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September 7, 2017

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(attention: Stephen Svab, Audio Division)

Re: Delta Radio Network LLC
Radio Broadcast Stations WIQQ et al.
FCC Facility ID 66330 et al.
Leland, Mississippi
FCC Internal Ref. 1800B3-SS
Application Processing – Red Light

Dear Ms. Dortch:

On behalf of our client Delta Radio Network LLC (“DRN”), I am writing with response to a letter to DRN from Peter Doyle, Chief of the Audio Division, dated July 25, 2017. DRN is the licensee of FM radio broadcast station WIQQ, FCC Facility ID 66330, and other stations identified in the July 25 Letter.

The July 25 Letter advised that the applications for renewal of the station licenses and facilities modification applications referenced therein were being held up on account of the FCC’s “red light” policy, and indicated that the Audio Division lacked patience with respect to continuing to hold the applications. Therefore the Division urged DRN to work out a resolution of the red light problem with the Office of Managing Director.

In obedience to the directive of the July 25 Letter, DRN has communicated with Messrs. Stephen French, Roland Helvajian, Paul Tascio and Scott Radcliffe of the Office of Managing Director in effort to reach a settlement that will remove the red lights blocking action on DRN’s pending applications.

Specifically, after consultation with DRN's principal shareholder, Larry Fuss, last month DRN presented the Office of Managing Director a concrete and specific proposal for discharge of the redlighted DRN accounts through a payment plan that, if accepted, would eliminate the FCC red light claim against DRN in the space of eight months. Delta has not yet received a response to this proposal from the OMD.

Nevertheless, it should be noted that DRB faces significant hardships in connection with its operation of a radio business in the economically depressed Delta region of Mississippi. The population of the area is predominately African American, descendants of slaves who planted, hoed and picked cotton on large antebellum estates. It has never recovered from the mechanization of cotton cultivation in the past century.

he Delta is marked by some of the highest rates of unemployment and lowest per-capita income levels in the US. The general economic malaise in the Delta makes it difficult for local businesses to afford radio advertising. Consequently, DRN has lost money for many years. Its stations have stayed on the air only due to the commitment of DRN's owners to serve the community and their hope that the stations may become profitable in the future. Unfortunately, the FCC assesses regulatory fees based on the population served by a given station, without record to whether such population is affluent or destitute. Thus it has only been on rare occasion that DRN has been able to scrape together the funds to pay the regulatory fees imposed on it.

Two years ago, DRN filed a chapter 11 bankruptcy petition in an effort to reorganize its affairs and move forward. Unfortunately, DRN ultimately found itself unable either to secure refinancing or to find a buyer for the radio stations. As a result, the bankruptcy case was dismissed in late 2016.

DRN has requested waivers of regulatory fees for several of the subject years. Among other things, it has an application for review pending with the full Commission with regard to its waiver requests for 2012 and 2013. Until the full Commission has ruled on DRN's application for review, it would be foolish to take any action as if the red light determinations of the Office of Managing Director have become final and unappealable.

It should be noted that the public interest is the true measure of all actions taken by the FCC. The agency cannot, under the statute, deny an application for license renewal without an administrative hearing at which the public interest in the continued operation of the subject stations could be considered. Likewise, the Commission has a mandate to ascertain the public interest in any application for modification of facilities. DRN needs to complete certain change in facilities that will enable it to serve the public better, but the subject applications are on hold due to the "red light" problem.

A further problem with draconian action against DRN is that it would compound

the errors of earlier FCC actions in violation of the automatic stay provided for in the bankruptcy code. Under the automatic stay, creditors (including the FCC) are forbidden from taking collection actions against a licensee facing financial difficulties. Nevertheless, during the period when DRN was under the protection of the Bankruptcy Court, the FCC took actions as a creditor in plain violation of the automatic stay.

In view of the foregoing DRN requests that the Audio Division refrain from action against DRN pending completion of DRN's negotiations with the OMD.

If there are any questions concerning this matter, please contact the undersigned.

Yours truly,

Barry D. Wood
Counsel for Delta Radio Network LLC