

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	Facility ID No. 25799
Skytower Communications – 94.3, LLC	)	NAL/Acct. No.MB-201041410015
Licensee of Station WULF(FM)	)	FRN: 0001790724
Hardinsburg, Kentucky	)	
	)	

FORFEITURE ORDER

Adopted: May 24, 2012**Released: May 25, 2012**

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of five thousand six hundred dollars (\$5,600), to Skytower Communications – 94.3, LLC (“Licensee”), licensee of Station WULF(FM), Hardinsburg, Kentucky (“Station”). This forfeiture is issued to Licensee for its willful and repeated violation of Section 73.1125 of the Commission’s Rules (“Rules”)¹ by relocating the Station’s main studio to two separate locations outside of the boundaries defined in the Rule, as calculated on the basis of standard FM prediction methodology, prior to receiving Commission approval to do so.

II. BACKGROUND

2. On September 17, 2010, the Media Bureau (“Bureau”) issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of seven thousand dollars (\$7,000) to Licensee for this violation.² As noted in the NAL, on October 16, 2002, Licensee notified the Commission that the WULF(FM) main studio had been relocated from a site within the station’s 70 dBu “principal community” contour,³ to a temporary site at 245 West Dixie Avenue, Elizabethtown, Kentucky. On August 12, 2003, Skytower notified the Commission that the WULF(FM) main studio had again been relocated to a nearby permanent site at 233 West Dixie Avenue, Elizabethtown, Kentucky.⁴ In each notification letter, Skytower stated that relocation to that site “complies with Section 73.1125 of the Commission’s Rules.”⁵ Both sites lie outside the principal community contour of any Hardinsburg station—as calculated using the

¹ 47 C.F.R. § 73.1125.

² *Skytower Communications – 94.3, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13204 (2010)(“NAL”). The Bureau also held that Licensee’s supplemental coverage showing was acceptable; that Licensee did not misrepresent a material fact to the Commission; and that the acceptability of the supplemental coverage showing obviated the need for a waiver of Section 73.1125 of the Rules.

³ See 47 C.F.R. §§ 73.315(a), 73.1125.

⁴ The studio locations are approximately 100 meters apart. The relocation to the 233 West Dixie Studio was directly toward Hardinsburg, Kentucky.

⁵ NAL, 25 FCC Rcd at 13205.

standard contour prediction method specified in Section 73.313 of the Rules⁶—and are more than twenty-five miles from the center of Hardinsburg.⁷

3. On October 28, 2003, the Commission’s Enforcement Bureau, responding to a complaint that WULF(FM)’s main studio was not in compliance with the main studio Rule, sent Skytower a letter of inquiry (“LOI”) requesting detailed information about the location of WULF(FM)’s main studio.⁸

4. On November 12, 2003, Licensee responded to the LOI, and alleged for the first time that the 233 West Dixie Studio location was encompassed by the Station’s “extended” 70 dBu contour as derived from a supplemental coverage analysis which relied on the Longley-Rice propagation model.⁹ Licensee maintained that its showing was acceptable because the Station’s recalculated 70 dBu contour extended 36 percent farther than the contour calculated using the standard prediction methodology specified in the Rules.

5. On January 14, 2004, Licensee filed with the Bureau a “Request for Determination Regarding Compliance with Main Studio Rule” (“Request for Determination”)¹⁰ and at the same time filed a supplement to its showing filed with the Enforcement Bureau.¹¹ On August 24, 2004, the Enforcement Bureau closed its investigation without taking action, but cautioned Licensee that it “should not construe the closing of the investigation as a determination that a violation did not occur.”¹²

6. The Request for Determination repeated the arguments made in Licensee’s November and January filings with the Enforcement Bureau, and requested a waiver of Section 73.1125, as alternative relief. On September 17, 2010, the staff issued the NAL, which addressed Licensee’s arguments as well

⁶ 47 C.F.R. § 73.313. Hardinsburg has only two stations, WULF(FM), a Class C2 station, and WXBC(FM), a Class A station.

⁷ Section 73.1125 provides, in pertinent part, that an FM station’s main studio must be located within the 70 dBu principal community contour, within twenty-five miles from the center of the community of license, or within the principal community contour of any AM, FM or TV broadcast station licensed to the station’s community of license.

⁸ The Enforcement Bureau Letter directed Skytower to provide, *inter alia*, the geographic coordinates of WULF(FM)’s main studio, a map demonstrating compliance with Section 73.1125(a) for both the temporary and planned permanent studios, tabular data supporting the map, and confirmation of continued main studio use. *See* Response, Ex. 1 (Letter from Joseph Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau, FCC, to Mark Lipp, Esq., counsel for Skytower (Oct. 28, 2003)).

