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A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

WASHINGTON, D.C. OFFICE
fifth floor
flour mill building
1000 potomac street nw
washington, d.c. 20007-3501
TEL 202 965 7880 FAX 202 965 1729

OTHER OFFICES
beijing, china
new york, new york
portland, oregon
seattle, washington
GSBLAW.COM

Please reply to JOHN M. PELKEY
jpelkey@gsblaw.com TEL EXT 2528

September 22, 2005

Our File No. 21554-00100-63

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: 325-STA-20050701
Broadcast Company of the Americas, LLC
Request for Special Temporary Authority
Under Section 325(c) of the
Communications Act

Dear Ms. Dortch:

As if any further confirmation were needed that the goal of Lazer Broadcasting Corporation and Emmis Communications Corporation is simply to delay the grant of the STA request and Section 325 applications filed by Broadcast Company of the Americas, LLC, the letter of September 15, 2005, from counsel for Lazer and Emmis provides that confirmation.

The letter purports to provide "readings" allegedly demonstrating that the XHBCE-FM Class C1 facilities are not operating in accordance with the terms of the coordination between the U.S. and Mexican Governments and thus are in violation of the U.S. - Mexican treaty. In alleged support of this proposition, Lazer and Emmis provide yet another letter from Mr. Joel T. Saxberg. To reach the conclusion that the Class C1 facilities do not comport with the treaty, Mr. Saxberg engages in a three-step process. First, he sets forth what he believes to be the relative fields of the XHBCE-FM Class C1 facilities as notified to the United States by the Mexican SCT. It appears, however, that Mr. Saxberg's assessment of the relative fields was not based upon any information provided in tabular form by the Mexican government, but was instead extrapolated from the graphic depiction of that pattern provided by the Mexican SCT and included in Petitioners' June 15, 2005 Petition to Deny. Despite the difficulties involved in making accurate calculations of the station's relative fields based upon that graphic depiction of the pattern, Mr. Saxberg uses it to reach conclusions as to the relative fields notified to the Commission in one degree increments between 341° and 357°. Second, he interpolates the relative fields actually achieved by the XHBCE-FM antenna between 341° and 357° from the SWR range test provided to the Commission as part of BCA's June 30, 2003 Opposition to that Petition to Deny. Interpolation was necessary because the SWR range test was reported in 5 degree increments, whereas Mr. Saxberg uses one degree increments. Finally, he compares the relative fields, in one degree increments, that he extrapolated from the SCT-supplied graphic depiction of the contour with the results



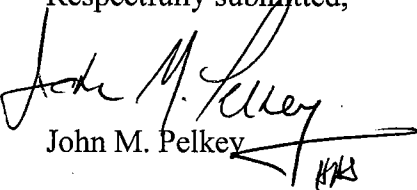
of his interpolation of the SWR range test. Contrary to the impression fostered by Lazer and Emmis, Mr. Saxberg himself does not claim to have taken any readings of the XHBCE-FM signal.

There is, of course, no reason why this most recent letter from Mr. Saxberg could not have been included in Petitioners' July 29, 2005 Reply (a pleading that was itself filed weeks after the normal due date for a reply) inasmuch as all of the information that Mr. Saxberg used to generate his letter was available to Petitioners some 2½ months ago. Petitioners provide absolutely no explanation, however, for their extremely tardy response. The conclusion is inescapable that the September 15 letter was submitted solely to further delay Commission consideration of BCA's STA request and Section 325 applications.

More fundamentally, however, the letter is simply irrelevant from a substantive perspective. Quite apart from the fact that there can be no assurance that Mr. Saxberg's calculations of the values for the XHBCE-FM relative fields are correct given the engineering gymnastics required to make those calculations, the simple fact of the matter is that Mr. Saxberg has misstated the requirements of the treaty. As the language from Section 1.4.1 of the Annex to the treaty cited by Mr. Saxberg clearly sets forth, it is only in the "direction of limitation" that a restricted assignment using a directional antenna cannot exceed the notified antenna pattern values. The only directions of limitations specified with respect to the XHBCE-FM Class C1 facilities are those along the 8.88° and 351.03° azimuths. Although Mr. Saxberg's letter does not specify values for either the 8.88° or the 351.03° azimuths, it does specify values for the immediately-adjacent 351° and 352° azimuths and, in each case, Mr. Saxberg's letter acknowledges that the SWR pattern falls within the SCT-notified pattern.

While BCA is appreciative of Mr. Saxberg's confirmation that the XHBCE-FM facilities are complying with the terms of the coordination, there was no need for Lazer and Emmis to have further delayed this proceeding to provide additional evidence in support of BCA's STA request and applications. The September 15 letter is just one more instance of Lazer and Emmis having abused the Commission's processes for their own private ends. They have attempted to mislead the Commission by passing off as truth factual information that proved upon examination to be without foundation. They have made assertions concerning antenna orientation that were untrue. Now, they seek to mislead the Commission by making assertions concerning the treaty that are undercut by the plain language of the treaty itself. The time has come for the Commission to pierce through the Petitioners' anticompetitive veil of deceit and, now that Petitioners' consultant himself acknowledges that the XHBCE-FM Class C1 facilities are operating in accordance with the terms of the coordination, promptly grant BCA's STA request and Section 325 applications.

Respectfully submitted,


John M. Pelkey



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cc: Linda P. Armstrong, Esq. (linda.armstrong@fcc.gov)
Selina Khan, Esq. (Selina.Khan@fcc.gov)
Harry C. Martin, Esq. (via e-mail and first-class mail)
Marnie K. Sarver, Esq. (via e-mail and first-class mail)
Henry A. Solomon, Esq.

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