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Express Mail

April 8, 2016

Copyright Royalty
Board P.O. Box 70977
Washington, D.C. 20024-0977

re: Docket No. 16-CRB-0002-PBR (2018 – 2022)
Determination of Rates and Terms for Public Broadcasting (PBIII)

Enclosed please find the Church Music Publishers' Association's ("CMPA's") motion requesting that the Copyright Royalty Board accept its untimely petition to participate in the proceeding to establish royalty rates and terms payable to public broadcasting entities for the compulsory license established under Section 118 of the Copyright Act for the five-year period beginning January 1, 2018 and ending December 31, 2022.

As indicated in the accompanying motion, CMPA is requesting that the Copyright Royalty Board permit CMPA to withdraw its pending "Motion for Late Filing of Petition" and "Motion to Supplement Request to Accept Late Petition to Participate" (dated March 22, 2016 and March 31, 2016, respectively) and accept the enclosed "Motion to Accept Late Petition to Participate" as the only motion filed on behalf of CMPA in this matter. CMPA believes that the enclosed motion and accompanying Certificate of Service" best complies with the procedural rules governing this proceeding, particularly 37 C.F.R. §350.4 (a) and (g).

As also indicated in the accompanying motion, CMPA submitted a check to the Copyright Royalty Board in the amount of \$150.00 along with its March 22, 2016 "Motion for Late Filing of Petition." CMPA respectfully requests that the Copyright Royalty Board apply that payment towards the filing fee required pursuant to 37 C.F.R. §351.1(b)(4).

Thank you again for your consideration of this matter. Please do not hesitate to contact me should you require any additional information

Sincerely,

J. Rush Hicks

JRH/nn

Before the
UNITED STATES COPYRIGHT ROYALTY BOARD
Washington, D.C.

In the Matter of:)	
)	
)	
DETERMINATION OF RATES)	
AND TERMS FOR)	Docket No: 16-CRB-0002-PBR
PUBLIC BROADCASTING (PB III))	(2018-2022)
)	

CHURCH MUSIC PUBLISHERS’ ASSOCIATION’S MOTION TO
ACCEPT LATE PETITION TO PARTICIPATE

The Church Music Publishers’ Association (“CMPA”) submits this motion to withdraw its pending “Motion for Late Filing of Petition” and “Motion to Supplement Request to Accept Late Petition to Participate” (dated March 22, 2016 and March 31, 2016, respectively) and to request that the Copyright Royalty Board accept its untimely petition to participate in the proceeding to establish royalty rates and terms payable to public broadcasting entities for the compulsory license established under Section 118 of the Copyright Act for the five-year period beginning January 1, 2018 and ending December 31, 2022.

Pursuant to 17 U.S.C. § 803(b)(1)(A)(ii) and 37 C.F.R. § 351.1(d) the Copyright Royalty Board may “for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements.”

As you note in the “Notice announcing commencement of proceeding with

request for Petitions to Participate” (“Notice”), the case name for this proceeding differs in format from the two prior proceedings to establish royalty rates and terms payable to public broadcasting entities for the Section 118 license.¹ CMPA was prepared to file a timely petition to participate upon the initiation of this proceeding, but overlooked the Notice on account of the updated case name format. But for this change in format, CMPA would surely have submitted its initial petition to participate within the 30-day time frame set forth in the “Notice” as required by 17 U.S.C. § 803(b)(1)(A)(ii) and 37 C.F.R. § 351.1(b)(4). The undersigned counsel apologize for this oversight and hereby request that the Copyright Royalty Board find “substantial good cause” to accept CMPA’s petition to participate and that doing so does not prejudice participants that have already filed like petitions.

CMPA members’ works comprise a substantial amount of the music performed by “religious” broadcast stations classified as “public broadcasting entities” as defined in 17 U.S.C. § 118(f). Accordingly, pursuant to 17 U.S.C. § 803(b)(2)(C), CMPA has a “significant interest” in proceedings to set royalty rates and terms for the use of musical works by public broadcasting entities under the Section 118 license and has represented the interests of its members in such proceedings dating back over a decade. This pending petition to participate notwithstanding, CMPA is hopeful that it will again be able to work to reach a voluntary settlement agreement of rates and terms under the Section 118

¹ 81 Fed. Reg. 256 (Jan. 5, 2016) (using the case name and acronym “*Determination of Rates and Terms for Public Broadcasting (PBIII)*” and further indicating that “[t]he case name for this proceeding differs in format from the prior two proceedings for this license. The prior names used ‘noncommercial educational broadcasting’ and related acronyms.”); *see also* 76 Fed. Reg. 591 (Jan. 5, 2011) (using the case name “*Determination of Reasonable Rates and Terms for Noncommercial Broadcasting*” and the acronym “NCBE II”); 71 Fed. Reg. 1453 (Jan. 9, 2006) (using the case name “*Determination of Reasonable Rates and Terms for Noncommercial Broadcasting*” and the acronym “NCBRA”).

license.