⁹ *See* NAL, 25 FCC Rcd at 13205. *See also* Rice, P.L., Longley, A.G., Norton, K.A., Barsis, A.P., Transmission Loss Predictions for Tropospheric Communications Circuits, NBS Technical Note 101 (Revised), Volumes I and II, U.S. Department of Commerce, 1967.

¹⁰ In the NAL, we noted that the Commission’s procedural Rules make no provisions for “Requests for Determination.” We thus considered the pleading substantively as a request for a declaratory ruling pursuant to 47 C.F.R. § 1.2.

¹¹ These pleadings address the technical appropriateness of Licensee’s Longley-Rice showing based on an unpublished letter, *Cumulus Licensing Corp.*, Letter, Aug. 8, 2003. That letter applied a threshold test in which terrain along the path between transmitter site and the relocated main studio would be deemed to depart widely from the 50 meter norm only if the value of delta-h (the distance, in meters, between elevations exceeded, by all points on a terrain profile, for 10 percent and 90 percent, respectively, of the length of the profile segment. *See* 47 C.F.R. § 73.133(f)) – a measure of terrain roughness – was 20 meters or less, or 100 meters or more. This threshold test was ultimately found to be not “in effect” and “not binding.” *See Letter to Christopher Sova, Esq. Re KFME(FM) from Peter H. Doyle, Chief, Audio Division, Media Bureau* (March 5, 2004), *aff’d sub nom. CMP Houston-KC, LLC*, Memorandum Opinion and Order, 23 FCC Rcd 10656 (2008).

¹² Letter to Mark Lipp, Esq., counsel to Skytower, from Joseph P. Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau, Ref. EB-03-TS-003, Aug. 16, 2004.

as an Objection to Determination of Compliance and for Waiver, filed on September 27, 2004, by W&B Broadcasting, Inc., licensee of Station WASE(FM), Radcliff, Kentucky, and other responsive pleadings.

7. The NAL held that Licensee willfully and repeatedly violated Section 73.1125 of the Rules by moving its main studio to the two Elizabethtown locations without prior approval and operating the main studio in Elizabethtown for nearly eight years without authority. It based this determination on the plain language of the rule and *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit*, Report and Order, 12 FCC Rcd 12371, 12403 (1997) (“*Minor Changes R&O*”), which unambiguously required Licensee to request prior approval to move its main studio to two locations that were outside the boundaries specified in Section 73.1125(a).¹³ Licensee filed its Response (“Response”) to the NAL on October 18, 2010.¹⁴

8. In its Response, Licensee contends that the proposed forfeiture should be cancelled because: (1) Section 73.1125 of the Rules and the *Minor Changes R&O* “do[] not unambiguously state that the licensee must obtain prior approval when relying on a supplemental coverage showing such as Longley-Rice,”¹⁵ and that any “failure to obtain prior approval was due to a lack of clarity of the rule;”¹⁶ (2) the staff improperly distinguished *Telemedia Broadcasting, Inc.*;¹⁷ (3) the cases cited in the NAL do not support its determination regarding supplemental coverage showings;¹⁸ (4) after reviewing Licensee’s supplemental showings, Commission staff ultimately found that the main studio relocation was Rule-compliant; and (5) it has a history of compliance with the Rules.¹⁹

III. DISCUSSION

9. The Commission’s *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$7,000 for violation of the Commission’s main studio rule.²⁰ In assessing

¹³ Section 73.1125(a) of the Rules provides, in pertinent part, that an FM station’s main studio must be located within the 70 dBu principal community contour, within twenty-five miles from the center of the community of license, or within the principal community contour of any AM, FM or TV broadcast station licensed to the station’s community of license.

¹⁴ Licensee styled its pleading “Petition for Reconsideration and Response to the Notice of Apparent Liability.” However, an NAL is not a final action, and thus is not subject to a petition for reconsideration.

¹⁵ Response at 3.

¹⁶ Response at 9.

¹⁷ See *Telemedia Broadcasting, Inc., WGRQ(FM), Colonial Beach, Virginia and Rappahannock River Broadcasting, LLC., WGRX(FM), Falmouth, Virginia*, Memorandum Opinion and Order, 17 FCC Rcd 14604 (EB 2002) (“*Telemedia*”) (no violation found when licensee showed that its main studio was within its 70dBu contour using Longley-Rice analysis).

