

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

Application of)
BLUE RIDGE FREE MEDIA, INC.)
For Renewal of License WXRK-LP) FCC File No 0000072621
Charlottesville, VA)
Facility Identification No: 192547)

To: The Secretary
Attn: Media Bureau, Audio Division

OPPOSITION TO EXTENSION OF TIME

1. Blue Ridge Free Media, Inc. (“Blue Ridge”), the licensee of WXRK-LP Charlottesville, Virginia (Facility ID No. 192547) (“WXRK”), hereby files this Opposition (“Time Opposition”) to what appears to be an assertion of right by Tidewater Communications, LLC (“Tidewater”) that it can simply to extend the time to file a reply to Blue Ridge’s Opposition to Tidewater’s Petition to Deny WXRK’s license renewal (“Petition”) without reference to or compliance with rules governing grants of additional time to file in 47 CFR Sec. 1.46 (“Rule”).

2. Tidewater asserts its right to extend without reference to or compliance with the Rule in a Supplement filed Oct. 15, 2019, as a “Statement for the Record-Pleading Cycle” (“Statement”).

3. The Statement apparently arises from email exchanges with FCC staff after other parties sought extensions of time to respond to Tidewater’s opposition to their renewals. Unlike those parties, Blue Ridge timely filed last month.¹ Absent Tidewater’s compliance with the Rule, Blue Ridge does not acquiesce to Tidewater’s assertions of right to extended time.

4. Blue Ridge especially objects to the underlying assumption in the Statement that Tidewater’s delay is necessitated by the actions of other parties who have no attribution in or

¹ *Opposition to Petition to Deny*, filed by Blue Ridge Free Media, Inc., on Sept. 27, 2019, in FCC File No. 0000072621.

control over WXRK. Those other parties have been granted extensions of time to file responses to Tidewater's opposition to their individual license renewals. Blue Ridge sought no similar delay.

5. Tidewater is effectively trying to create a legal presumption that it properly filed a Consolidated Petition to Deny the licenses of those parties and Blue Ridge, which are five separate licensees of five independently controlled stations. This is a substantive assumption that Blue Ridge has already challenged – and debunked.²

6. Throughout this proceeding, Blue Ridge contests the appropriateness and legality of such consolidation, not as a procedural matter but as a substantive matter. While Tidewater is free to contest any individual license renewal INDIVIDUALLY, it is only by aggregation of allegations through consolidation that it would be able to achieve the wholesale slaughter of LPFM stations in a place where Tidewater exercises monopoly power over radio. Legitimizing this inapt consolidation is the only way Tidewater could create the mass LPFM extinction it attempts.

7. Thus, while Blue Ridge would consider an individual request from Tidewater for an individualized extension of time³ it does not acquiesce to Tidewater's assertion that it has a right to an extension. Tidewater is well aware that Blue Ridge, as an independently controlled entity, has its own counsel and Tidewater may contact him pursuant to Section 1.46 to propose an extension.

8. The problem with a monopolist is that it assumes it can control the terms of everything. Apparently, Tidewater believes it can even control the rules governing extensions by mere assertion. No, it can't; it must comply with Rule. Absent such compliance, any reply it files to Blue Ridge's last pleading in this matter is due Oct. 23, 2019.

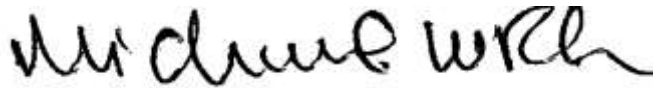
² *Id.*

³ Pursuant to Section 1.46.

9. In sum, Tidewater must not be allowed to use a procedural subterfuge to create facts on the ground supporting its substantive arguments at the core of this proceeding – which involve questions of attribution and common control. Blue Ridge is using the Statement to further the false narrative of common control in its Petition. Absent that narrative, Tidewater cannot prevail. The Commission must not allow Blue Ridge to misuse Commission processes to obtain a side-door legal presumption to support its audacious case theory that five independently controlled LPFM stations are collectively controlled and attributable.

10. Interlocutory procedural matters, such as time extensions, are an improper way to sneak in substantive groundwork prejudicing adjudication on a core issue in dispute. Tidewater's attempt to evade Section 1.46 is further evidence that Tidewater is abusing Commission processes in its effort to further its monopolist status in Charlottesville,⁴ as Blue Ridge explained previously in this docket.⁵ The Commission must dismiss any late filed Tidewaters pleadings absent compliance with procedures clearly stated in the Rule.

Respectfully Submitted,



Michael W. Richards

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⁴ The Commission defines abuse of process as “action designed or intended to manipulate or take improper advantage of a Commission process, procedure or rule in order to achieve a result which that process, procedure or rule was not designed or intended to achieve; or to subvert the underlying purpose of that process, procedure or rule.” *Abuses of the Commission's Processes*, 2 FCC Rcd 5563 (1987) at para 2.

⁵ See *Opposition to Petition to Deny*, para 10 *et seq.*

CERTIFICATE OF SERVICE

I, Michael W. Richards, counsel for Blue Ridge Free Media, Inc., hereby state that true copies of the foregoing OPPOSITION TO CONSOLIDATED PETITION TO DENY were mailed first class, postage prepaid (unless otherwise noted), this 18th day of October 2019, to:

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