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APR 21 1992

Federal Communications Commission
Office of the Secretary

Telephone: (508) 362-4358

Admitted in the
District of Columbia Only

April 20, 1992

Chief, Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

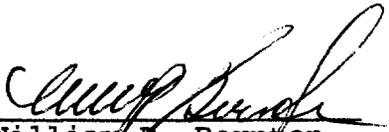
In RE: RM-7900
MM Docket No. 92-23

Dear Sir:

Enclosed herewith are an original and four (4)
copies of the Reply Comments of Ethel Huff, Petitioner
in the above-referenced matter.

Any correspondence or inquiry in this matter may be
directed to the undersigned.

Very truly yours,


William P. Bernthon

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WPB:msff
Enclosures

APR 21 1992

FCC MAIL BRANCH

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

Federal Communications Commission
Office of the Secretary

In the Matter of)
Amendment of Section 73.303 (b)) RM-7990
Table of Allocations)
FM Broadcast Stations) MM Docket No. - 92-23
Hazard, Hyden and London, Kentucky*)

To: The Chief, Mass Media Bureau

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PETITIONER'S REPLY COMMENTS

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1. The only Comments received by Petitioner in this proceeding were those of Hazard Broadcasting Services, Inc. ("HBSI"), licensee of Station WJMD, Hazard, KY. HBSI objects to the proposal advanced in the original Petition herein which would change the allotment at London, KY from channel 223A to 222C3 and would require WJMD to change frequency in order to accomodate the revision at London.

2. The short answer to HBSI's objection is that Petitioner's counterproposal shows how the London allotment can be up-graded without changing WJMD's assignment; and if that proposal were

* The alternative counter-proposal advanced in Petitioner's earlier filed comments involves changes in the allotments at Hyden, Jackson, and London, KY but not at Hazard.

implemented HBSI's objection would be rendered moot.*

Nevertheless certain of the allegations of the HBSI comments should not be wholly ignored.

3. The suggestion that Senator Huff, Petitioner's husband, may have an "undisclosed interest" in Petitioner's facility is nonsense and is set at rest by the affidavits of Mrs. Huff and the Senator which are attached as Exhibits A and B, respectively.

4. The claim of economic injury to WJMD is, at best, speculative. Both Petitioner and the WZQQ licensee have undertaken to provide WJMD with significant promotional assistance which should preclude any material impact of the channel change on WJMD's listenership. Moreover, the considerations HBSI seeks to raise are not decisional in proceedings of this nature; and HBSI has cited no case where they were even considered.

5. The alleged "over-population" of radio stations in the Hazard area is of even less pertinence. All of the other stations referred to by HBSI pre-date the filing of HBSI's CP application by a matter of years. If there are too many stations for the market, that is a risk that HBSI assumed when it decided to enter the market. Moreover, ever since the abandonment of the

* The "scenario" advanced in that counter-proposal, which would change the frequency of WJSN, Jackson, KY rather than that of WJMD, would, of course, accommodate the London upgrade to C3 as well as to C2.

"Carroll" doctrine, such considerations have been irrelevant.*

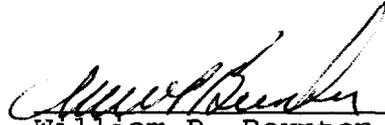
6. Petitioner, through her representative, proceeded in a reasoned way to attempt to obtain the co-operation of WJMD in her attempt to upgrade her London facility. She is willing to cover the expenses that would be encountered by HBSI in changing frequency and has certified that those funds are available. It is regretted that HBSI opposes the move. However, the Commission has available the alternative of changing the assignment of the Jackson station instead; and, inasmuch as that would be required in the context of upgrading the London allotment to a C2 facility, the Commission can ignore the HBSI comments if, as it should, it adopts that "scenario."

7. Only if the Commission were to favor the C3 allotment over the C2 allotment at London would HBSI's opposition be relevant to this proceeding and, even then, only if the Commission determined to change the WJMD rather than the ~~WJSM~~ assignment. Only under those circumstances would it be appropriate to consider HBSI's objections and upon such consideration they would, for the reasons set forth above, be found without merit.

* Note also that the map attached as Exhibit C shows that neither the WYGE C2 or C3 operation would serve any part of the WJMD service area.

Respectfully submitted,

April 20, 1992



William P. Bernton
2 Mill Lane
Yarmouthport, MA 02675
(508) 362-4358

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 1992, copies of the foregoing were deposited in the U. S. Mails, first class postage prepaid, addressed to:

Joey L. Dick
P. O. Box 181
Stinnett, KY 40868
Licensee of WZQQ (FM)

Hazard Broadcasting Services
P. O. Box 7001
Hazard, KY 41701
Licensee of WJMD (FM)

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and to

Intermountain Broadcasting Co., Inc.
1024 College Avenue
Jackson, KY 41339
Licensee of WJSN (FM)



William P. Bernton

AFFIDAVIT

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APR 21 1960

Commonwealth of Kentucky)
County of Laurel)

SS

FCC MAIL BRANCH

Ethel Huff, being first duly sworn on oath, deposes and says as follows:

1. I am the permittee of Radio stations WYGE, London, KY.

2. Senator Gene Huff is my husband. Although he has acted as my advisor and also as my representative in certain negotiations dealing with the station, he has no interest in the station (other than any arising out of his being my husband); and all decisions concerning the station have been, and continue to be, mine to make.

3. I have always intended, and still intend, to be active in the station as its general manager and, as such, to control all aspects of its operation; and I am exercising, and will continue to exercise, that same control over all aspects of planning and implementing the construction of the station, and/or modification of its facilities.

4. I feel confident that my husband has not represented himself as the permittee or owner of the station and that, if any-one has gained such an impression, it could have resulted only from

misunderstanding or inadvertence.