CMPA submitted a check to the Copyright Royalty Board in the amount of \$150.00 along with its March 22, 2016 “Motion for Late Filing of Petition.” CMPA respectfully requests that the Copyright Royalty Board apply that payment towards the filing fee required for petitions to participate pursuant to 37 C.F.R. §351.1(b)(4).

Dated: April 8, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certify that on April 8, 2016, a copy of the forgoing MOTION TO ACCEPT LATE PETITION TO PARTICIPATE of the Church Music Publishers' Association was served by overnight, express mail to the Participants as indicated below:

Participants

<p>Samuel Mosenkis Jackson Wagener American Society of Composers, Authors and Publishers (ASCAP) 1900 Broadway One Lincoln Plaza New York, NY 10023 smosenkis@ascap.com P: 212-621-6450 F: 212-787-1381</p> <p><i>Counsel for ASCAP</i></p>	<p>Joseph DiMona Broadcast Music Inc. (BMI) 7 World Trade Center 250 Greenwich Street New York, NY 10007-0030 jdimona@bmi.com P: 212-220-3149 F: 212-220-4456</p> <p><i>Counsel for BMI</i></p>
<p>Michael Remington Janet Fries Jennifer Criss DRINKER BIDDLE & REATH LLP 1500 K Street N.W., Suite 1100 Washington, DC 20005 Michael.remington@dbr.com Janet.fries@dbr.com Jennifer.criss@dbr.com P: 202-842-8800 F: 202-842-8465</p> <p><i>Counsel for BMI</i></p>	<p>David Oxenford WILKINSON BARKER KNAUER, LLP 1800 M Street, N.W., Suite 800N Washington, DC 20036 doxenford@wbklaw.com P: 202-383-3337</p> <p><i>Counsel for Educational Media Foundation</i></p>

<p>Christos Badavas Harry Fox Agency (HFA) 40 Wall Street; 6th Floor New York, NY 10005 P: 212-370-5330 F: 648-487-6779</p> <p>Christos Badavas SESAC, Inc. 152 West 57th Street; 57th Floor New York, NY 10019 P: 212-586-3450</p> <p><i>Counsel for SESAC, Inc. and HFA</i></p>	<p>John Beiter SHACKELFORD BOWEN ZUMWALT & HAYES, LLP 47 Music Square East Nashville, TN 37203 jbeiter@shackelfordlaw.net P: 615-256-7200 F: 615-256-7106</p> <p><i>Counsel for SESAC, Inc. and HFA</i></p>
<p>Ronald Dove Dustin Cho COVINGTON & BURLING LLP One CityCenter 850 Tenth Street, N.W. Washington, DC 20001-4956 Rdove@cov.com dcho@cov.com P: 202-662-5685 F: 202-778-5685</p> <p><i>Counsel for National Association of College and University Business Officers (NACUBO)</i></p>	<p>David Israelite Danielle Aguirre Erich Carey National Music Publishers Association (NMPA) 975 F Street, NW, Suite 375 Washington, DC 20004 disraelite@nmpa.org daguirre@nmpa.org ecarey@nmpa.org P: 202-393-6672 F: 202-393-6673</p> <p><i>Counsel for NMPA</i></p>
<p>Jonathan Hart Gregory Lewis National Public Radio (NPR) 1111 North Capitol Street, NE Washington, DC 20002 glewis@npr.org P: 202-513-2050 F: 202-513-3021</p> <p><i>Counsel for NPR and PBS</i></p>	<p>Craig Sperling Public Broadcasting Service (PBS) 2100 Crystal Drive Arlington, VA 22202</p> <p><i>Counsel for NPR and PBS</i></p>

<p>Karen Ablin Bruce Joseph WILEY REIN LLP 1776 K Street, NW Washington, DC 20006 kablin@wileyrein.com bjoseph@wileyrein.com P: 202-719-7000 F: 202-719-7049</p> <p><i>Counsel for National Religious Broadcasters Noncommercial Music License Committee (NRBNMLC)</i></p>	<p>Harv Hendrickson Russ Hauth National Religious Broadcasters Noncommercial Music License Committee 3003 Snelling Avenue North Saint Paul, MN 55113 hphendrickson@unwsp.edu rush@salem.cc P: 651-631-5000 F: 651-631-5086</p> <p><i>Counsel for National Religious Broadcasters Noncommercial Music License Committee (NRBNMLC)</i></p>
<p>David Powell P.O. Box 010950 Miami, FL 33101 P: 305-539-1755</p>	

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