## Before the COPYRIGHT ROYALTY BOARD LIBRARY OF CONGRESS Washington, DC

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|---------------------------------------|-------------|-------------------------------|
|                                       | )           |                               |
| In the Matter of                      | )           |                               |
|                                       | )           |                               |
| Determination of Reasonable Rates and | )           | Docket No. 2011-2 CRB NCEB II |
| Terms for Noncommercial Broadcasting  | )           |                               |
|                                       | )           |                               |

## PETITION TO PARTICIPATE

Broadcast Music, Inc. ("BMI") hereby files its Petition to Participate in the above-captioned proceeding in accordance with the Notice of the Copyright Royalty Judges (the "Judges") announcing the commencement of a proceeding to determine reasonable rates and terms for noncommercial broadcasting issued on December 22, 2010. *See* 76 Fed. Reg. 591 (Jan. 5, 2011).

BMI is a music performing rights organization that licenses, on a non-exclusive basis, the public performing right in approximately 6.5 million non-dramatic musical works on behalf of its over 475,000 affiliated songwriters, composers and publishers, including thousands of foreign works through BMI's reciprocal licensing agreements with foreign performing right organizations.

BMI has a direct interest in the subject matter of this proceeding. Public performances of musical works in BMI's repertoire fall within the noncommercial educational broadcasting compulsory license contained in Section 118 of the Copyright Act, 17 U.S.C. § 118, when they are made by those noncommercial broadcasting entities that qualify for the compulsory license. Pursuant to Section 118, for decades rates and terms have been determined by the Judges (or

their predecessor decision-makers) when voluntary license agreements have not been reached. Moreover, BMI has licensed the Public Broadcasting Service and National Public Radio, as well as hundreds of non-commercial radio stations that are either: (1) qualified by the Corporation for Public Broadcasting to receive federal funding; (2) affiliated with colleges or universities; or (3) other non-commercial radio stations (e.g., religious and community radio stations). Therefore, BMI has both a financial and legal stake in the outcome of this proceeding. This constitutes a "significant interest" in the proceeding pursuant to 17 U.S.C. §803(b)(2)(C).

BMI therefore petitions to participate fully in any royalty rate proceeding for the period 2013-2017 to establish BMI license fees and terms in any instance where voluntary agreements are not reached. Pursuant to 37 CFR §351.1(b)(4), BMI encloses a check in the amount of \$150.00 for the requisite filing fee.

Respectfully submitted,

**BROADCAST MUSIC, INC.** 

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