filing of the Supplement is not authorized by Commission rules, and the Supplement was not accompanied by a motion for leave to have the Supplement accepted. *See* 47 C.F.R. §1.45. However, it would not matter even if ADX had filed a motion for leave to accept the Supplement. The Commission has consistently declined to consider unauthorized pleadings even if they are accompanied by a motion or petition for leave. *See e.g. Mr. Juan Carlos Matos Barreto*, 25 FCC Rcd 7293, 7294 n.5 (MB 2010) and sources cited therein.

4. Dismissal of ADX’s Supplement is also warranted because ADX is using the Supplement to raise a new argument that could have and should have been raised in its Petition

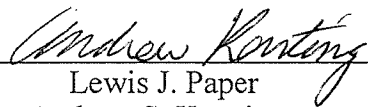
to Deny: namely, that the Commission's use of Arbitron market definitions "makes no sense" in considering the Application. *See Lee G. Petro, Esq.*, 25 FCC Rcd 4486, 4488 (MB 2010).

WHEREFORE, in view of the foregoing and the entire record herein, it is respectfully requested that the Supplement be dismissed without consideration.

Respectfully submitted,

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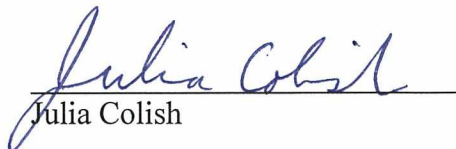
CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of August, a copy of the foregoing "Motion to Strike" was sent by first-class U.S. mail, postage prepaid, to the following:

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