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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	MX Group: 240
Public Media of New England, Inc.)	
)	File No.: BNPL-20131113AKZ
Application for New Low Power FM)	
Station at Haverhill, Massachusetts)	Facility Id: 193811
)	

Accepted/Files

To: The Secretary

Attn: Chief, Audio Division
Media Bureau

NOV - 4 2014

**Federal Communications Commission
Office of the Secretary**

RESPONSE TO "MOTION TO STRIKE AND REPLY"

Public Media of New England, Inc. ("Public Media"), by its attorneys, hereby submits this Response to the Motion to Strike and Reply ("Motion to Strike") dated October 23, 2014 in the above-captioned proceeding, submitted by St. Patrick Parish Lawrence Educational Radio Association (the "Association"). The Motion to Strike should be disregarded because it ignores a pertinent Commission rule and misstates a relevant fact.

1. The Association claims that Public Media's October 17, 2014 Opposition to the Association's Petition to Deny was submitted late. In that regard the Association states, correctly, that the filing period for oppositions to petitions to deny is ten days from the filing of such petitions. However, Section 1.4(h) of the Commission's rules states: "If a document is required to be served on other parties...and the document is in fact served by mail..., and the filing period for a response is 10 days or less, an additional 3 days (excluding holidays) will be allowed...for filing a response." The Association served its Petition to Deny on Public Media by

regular mail on October 6. Therefore, Public Media's opposition was due by October 21, and in fact was filed early, on October 17.

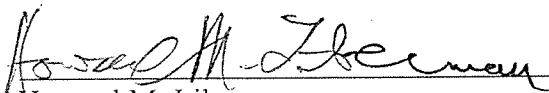
2. The Association states on page 3 of its Motion to Strike that Public Media "never requested waiver relief" with regard to the amendment Public Media submitted shortly after submission of its application, to correct an error in the application. However, Public Media *did* submit a request for waiver. Attached hereto is a copy of the "Petition For Waiver and Expedited Action" that Public Media submitted to the Commission on December 11, 2013.

3. The Association also refers in its Motion to an Informal Objection submitted on or about October 22, 2014 by Boston Radio Association. Public Media will respond to that Informal Objection separately. (Public Media was not served with a copy of the Informal Objection.)

Therefore, for the reasons stated herein, the Media Bureau should disregard the Association's Motion to Strike.

Respectfully submitted,

PUBLIC MEDIA OF NEW ENGLAND, INC.

By:  _____
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November 4, 2014

ATTACHMENT

**December 11, 2013
PETITION FOR WAIVER AND EXPEDITED ACTION
(without Exhibit A)**

FILE COPY

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re: _____ }
Public Media of New England, Inc. }
Application for a New LPFM }
Station at Haverhill, MA } _____

BNPL-20131113AKZ
Facility Id: 193811

RECEIVED - FCC

TO: Office of Secretary
Attn: Chief, Audio Division
Media Bureau

DEC 11 2013

Federal Communications Commission
Bureau / Office

PETITION FOR WAIVER AND EXPEDITED ACTION

Public Media of New England, Inc. ("PMNE"), by its attorneys and pursuant to Sections 1.41 and 73.871 of the Commission's Rules, hereby requests that the FCC waive its application processing procedures and accept the attached amendment to the above-referenced application (the "Application"). PMNE has prepared an amendment to address a clerical error in the Application and is requesting that the Media Bureau review and accept the amendment on an expedited basis so that it may be considered for future processing.

As discussed below, the attached amendment corrects a typographical error in the coordinates listed in Section VI, Question 2 of the Application. Despite this error, the Application did, in fact, reference the correct Antenna Structure Registration Number in Section VI. In addition, the Application included a spacing study that was based on the correct tower coordinates. That spacing study demonstrated that the facilities proposed in the Application are in compliance with Section 73.807 of the Commission's rules.¹

¹ See Application, Comprehensive Technical Statement, Exhibit 11. The Technical Statement also incorrectly listed the coordinates on page 4.

On December 3, 2012, the Media Bureau released a public notice indicating that LPFM applicants may file amendments only after the Bureau releases a public notice later in December.² However, PMNE is concerned that waiting until such time will prevent the Application from full consideration in this subsequent public notice in light of the typographical error contained in Section VI, Question 2. Because the Media Bureau will be reviewing pending applications prior to issuing the subsequent public notice, PMNE requests that the Bureau expeditiously review and accept the instant Amendment, so that it may be considered in future releases.

As noted above, this Amendment complies with Section 73.871 of the rules. The Application correctly referenced the Antenna Structure Registration Number for the tower from which the proposed facility will operate and the studies contained in the Complete Technical Statement are based on the correct tower site. Thus, the changes proposed herein do not violate Section 73.871(c) of the FCC's rules, nor do they conflict with the amendment procedures outlined in the *December PN*.

At this time, however, PMNE is unable to file an amendment in CDBS to correct the typographical error. As a result, PMNE has prepared the attached minor amendment to the Application (attached hereto as Exhibit A). No other changes to the Application are being proposed and the tower site specified in the spacing studies provided with the Application remains the same. Finally, the correction of Question 2 to match the facilities studied elsewhere in the Application will not lead to any enhancement of PMNE's comparative criteria.

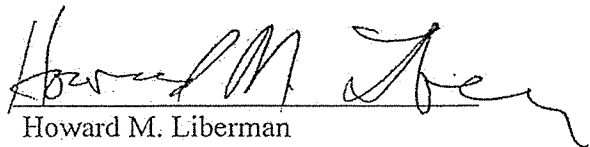
² *Media Bureau Provides Further Guidance on the Processing of Form 318 Applications filed in the LPFM Window*, Public Notice, DA 13-2308, pg. 4 (rel. Dec. 3, 2013) ("December PN").

Thus, grant of the instant waiver request will not undermine the procedures articulated in the *December PN* and will serve the public interest.³ In fact, if the Application had already been dismissed, PMNE would be entitled to seek reconsideration and reinstatement *nunc pro tunc*.⁴

Accordingly, because (i) the Application provided the correct coordinates throughout the other portions of the Application (except as noted herein); (ii) the Application successfully demonstrated compliance with Section 73.807 in Application; and (iii) the attached amendment merely corrects an error in one question in an Application that was otherwise correctly prepared, PMNE respectfully requests that the Media Bureau waive its processing procedures and expeditiously review and accept the instant amendment to the Application.

Respectfully submitted,

PUBLIC MEDIA OF NEW ENGLAND, INC.

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December 11, 2013


³ See *Northeast Cellular Telephone Co. v. F.C.C.*, 897 F.2d 1164, 1166 (DC Cir. 1990) (“[A] waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”), citing *WAIT Radio v. F.C.C.*, 418 F.2d 1153, 1157-59 (DC Cir. 1969) (“[A] rule is more likely to be undercut if it does not in some way take into account considerations of hardship, equity, or more effective implementation of overall policy, considerations that an agency cannot realistically ignore, at least on a continuing basis. The limited safety valve permits a more rigorous adherence to an effective regulation.”)

⁴ See *December PN*, p. 4

CERTIFICATE OF SERVICE

I, Nellie Martinez-Redicks, a Secretary with Drinker Biddle & Reath, LLP, hereby certify that on this 4th day of November, 2014, I caused a copy of the foregoing **Response to “Motion to Strike and Reply”** to be served by first-class mail, postage prepaid to:

Stuart W. Nolan, Jr., Esq.
Legal Works Apostolatc, PLLC
4 Family Life Lane
Front Royal, VA 22630
*Counsel for St. Patrick Parish
Lawrence Educational Radio Association*

By: 
Nellie Martinez-Redicks