

ORIGINAL

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

7011 DEC 15 A 9:09

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

DEC 11 2014

Attn: Chief, Audio Division
Media Bureau

**Federal Communications Commission
Office of the Secretary**

RESPONSE OF PUBLIC MEDIA OF NEW ENGLAND, INC.

Public Media of New England, Inc. (“Public Media”), by its attorneys and pursuant to Section 73.3587 of the Commission’s rules, hereby submits this Response to the Reply filed by Boston Radio Association (“BRA”) on November 20, 2014 (the “Reply”) with regard to Public Media’s above-captioned application for construction permit for a new Low-Power FM (LPFM) station to serve Haverhill, Massachusetts (the “Application”).

BRA attempts to introduce new facts into the record without demonstrating why it could not have submitted this information with its Informal Objection. Furthermore, BRA has intentionally obscured its identity from Public Media and the Commission, in violation of the Commission’s rules. According to all available information, neither “Boston Radio Association” nor its purported president, Peter D’Acosta, actually exists, and BRA does not operate from the address provided in its submissions. In light of these factors, the Commission should dismiss the Informal Objection and grant Public Media’s Application.

BRA's Reply provides a link to a YouTube video uploaded by Public Media in 2011 regarding its Part 15 AM radio station. BRA claims that this video demonstrates "what type of transmitter" is being used, and that the station is operating with a "1000 watts transmitter (one kilowatts)."¹ This assertion is incorrect.

Specifically, BRA's Exhibit One notes that Public Media's Rangemaster transmitter is not visible in the video.² In fact, the full text from description of the YouTube video makes clear that the transmitter is not included in the two-minute video:

Raw video of WHAV's AM transmission facilities in the North Parish section of Haverhill, Massachusetts. The video focuses on three key pieces of equipment — Inovonics 235 audio processor, power supply meter panel and interface to the Rangemaster transmitter **(Rangemaster not shown)** and REA modulation monitor. The Inovonics 235 compresses, equalizes and limits the audio received via a 128kbps stream from the studios five miles away. Designed for AM broadcasting, it also creates an asymmetrical audio output favoring positive peaks without distortion and which legally adds power to the broadcast signal. The modulation monitor confirms the as-received signal and plays back the off-air audio. Note, especially when the second song begins, 100% negative peaks and positive peaks well in excess of 100%.³

Nowhere in the video is there evidence that the station is operating with a 1,000 watt transmitter, and the transmitter is not even shown in the video. Thus, BRA's argument that the video proves that Public Media is operating with a 1,000 watt transmitter is factually incorrect and must be rejected.

Furthermore, BRA failed to provide any explanation of why it could not have provided this information in its Informal Objection. The Commission's rules prohibit the introduction of

¹ Reply, pg. 1.

² Reply, Exhibit 1 ("The video focuses on three key pieces of equipment – Inovonics 235 audio process, power supply meter panel and interface to Rangemaster transmitter (Rangemaster not shown) and REA modulation.") (emphasis added).

³ See <https://www.youtube.com/watch?v=MVSBN1LsFEc> (last visited Dec. 3, 2014).

new information in a reply. Thus, even if BRA were factually correct, which it is not, its tardy submission should be stricken from the record.

Finally, BRA has intentionally obscured the real party in interest behind the Informal Objection. Attached as Exhibit A is the service mailing of Public Media's Opposition, which was returned to undersigned counsel. According to the US Postal Service, neither Boston Radio Association nor Peter D'Acosta is located at the address provided in the Informal Objection and the Reply. Moreover, Boston Radio Association has not registered with the Commonwealth of Massachusetts.⁴ Extensive Google searches by counsel have found no evidence of any "Boston Radio Association" or a Peter D'Acosta in the New England region.⁵ An Intelius search of Peter D'Acosta reveals no such person in Massachusetts. Repeated attempts to call the telephone number provided by Boston Radio Association have been unsuccessful, with an automated answering service indicating that no such party is at that telephone number. And an Intelius search of that number does not lead to a Peter D'Acosta or Boston Radio Association. Thus, it appears that Peter D'Acosta and Boston Radio Association do not exist.

An Informal Objection filed pursuant to Section 73.3587 of the Commission's rules must provide "adequate and specific factual allegations sufficient to warrant the relief requested."⁶ BRA claims that Public Media is a pirate radio operator, which Public Media has shown to be completely false. Therefore, Public Media respectfully requests that the Commission: (i) dismiss BRA's Informal Objection; and (ii) grant Public Media's application for a new LPFM station at Haverhill, Massachusetts.