5. Funds are available to replace the WJMD antenna and retune its transmitter, in addition to those that would be required to build the C3 or C2 facility at London and operate it for three months.* Promotional assistance would be provided to WJMD to publicize the change in its facility. I would provide 2,000 bumper stickers for WJMD and a reasonable schedule of advertisements in a local newspaper and would bear the reasonable costs of new letterheads for the station. Mr. Dick has offered to run, free of charge, a schedule of 160 30-second spots on WZQQ during the four weeks following the changeover in order to inform listeners of WJMD's new dial position; and WJMD would of course have been running its own spots prior to the changeover.

Ethel Huff

Subscribed and Sworn to
before me this _____
day of April, 1992.

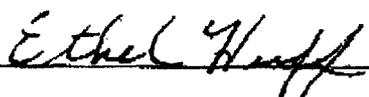
Notary Public

My Commission Expires:

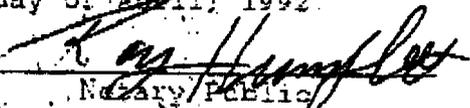
* Funds would also be available for the similar costs of WZQQ if that station did not fulfill its agreement to meet those costs itself.

misunderstanding or inadvertence.

5. Funds are available to replace the WJMD antenna and retune its transmitter, in addition to those that would be required to build the C3 or C2 facility at London and operate it for three months.* Promotional assistance would be provided to WJMD to publicize the change in its facility. I would provide 2,000 bumper stickers for WJMD and a reasonable schedule of advertisements in a local newspaper and would bear the reasonable costs of new letterheads for the station. Mr. Dick has offered to run, free of charge, a schedule of 160 30-second spots on WZOO during the four weeks following the changeover in order to inform listeners of WJMD's new dial position; and WJMD would of course have been running its own spots prior to the changeover.


Ethel Huff

Subscribed and Sworn to
before me this 4-20-92
Day of April, 1992.


Notary Public

My Commission Expires
April 19, 1995

* Funds would also be available for the similar costs of WZOO if that station did not fulfill its agreement to meet those costs itself.

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AFFIDAVIT

APR 21 1967

Commonwealth of Kentucky)
County of LAUREL)

SS FCC MAIL BRANCH

Gene Huff, being first duly sworn on oath, deposes and says as follows:

1. I am the husband of Ethel Huff, permittee of Radio Station WYGE, London, KY. I have been a minister of the gospel for 44 years and a Senator in the Kentucky Legislature for 21 years.

2. I have acted as advisor to my wife in matters relating to WYGE and as her representative or intermediary in dealing with other parties in transactions pertaining to the station. I claim no interest in the station or its authorization; and all decisions relating to the station are made by my wife. I have never intentionally represented myself as the owner or permittee of the facility; and I regret if any-one obtained that impression. If I have used the editorial "we" in connection with the station it was an inadvertance derived from my manner of speaking as a minister and legislator and was certainly not intended to reflect any claim on my part to any interest in WYGE. Indeed, I recall an instance when I was preaching at a congregation in Hazard, itself, when I referred specifically to the radio station that would be built at London my my wife.

3. I met with Mr. Dick at Hyden because Hyden is in my legislative district and I go there on legislative business. It was on one of those trips that I first went to see Mr. Barnett at Hazard, 12-15 miles away. At that time Mr. Barnett told me he did not know what his position would be and indicated he could be influenced by the position of WSGS, the 100,000 KW station at Hazard on whose tower the WJMD antenna is located and in whose building the WJMD studio is located.

4. The next time I met with Mr. Barnett was at the hospital in Lexington. I had gone there to visit a fellow senator (Hon. Landon Sexton) and had learned that Mr. Barnett was there with his daughter. When I found Mr. Barnett we had a pleasant conversation lasting about an hour; and it was only during the last few minutes that we discussed the possibility of changing the WJMD facility. He indicated he still did not know what the position of WSGS would be but that he would probably be able to tell me something the next day. It was when we next talked that he indicated that he doubted that WJMD would enter into an agreement to change its frequency.

5. Mr. Barnett had previously told me of his desire to upgrade WJMD to six KW but that he was concerned that it would not be possible on its present frequency (channel 284A) because of the assignment of channel 285A at Harold, KY. I sent Mr. Barnett the June 21, 1991 letter from Mr. Anderson to demonstrate (as shown in the second full paragraph on page two of that letter) that full

six KW operation would be possible on channel 223A.

Gene Huff

Subscribed and Sworn to
before me this _____
day of April, 1992.

Notary Public

My Commission Expires:

six KW operation would be possible on channel 293A.

Gene Huff
Gene Huff

Subscribed and Sworn to
before me this 4-20-92
day of April, 1992.

Gene Huff
Notary Public

My Commission Expires:
April 19, 1995

EXHIBIT E
WTGE-WZQD-WZDQ
60 dba CONTOURS
ASSUMING MAXIMUM
FACILITIES AND
UNIFORM TERRAIN

WZDQ 60 dba
6 kw/ 100 m

WZQD 60 dba
6 kw/ 100 m

WTGE 222C2 60 dba
COUNTERPROPOSAL
50 kw ERP/ 150 m HERTZ

WTGE 222C3 60 dba
25 kw ERP/ 100 m HERTZ

WTGE
222C2

WTGE
222C3

THE LONDON
COMMUNITY
MAGEE
TRIP-1, 49, 122A
122B, 122C, 122D, 122E
122F, 122G, 122H, 122I
122J, 122K, 122L, 122M
122N, 122O, 122P, 122Q
122R, 122S, 122T, 122U
122V, 122W, 122X, 122Y
122Z

CINCINNATI