¹⁸ See *KXOJ, Inc.*, Letter, 14 FCC Rcd 11196 (MMB 1999) (issuing NAL for relocating main studio outside the station’s principal community contour without prior Commission approval); *Chameleon Radio Corp.*, Order to Show Cause, 11 FCC Rcd 11088, 11090 n.9 (1996) (“absent the *grant by the Commission* of a ‘good cause’ exception, a licensee of [a] . . . station must maintain a main studio within the station’s [service contour]” (emphasis supplied)); *International Panorama TV, Inc.*, Memorandum Opinion and Order, 52 FCC 2d 258 (1975) (issuing forfeiture for relocation of main studio without prior Commission approval).

¹⁹ Licensee also suggests that the Bureau should reduce the forfeiture based on the Enforcement Bureau’s determination not to impose forfeiture in this matter. Response at 9. However, the Enforcement Bureau specifically cautioned Licensee that it “should not construe the closing of the investigation as a determination that a violation did not occur.” Letter to Mark Lipp, Esq., counsel to Skytower, from Joseph P. Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau, Ref. EB-03-TS-003, Aug. 16, 2004. Therefore, we will not consider this argument further.

²⁰ See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, (continued....)

forfeitures, Section 503(b)(2)(E) of the Communications Act of 1934, as amended (the “Act”), requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.²¹

10. Licensee argues that the NAL should not have imposed the forfeiture because Section 73.1125 of the Rules and the *Minor Changes R&O* do not, as the NAL finds, clearly require a licensee to obtain prior approval when relying on a supplemental coverage showing such as Longley-Rice to demonstrate that a station’s main studio is within the areas specified in Section 73.1125(a) of the Rules. We disagree. The NAL correctly held that Section 73.1125(d) of the Rules clearly requires a licensee to request approval from the Commission prior to relocating its main studio to a location outside the areas specified in Section 73.1125(a) using standard FM prediction methodology.²² This requirement is underscored by the *Minor Changes R&O*, where the Commission clearly and unambiguously stated that “[a]pplicants with supplemental showings will be required to submit them for consideration in a construction permit application prior to any construction, so that the staff may properly evaluate all pertinent factors.”²³ It noted that supplemental coverage showings “are not routine by nature, are often controversial, and the outcome is not always as the applicant would wish.”²⁴

11. The NAL rejected Licensee’s assertion that use of the word “may” in the following footnote (“Footnote 54”) made prior Commission approval for relocation of a main studio based on a supplemental coverage methodology “optional”:

Where a licensee or permittee is filing a supplemental showing solely to obtain confirmation that a particular main studio location complies with 47 C.F.R. Section 73.1125, prior to moving to that location, it may do so in a letter to the Audio Services Division for FM stations or the Video Services Division for TV stations, with the appropriate exhibits attached. [Emphasis added.]²⁵

12. The NAL held that, when Footnote 54 was read in context, it was clear that the Commission was distinguishing methods by which parties could file their supplemental showings, and that licensees and permittees could file directly with Commission staff (as opposed to filing them as part of a construction permit application). The NAL further held that, to the extent that there was “any ambiguity inherent in the use of ‘may’ in [Footnote 54], any such ambiguity is resolved by parsing it in context and by the plain language of Section 73.1125(d)(2) that “[w]ritten authority... must be obtained ... before the

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15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I (“Violations Unique to the Service”).

²¹ 47 U.S.C. § 503(b)(2)(E).

²² Section 73.1125(d)(2) requires that: “Written authority to locate a main studio outside the locations specified in paragraph (a) or (c) of this section for the first time must be obtained from the Audio Division, Media Bureau for AM and FM stations, or the Video Division for TV and Class A television stations before the studio may be moved to that location Authority for these changes may be requested by filing a letter with an explanation of the proposed changes with the appropriate division. Licensees or permittees should also be aware that the filing of such a letter request does not imply approval of the relocation request, because each request is addressed on a case-by-case basis. A filing fee is required for commercial AM, FM, TV or Class A TV licensees or permittees filing a letter request under the section (see § 1.1104 of this chapter).”

²³ *Minor Changes R&O* at 12403.

²⁴ *Minor Changes R&O* at 12403.