⁴ See Exhibit B.

⁵ The only Peter D'Acosta identified appears to reside in Texas and is a collector of antique telephones.

⁶ 47 C.F.R. § 73.3587 (2014). See *Area Christian Television, Inc.*, 60 RR 2d 862, 864 (1989) (citing *WFBM, Inc.*, 47 FCC 2d 1267 (1974), and *License Renewal Applications-Los Angeles, California, Area*, 68 FCC 2d 75 (1978)).

Respectfully submitted,

PUBLIC MEDIA OF NEW ENGLAND, INC.

By:  _____

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Lee G. Petro

DRINKER BIDDLE & REATH LLP

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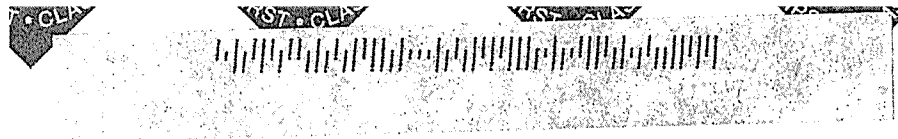
(202) 842-8800

(202) 842-8465 (fax)

Its Attorneys

December 11, 2014

Exhibit A



FIRST-CLASS

neopost
11/10/2014
US POSTAGE

FIRST-CLASS MAIL
\$01.19⁰



ZIP 20005
041L11232701

First Class Mail

Drinker Biddle & Reath LLP
 1500 K STREET N.W.
 SUITE 1100
 WASHINGTON, DC 20005-1209

*Return to
Sender
+ this*

Boston Radio Association
c/o Peter D'Acosta
421 Merrimack Street
Methuen, MA 01844

NIXIE 018443143-1N

11/22/14

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD
RETURN TO SENDER

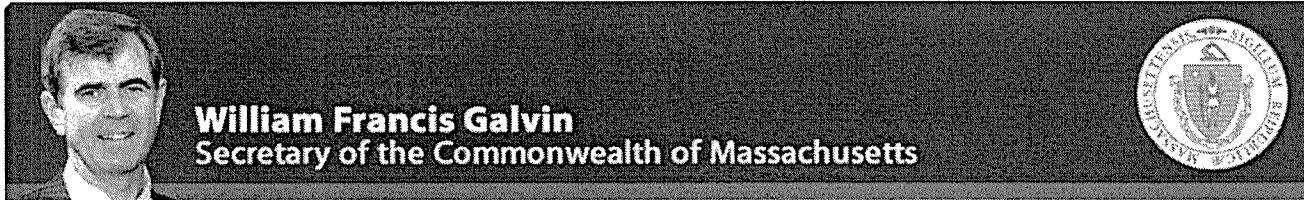
(H.Liberman) 506818



*ANK
now*

FIRST-CLASS

Exhibit B



Corporations Division

Business Entity results

Number of records: 6

[Print results](#)

<u>Entity Name</u>	<u>ID Number</u>	<u>Old ID Number</u>	<u>Address</u>
BOSTON RADIO CORPORATION	142831664	000193682	17 TOWER RD. LEXINGTON, MA 02173 USA
BOSTON RADIO GROUP, INC.	042788570	000193673	100 FEDERAL ST. BOSTON, MA 02110 USA
BOSTON RADIO GROUP, INC., THE	133513913		805 THIRD AVE. NEW YORK, NY 10022 USA
BOSTON RADIO ORCHESTRA, INC.	000105570		100 OLD STONE WAY WEYMOUTH, MA 02189 USA
BOSTON RADIOLOGY GROUP, LLC	001118201		416 COMMONWEALTH AVE #602 BOSTON, MA 02115 USA
BOSTON RADIOLOGY, INC.	043513301	000703695	58 BULLIVANT FARMS RD. MARION, MA 02738 USA

[New Search](#)

CERTIFICATE OF SERVICE

I, Nellie Martinez-Redicks, a Secretary with Drinker Biddle & Reath, LLP, hereby certify that on this 11th day of December, 2014, I caused a copy of the foregoing **Response** to be served by first-class mail, postage prepaid to the following:

Boston Radio Association
c/o Peter D'Acosta
421 Merrimack Street
Methuen, MA 01844

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

By: 
Nellie Martinez-Redicks