

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

In the Matter of)	
)	
Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band)	WT Docket No. 08-166
)	
Public Interest Spectrum Coalition Petition for Rulemaking Regarding Low Power Auxiliary Stations Including Wireless Microphones and the Digital Television Transition)	WT Docket No. 08-167
)	
Amendment of Parts 15, 74 and 90 of the Commission’s Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones)	ET Docket No. 10-24
)	

NOTICE OF EX PARTE

Submitted by:

**DANCE/USA
LEAGUE OF AMERICAN ORCHESTRAS
OPERA AMERICA**

Dance/USA, the League of American Orchestras and OPERA America are national nonprofit arts service organizations representing the artists and organizations in the fields of professional dance, orchestras and opera. Together, these three national organizations represent close to 5,000 individual and organizational members. We are filing this Notice of Ex Parte to inform the Commission of our support for the Reply-to Comments filed by the Association of Performing Arts Presenters (“Arts Presenters”) on March 22, 2010.

The Arts Presenters March 22nd comments voice opposition to limiting eligibility for Part 74, Subpart H licensing based on the number of wireless units used or the seating capacity of performance venues. The comments expressed concerns with the March 1, 2010 proposal submitted by the Coalition of Wireless Microphone Users (“CWMU”), stating that the CWMU proposal to limit licensing eligibility under Part 74, Subpart H based on the number of units would “not support the artistic value and quality of performances and educational activities our industry presents.” Based on our knowledge of the use of wireless microphone technology by dance organizations, orchestras and opera companies, we agree with the concerns expressed by Arts Presenters.

We believe that performing arts organizations should be eligible for a license under Part 74 Subpart H in order to have access to interference protection measures and legitimate standing with the Commission. Many dance, opera and orchestra members operate 10 devices or less at their primary performance venue. Organizations within our collective memberships are located in communities large and small across the country and have operating budgets ranging from less than \$12,000 to more than \$88 million. Our findings related to the number of devices used in performances reveal that fewer than ten devices are commonly used by the full range of member performing arts organizations. A substantial portion of performing arts organizations located in major metropolitan areas, including the San Francisco Symphony, Atlanta Ballet and Boston Lyric Opera, use fewer than ten devices in performances. We cannot support a proposed limitation to a Part 74 Subpart H license eligibility based on number of units used, which would leave many dance organizations, orchestras and opera companies ineligible to access necessary interference protections measures.

Dance companies and music ensembles within our collective membership frequently perform in a wide range of venues, large and small, in an effort to reach a broader public audience. We concur with the Arts Presenters comments stating that venues with seating for fewer than 99 audience members should not be excluded from qualifying for interference protection under Part 74 licensing.

Performing arts organizations provide demonstrable service to the public in improving quality of life, preserving our cultural heritage, and in providing education, enlightenment, entertainment and, of

course, contributing to local economies in every community across this country. In the midst of spectrum reform and the emergence of new devices, the risk of interference is too great to ignore, as it would impede the public service offered by performing arts institutions. Expanded eligibility to Part 74 Subpart H licenses, without a limit based on number of units or size of performance venue, would give performing arts organizations not only legitimate standing with the Commission but access to vital interference protection measures.

Dance/USA, the League of American Orchestras and OPERA America have participated in previous filings in the above captioned dockets as members of the Performing Arts Alliance, regarding our requests for eligibility under Part 74, Subpart H licensing. Please feel free to contact us for more information on our position on this and related issues.

Sincerely,



Andrea Snyder
President & Executive Director
Dance/USA



Jesse Rosen
President and CEO
League of American Orchestras



Marc Scorca
President and CEO
OPERA America