²⁵ NAL at 13212.

studio may be moved.”²⁶ It emphasized that, to the extent “any uncertainty exists ... we declare and reaffirm that applicants, permittees or licensees that rely on supplemental coverage showings for compliance with Section 73.1125 must submit those coverage showings” for Commission approval prior to moving its main studio.²⁷

13. Licensee states that the fact that the Bureau felt the need to “clarify” this requirement in the NAL supports its position that the interpretation is not as clear as the Bureau claims it is.²⁸ It points to additional language in Footnote 54 which states, “applicants seeking to use this procedure should obtain the Commission’s concurrence before constructing a studio at the specified location.”²⁹ [Emphasis added.] Licensee argues that use of the word “should” makes prior approval discretionary and not mandatory.

14. We reject Licensee’s strained reading of the Commission’s language, which again has been taken out of context. As discussed above, Footnote 54 clarifies that a supplemental showing filed solely to obtain confirmation that a particular main studio complies with the Rules can be requested by letter, rather than by application, prior to construction and that no filing fee is required when requested in this manner. As stated in the *Minor Changes R&O*, the Commission requires applicants “to submit [supplemental coverage showings] for consideration in a construction permit application prior to any construction,” because it does not want “to promote the construction of facilities which later cannot be licensed.”³⁰ The fact that prior submission is mandatory is further reinforced by the Commission’s statement that, “it may be very costly to move the studio to another location if the Commission’s results do not agree with the applicant’s supplemental analysis.”³¹ The *Minor Changes R&O* clearly indicates that prior approval is mandatory; the Commission would not impose such an extreme sanction as requiring that a constructed studio be dismantled and moved if prior approval were discretionary.³² The fact that the NAL spelled out this obvious requirement neither minimizes Licensee’s violations nor provides us with a basis for cancelling or reducing the forfeiture.³³

15. Licensee next argues that the NAL failed to explain or distinguish the *Telemedia* case as required by *Melody Music v. FCC*.³⁴ In *Telemedia*, a licensee, without prior Commission approval,

²⁶ *Id.*

²⁷ NAL at 13215.

²⁸ *Minor Changes R&O* at 12403.

²⁹ Response at 3-4.

³⁰ *Id.*

³¹ *Id.*, note 54.

³² Further arguing that this language is discretionary, Licensee also argues that because the main studio was originally built for Station WQXE(FM), Elizabethtown, Kentucky, and was within the parameters of Section 73.1125 without a supplemental coverage analysis for that station, it was not required to request prior approval to use that main studio for the Station. Response at 4. Whether a licensee is constructing a new main studio or is using one that is already constructed is irrelevant to the requirement to obtain prior approval. This argument misconstrues the language in the *Minor Changes R&O*. That language merely illustrates the gravity of the consequences of relocating without prior approval.

³³ Licensee also argues that its eight years of operation at the Elizabethtown location without authority was “entirely due to the Media Bureau’s failure” to act on its Request for Determination. However, continued operation of the main studio in Elizabethtown was at Licensee’s own risk, pending the Bureau’s consideration of the Request for Determination.

³⁴ *Melody Music, Inc. v. FCC*, 345 F.2d 730, 733 (D.C. Cir 1965) (Commission is required to explain its different treatment of similarly situated parties).

located its main studio outside the station's 70 dBu contour calculated using the standard method. When a competitor filed a complaint, the licensee submitted a Longley-Rice analysis demonstrating that the main studio was within the extended 70 dBu contour. The Enforcement Bureau accepted the analysis and determined that the licensee's main studio was not in violation of the main studio Rule.

16. As explained in the NAL, *Telemedia* did not address the licensee's failure to obtain prior Commission approval before locating its main studio in reliance on its alternative coverage analysis.³⁵ Because of this absence of reasoning, the NAL rejected *Telemedia* to the degree that it may suggest that prior approval for locating a main studio outside the principal community contour, as calculated in accordance with the standard method, is not required. We will not entertain Licensee's speculative claim that the Enforcement Bureau did in fact consider and reject the prior approval issue. Furthermore, we note that Enforcement Bureau decisions are not binding on the Bureau, and thus *Telemedia* is not controlling precedent.³⁶

17. Licensee next argues that the Commission precedent cited in the NAL does not support the forfeiture in this case.³⁷ Licensee argues that the three main studio cases cited in the NAL are inapposite because they do not involve supplemental coverage showings.³⁸ We disagree. All of those cases involve the same basic violation as occurred in this matter: relocation of a station's main studio outside of its principal community contour, as determined based on the standard methodology, without prior approval. As such, they were properly cited in support of the NAL.

