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January 22, 2001

Ms. Magalie Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street S.W.
Washington, DC 20554

Re: EMERGENCY REQUEST FOR RESCISSION OF DEADLINE FOR LPFM
PETITIONS TO DENY

Dear Ms. Salas:

On December 21, 2000 the Commission issued a Notice of Acceptance of Low Power FM Broadcast Applications and Notification of Petitions to Deny Deadline (Report No. LPFM-S-1). That notice set January 22, 2001 as the deadline for filing Petitions to Deny in connection with the 255 low power applications that the Commission staff has tentatively identified as grantable.

The State of Oregon requests that the above-referenced Petition to Deny deadline be rescinded and, subsequently, rescheduled, for the following reasons:

1. The pending LPFM applications have not been made fully available to the public, in a reasonable manner, for examination and review.
2. The public has not been provided with any specific instructions regarding how to obtain the full LPFM applications, including exhibits..

Discussion: The Commission's Consolidated Database System (CDBS) Public Access Internet links provide access to the pending LPFM applications contained in the Commission's December 21, 2000 public notice. By all appearances, it seems as if it would be possible to retrieve, view, and download any of the above LPFM applications from the Commission's web site. In fact, however, the full applications are not all retrievable through the Commission Internet site. In addition, no warning or notice is provided to the public that the online files are incomplete and may not include exhibits which were provided by the LPFM applicants to the Commission.

Because the LPFM application form, as created, is very simple, the exhibits are far more likely to contain the vital information that would be essential to determine if a Petition to Deny is

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warranted. In particular, the exhibits contain specific details of the applicant's educational *bona fides*, board and governance structure, and existing media holdings.

It is undersigned Counsel's understanding that the Commission's online-application LPFM collection represents a combination of those applications which were originally filed electronically and those which were filed on paper. Counsel further understands that while the the LPFM applications filed electronically should, theoretically, already include all exhibits that were filed with such applications, those exhibits that would have accompanied the paper-filed applications have not been included in the CDDBS data base and, thus, are not accessible to the public online.

The situation is even further compounded because there is no way for those who access the Commission's CDDBS database to discern which LPFM applications have been filed electronically and which ones were originally filed on paper. The significance of this distinction is, obviously, that if one knows that an application has been filed on paper, one will then know that no exhibits will be found online, making it necessary to seek copies of the paper exhibits at the Commission.

When the Commission chose not to require LPFM applicants to create local public files, it was clearly with the understanding that the public would have adequate access to the applications through the Commission's public files and, presumably, through the Internet. Internet accessibility, one would think, is essential so that persons not located in Washington, D.C. will not be prejudiced by the lack of local public files for such stations and applicants. The Commission, however, has not only failed to meet its burden of providing for reasonable public access, it has also failed to provide reasonable notice to the public regarding what procedures are necessary to secure access to the full LPFM applications. Consequently, parties such as the State of Oregon, despite due diligence, have been unable to determine – in time to meet today's deadline – those applications against which Petitions to Deny may be warranted or to prepare such Petitions for timely filing.

In these circumstances, it is only reasonable that the Commission rescind the January 22, 2001 Petition to Deny deadline. A new date should be scheduled by the Commission, but only after the Commission is able to provide full public access – or, at least, detailed instructions on how to secure access – to the full text of LPFM applications, along with all exhibits, that the staff has proposed to be granted.

Respectfully submitted,

Ernest T. Sanchez
Special Assistant Attorney General
State of Oregon