18. Licensee also asserts that the forfeiture should be cancelled based on the Commission's ultimate finding that Licensee's main studio location complied with Section 73.1125 of the Rules. However, the ultimate determination of compliance does not negate or excuse Licensee's failure to request prior approval of its supplemental coverage showing.³⁹ Licensee's main studio was considered to be located outside of the 70dBu contour until the Longley-Rice showing was approved. Licensee did not submit the Longley-Rice showing until a complaint was filed with the Commission. As such, it was in violation of Section 73.1125 until it submitted a written request and received approval from the staff.

19. Finally, Licensee maintains that it has a history of compliance with the Rules.⁴⁰ Commission records confirm Licensee's record of compliance, and we will reduce the forfeiture on this basis from \$7,000 to \$5,600.⁴¹

³⁵ NAL at 13211.

³⁶ See, e.g., *Gaston College*, Forfeiture Order, 25 FCC Rcd 982, 986 (EB 2010)(Enforcement Bureau declines to follow Media Bureau precedent involving denial of access to station's public file); *John Jason Bennett*, Letter, 20 FCC Rcd 17193, 17195, n.14 (MB 2005) (noting that Wireless Bureau precedent is not binding on the Bureau).

³⁷ Response at 7.

³⁸ See n.18 *supra*.

³⁹ See *International Broadcasting Corp.*, Order on Review, 25 FCC Rcd 1538, 1540 (2010)(postponement of compliance with the Rules until after a Commission inspection is contrary to the public interest); *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099 (1994)(corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify or mitigate any prior forfeitures or violations); *Station KGVV, Inc.*, Memorandum Opinion and Order, 42 FCC2d 258, 259 (1973)(licensees are expected to comply with Commission requirements); *Executive Broadcasting Corp.*, Memorandum Opinion and Order, 3 FCC2d 699, 700 (1966) (prompt corrective action and operating the station in accordance with rules since the violations were pointed out does not excuse the prior violations).

⁴⁰ Licensee also questions whether the forfeiture amount was based on the length of time the action was pending before the Commission before we took action. The forfeiture was based on the gravity of the violation in its entirety.

20. We have considered Licensee's response to the NAL in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that Licensee willfully⁴² and repeatedly⁴³ violated Section 73.1125 of the Rules. However, given Licensee's history of compliance with the Rules, we reduce the forfeiture amount to \$5,600.

IV. ORDERING CLAUSES

21. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,⁴⁴ that Skytower Communications -94.3, LLC, SHALL FORFEIT to the United States the sum of five thousand six hundred dollars (\$5,600) for willfully and repeatedly violating Section 73.1125 of the Commission's Rules.

22. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁴⁵ Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).⁴⁶ Licensee will also send electronic notification on the date said payment is made to Victoria.McCauley@FCC.gov and Kelly.Donohue@FCC.gov. Requests for full payment of the forfeiture under an installment plan should be sent to: Associate Managing Director-Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁴⁷

23. IT IS FURTHER ORDERED, that copies of this Forfeiture Order shall be sent by Certified

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⁴¹ See, e.g., *WLTV, Inc.*, Forfeiture Order, 24 FCC Rcd 7715, 7717 (MB 2009) (reducing forfeiture amount based on licensee's history of compliance); *Wayne State College*, Forfeiture Order, 24 FCC Rcd 2484, 2486 (MB 2009) (same); *Christian Center, Inc.*, Forfeiture Order, 24 FCC Rcd 1128, 1129 (MB 2009) (same); *John Brown University*, Forfeiture Order, 24 FCC Rcd 1536, 1537 (MB 2009) (same). See also 47 C.F.R. § 1.80, Note to Paragraph (b)(4), Downward Adjustment Criteria.

⁴² Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of Section 312(f)(1) of the Act clarifies that this definition of willful applies to Sections 312 and 503(b) of the Act, H.R. REP. NO. 97-765, 51 (Conf. Rep.), and the Commission has so interpreted the terms in the Section 503(b) context. See *Southern California*, 6 FCC Rcd at 4387-88.

⁴³ Section 312(f)(1) of the Act defines "repeated" as "the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(1). See also *Southern California*, 6 FCC Rcd at 4388 (applying this definition of repeated to Sections 312 and 503(b) of the Act).

⁴⁴ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

⁴⁵ 47 U.S.C. § 504(a).

⁴⁶ See 47 C.F.R. § 1.1914.

⁴⁷ *Id.*

Mail Return Receipt Requested and by First Class Mail to Mr. Billy R. Evans, Skytower Communications -94.3, LLC, 233 West Dixie Avenue, Elizabethtown, KY, 42701, and Mark Lipp, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, DC, 20006 (Counsel for Skytower Communications -94.3 LLC).

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau