

WILLIAM J. PENNINGTON, III  
ATTORNEY & COUNSELOR AT LAW

2426 CONFEDERATE DRIVE  
POST OFFICE BOX 4203  
WILMINGTON, NORTH CAROLINA 28406  
TELEPHONE 919 - 762-7897

May 23, 1992

RECEIVED

MAY 27 1992

Federal Communications Commission  
Office of the Secretary

RECEIVED

MAY 26 1992

FCC MAIL BRANCH

Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

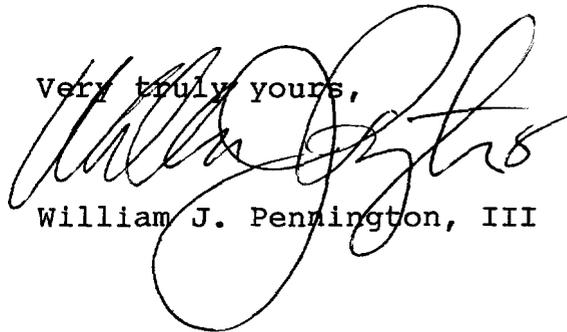
RE: MM Docket No. 92-49  
RM-7924

Dear Ms. Searcy:

Transmitted herewith, on behalf of KYOO Broadcasting Company, are an original and four copies of its "REPLY COMMENTS OF KYOO BROADCASTING COMPANY".

Should there be any questions with respect to this matter, please communicate with the undersigned.

Very truly yours,



William J. Pennington, III

Enc.

cc: As on Certificate of Service (all w/enc.)

014  
No. of Copies rec'd \_\_\_\_\_  
List A B C D E \_\_\_\_\_

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

MAY 26 1992

FCC MAIL BRANCH

In the Matter of )  
)  
Amendment of Section 73.202(b) )  
Table of Allotments )  
(Greenfield and Seligman, Missouri )  
and Huntsville, Arkansas) )

MM Docket No. 92-49  
RM-7924

RECEIVED

MAY 27 1992

To: Chief, Policy and Rules Division

Federal Communications Commission  
Office of the Secretary

REPLY COMMENTS OF KYOO BROADCASTING COMPANY

KYOO Broadcasting Company (hereinafter "KBC"), permittee of KYOO-FM at Halfway, Missouri, by their counsel and pursuant to Section 1.415 of the Commission's Rules, herewith submits its Reply Comments with respect to the above-captioned proceeding. In support whereof, the following is shown:

1. KBC, in its Comments filed in this proceeding, counterproposed (a) the substitution of Channel 226C3 for Channel 226A at Halfway, Missouri and the modification of its construction permit for Station KYOO(FM) at Halfway to specify operation on Channel 226C3, (b) substitution of Channel 228A for Channel 225A at Ozark, Missouri and the modification of the construction permit for Station KZPF at Ozark to specify operation on Channel 228A, and (c) substitution of Channel 299A for Channel 228A at Greenfield, Missouri and the modification of the license for Station KXBR at Greenfield to specify operation

on Channel 299A, thereby amending Section 73.202(b) of the Commission's Rules, FM Table of Allotments, as follows:

City	Channel No.
Halfway, Missouri	226C3
Greenfield, Missouri	299A
Ozark, Missouri	228A

2. The proposed substitution of Channel 226C3 for Channel 226A at Halfway is in conflict with the proposed upgrade of Station KESE at Seligman, Missouri. KJEM-FM Limited Partnership (hereinafter "Limited"), the KESE license, has requested that the Commission substitute Channel 227C1 for Channel 227C2 at Seligman and modify its license accordingly. To accommodate the proposed upgrade at Seligman, Channel 258A would have to be substituted for Channel 225A at Huntsville, Arkansas and the license of Station KFAY-FM modified accordingly. Limited proposed the Huntsville substitution in its original petition.

3. Since both proposed upgrades can not be accommodated and meet the applicable spacing requirements, the Commission's Allotment priorities, as expressed in the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982), must be employed to determine which competing proposal would most be in the public interest. The priorities that must be investigated are:

- 1 - First Aural Service
- 2 - Second Aural Service
- 3 - First Local Service
- 4 - Other public interest matters

Priorities 2 and 3 have co-equal weight.

4. The proposal set forth by Limited, upgrading the Seligman facility, would not provide any first or second aural service, nor would it create a first local service. The Limited proposal's only merit would fall under priority 4, other public service matters.

5. The attached engineering study reveals that the use of Channel 226C3 at Halfway would provide areas of both first and second aural service. Since the KBC proposal satisfies priorities 1 and 2, it is abundantly clear that it should be favored over the proposal put forth by Limited for the upgrade at Seligman.

6. KBC reaffirms its intention to immediately file an application seeking a construction permit outlining the changes needed for C3 operation on Channel 226, and, if granted the permit, will immediately construct the upgraded facility.

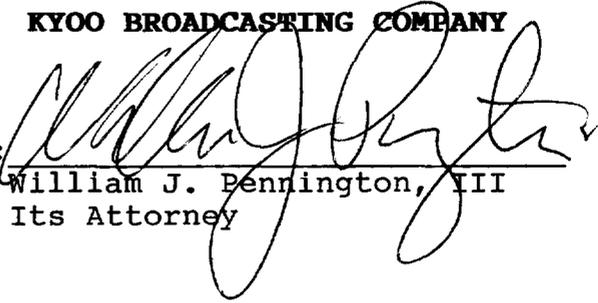
7. Based upon the foregoing, KBC respectfully requests that the Commission deny the proposed substitution of Channel 227C1 for Channel 227C2 at Seligman, Missouri and alternatively amend Section 73.202 of its Rules by (a) substituting Channel 226C3 for Channel 226A at Halfway, Missouri, and modifying the construction permit of Station KYOO-FM, Halfway, Missouri to specify operation

on Channel 226C3, (b) substituting Channel 299A for Channel 228A at Greenfield, Missouri and modifying the license of Station KXBR, Greenfield, Missouri to specify operation on Channel 299A, (c) substituting Channel 228A for Channel 225A at Ozark, Missouri, and modifying the construction permit of Station KZPF, Ozark, Missouri to specify operation on Channel 228A.

Respectfully submitted,

**KYOO BROADCASTING COMPANY**

By:

  
William J. Pennington, III  
Its Attorney

Post Office Box 4203  
Wilmington, NC 28406  
(919) 762-7897

May 21, 1992

**ENGINEERING STATEMENT**

Prepared on behalf of

**KYOO BROADCASTING COMPANY**

Supporting the Allotment of Channel 226C3

Halfway, Missouri

May 20, 1992

## **COPYRIGHT NOTICE AND USE AGREEMENT**

This document shall not be reproduced transmitted or otherwise used in whole or in part without written permission from William J. Pennington, III. Permission is hereby granted for the Federal Communications Commission to use this material in order to process and approve the requested facility. Work product released prior to account settlement remains the sole property of William J. Pennington, III. Any and all signed originals and copies shall be subject to our demand for immediate return and dismissal with the Federal Communications Commission including, but not limited to, any construction permits, authorizations or licenses resulting from use of this report, at any time until all charges incurred in preparation of this document are paid in full.

## **DISCLAIMER NOTICE**

William J. Pennington, III assumes no liability for any errors or omissions in this report hereby provided, and shall not be liable for injuries and/or damages (including consequential) which might result from use of said information.

## **ACCEPTANCE OF TERMS**

Filing of this document with the Federal Communications Commission constitutes acceptance of this agreement.

**COPYRIGHT 1992  
William J. Pennington, III  
2426 Confederate Drive  
Wilmington, NC 28403  
(919) 762-7897**

**CERTIFICATION**

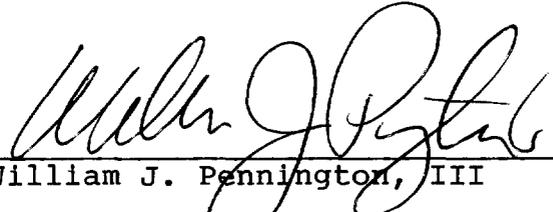
I, William J. Pennington, III do hereby certify;

That my qualifications in telecommunications matters are of record before the Federal Communications Commission having been presented and accepted on many occasions in the past;

That I am a consultant in technical topics pertaining to the broadcast industry and the associated RF transmission systems;

That I have been retained by KYOO Broadcasting Company to perform certain technical studies and prepare this report of same;

That the accompanying technical report and exhibits were prepared by me personally or under my immediate personal supervision and that all information presented therein is true and correct of my knowledge and belief.

/s/   
William J. Pennington, III  
(Date) May 20, 1995

## ENGINEERING STATEMENT

This engineering statement has been prepared on behalf of KYOO Broadcasting Company supporting its counterproposal submitted in MM Docket No. 92-49 requesting the substitution of Channel 226C3 for Channel 226A at Halfway, Missouri. In support of this proposal the following is noted:

### COMPARATIVE CRITERIA

The Commission's Allotment priorities, as expressed in the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982), are as follows:

- 1 - First aural service
- 2 - Second aural service
- 3 - First local service
- 4 - Other public interest matters

Priorities 2 and 3 have co-equal weight

### ADDITIONAL INFORMATION

This study was instituted to determine if the proposed upgrades in MM Docket No. 92-49 at Seligman and Halfway, Missouri would provide any areas of first or second aural service, and if such areas exist, determine the population estimated to reside in such areas. To complete such a study, all existing signals and pending changes which would overlap the proposed increase in the Seligman and Halfway signal coverage area must be plotted.

For purposes of this study herein, all contours were plotted on the appropriate Sectional Aeronautical Chart. (See Exhibit A).

All licensed FM's, Construction Permits, Commission order upgrades and FM allotments which could possibly affect the areas of concern were studied.

This study was conducted using the Commission's approved methodology. In conducting such studies, the Commission directs that all signals shall be assumed to have a 1.0 mV/m contour of uniform radius. Further, it is stated that all signals, with the exception of full Class C FM signals, shall be assumed to be operating at full power and maximum height. The Commission directs that the 1.0 mV/m contour of full Class C signals shall be plotted based on actual power and antenna height. See Greenup, KY, 2 FCC Rcd 4319 (1987); see also 47 C.F.R. Section 73-211(3)(b)(1), as amended in MM Docket No 88-375.

In the study presented herein, Class A signals have been plotted with a radius of 28 kilometers, Class C3 at 39 kilometers, Class C2 at 52 kilometers, and Class C1 at 72 kilometers. Each full Class C station's 1.0 mV/m contour was calculated individually.

Areas to which the proposed upgrades might present a first or second aural service could thus be readily determined, and marked for identification purposes and further study.

A full listing of all signals plotted and the calculated contour radii for each full Class C signal is included as Exhibit B.

The estimates of population were calculated using Dataworld's **PopCount** program, which accesses United States Census Bureau data for each Minor Civil Division (MCD) within a specified contour study area. **PopCount** calculations are based on the Commission's approved methodology, as set forth in Greenup, KY, 2 FCC Rcd 4319 (1987). In such studies, uniform population distribution is assumed within each separate MCD, when a portion of that MCD falls within a specified area.

Any areas in the overlapping contour study which might gain a first or second aural service by virtue of the proposed upgrades could be estimated by determining what portion of a particular MCD (in area) they encompass, and applying the proper methodology to determine the population within those areas.

#### OVERLAPPING CONTOUR STUDY RESULTS

##### KESE STUDY

The 1.0 mV/m contours for KESE's CP for Class C2 and its proposed upgrade to Class C1 were plotted to determine the areas of increase and decreased signal coverage.

The proposed upgrade of KESE at Seligman, Missouri (C2 to C1) adds an additional 7,787.2 square kilometers in coverage area (based on class contour).

The additional coverage area amounts to a 20 kilometer extension of the Class C2 contour as the Seligman proponent proposes to employ the same coordinates for C1 operation which are now permitted for C2 operation.

After overlaying all of the applicable contours (of existing

licenses, Construction permits, Commission orders and Allotments (which have signals falling within the proposed additional service area of KESE) it is apparent that:

- 1 - No first aural service will be provided by the proposed upgrade of KESE anywhere within the additional service area.
- 2 - No second aural service will be provided by the proposed upgrade of KESE anywhere within the additional service area.

#### KYOO-FM STUDY

The 1.0 mV/m contours for KYOO-FM's CP for Class A and its proposed upgrade to Class C3 were plotted to determine the areas of increase and decreased signal coverage.

The proposed upgrade of KYOO-FM at Halfway, Missouri (Class A to Class C3) adds an additional 2314.3 square kilometers in coverage area (based on class contour).

The additional coverage area forms a large crescent with the central portion to the southwest of its present site, falling entirely in the southwest central portion of the state of Missouri.

KYOO-FM stands to lose a very small portion of its present coverage area, in a smaller crescent which extends to the northeast of the present site, due to the fact that KYOO-FM's proposed Class C3 site is located some 17 kilometers west southwest of its present site location.

After overlaying all of the applicable contours (of existing

licenses, Construction Permits, Commission orders and allotments which have signals falling within the proposed additional service area of KYOO-FM) it is apparent that:

1 - A first aural service will be provided to areas totaling approximately 0.316 square kilometers.

2 - A second aural service will be provided to areas totaling approximately 110.83 square kilometers.

### **POPULATION STUDY RESULTS**

The number of persons residing in the areas which could receive a first or second aural service via the proposed KYOO-FM upgrade, have been calculated, and are included in this report. These estimates were made using the same methodology, however for better accuracy, they were calculated using the United States Census Bureau's 1990 Census of Population and Housing, Block Statistics, Missouri Selected Areas.

This information used county maps indicating MCD's. Additionally, each Census Block within a MCD is numbered, and the population breakdown by MCD and Census Block is provided within the Census Bureau report for each county. The areas were transposed to the Census Bureau maps included in the above mentioned source report. MCD's and Census Blocks were determined from the transposition to the county maps. The assumption of uniform population distribution within each Census Block was applied to any Block not wholly within the area(s) in question.

### SUMMARY AND CONCLUSION

The upgrade of KYOO-FM from Class A to Class C3 status on Channel 226 would provide a first aural signal to one area within its added coverage area (a total of approximately 0.316 square kilometers and 9 residents). In addition, the KYOO-FM upgrade would provide a second aural signal to three areas within its added coverage area (a total of approximately 110.83 square kilometers and 2,834 residents).

Based on the accompanying statistical and technical information, we trust that this proposal complies with the requirements set forth in the Commission's Rules and Regulations. If any additional information is requested, please do not hesitate to contact this office.

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.
- o Microfilm, microform, certain photographs or videotape.
- o Other materials which, for one reason or another, could not be scanned into the RIPS system.

The actual document, page(s) or materials may be reviewed by contacting a Dockets Clerk. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Dockets Clerk.

## EXHIBIT B

STATION DATA ACCOMPANYING OVERLAPPING STUDY

#	Station City of License	Chan/Cl Status	Latitude Longitude	Distance to 60 dBu Contour
1	KXBR Greenfield, MO	228A Lic	37-23-10 93-53-16	28.0 KM
2	KXBR Greenfield, MO	228A Lic	37-22-19 93-42-33	28.0 KM
3	KESM-FM El Dorado Springs, MO	288A Lic	37-51-51 94-00-54	28.0 KM
4	KLRQ Clinton, MO	241C CP	38-28-27 93-30-28	72.2 KM
5	NEW Warsaw, MO	253A ALC	38-20-30 93-21-55	28.0 KM
6	KBUG Osceola, MO	222A CP	38-02-12 93-34-47	28.0 KM
7	NEW FM Pleasant Hope, MO	238C2 CP	37-20-37 93-16-26	52.0 KM
8	NEW FM Willard, MO	286C2 CP	37-18-05 93-33-25	52.0 KM
9	KIRK Lebanon, MO	279C Lic	37-49-10 92-44-51	72.0 KM
10	KGBX-FM Bolivar, MO	290C2 Lic	37-25-52 93-16-21	52.0 KM
11	KIXQ Webb City, MO	230C2 Lic	37-14-34 94-30-21	52.0 KM
12	KNMO-FM Nevada, MO	249A Lic	37-51-37 94-22-54	28.0 KM
13	KHST Lamar, MO	260A CP	37-25-27 94-16-12	28.0 KM
14	KAYQ Warsaw, MO	249A Lic	38-17-12 93-18-34	28.0 KM

15	KKUZ Joplin, MO	273C CP	37-27-02 94-33-26	73.2 KM
16	KSYN Joplin, MO	223C1 Lic	37-04-10 94-32-49	72.0 KM
17	KTTS-FM Springfield, MO	234C1 Lic	37-10-30 93-02-35	72.0 KM
18	KXUS Springfield, MO	247C1 Lic	37-14-23 93-17-05	72.0 KM
19	KBFL Buffalo, MO	260A CP	37-38-17 92-59-39	28.0 KM
20	KZPD Ash Grove, MO	281A CP	37-15-05 93-41-12	28.0 KM
21	<b>KYOO-FM Halfway, MO</b>	<b>226A CP</b>	<b>37-41-21 93-20-11</b>	<b>28.0 KM</b>
22	<b>PROPOSED Halfway, MO</b>	<b>226C3 ADD</b>	<b>37-36-00 93-30-00</b>	<b>39.0 KM</b>

CERTIFICATE OF SERVICE

I do hereby certify that on this 23<sup>rd</sup> day of May 1992, I deposited copies of the foregoing "**Reply Comments of KYOO Broadcasting Company**" in the United States mail, first class, postage prepaid, addressed to the following:

Andrew J. Rhodes, Chief  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 8322  
Washington, DC 20554

Michael C. Ruger, Assistant Chief  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 8318  
Washington, DC 20554

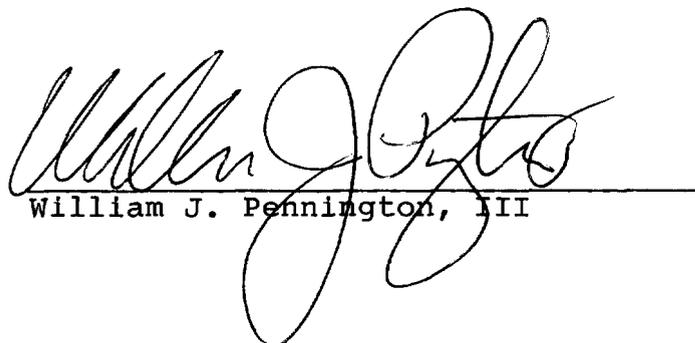
Ms. Kathleen Scheuerle  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 8317  
Washington, DC 20554

KXBR, Inc.  
Station KXBR  
19 East 200 South  
Salt Lake City, UT 84111

Demaree Media, Inc.  
Station KFAY-FM  
Post Office Box 878  
Fayetteville, AR 72712

KZPF Radio  
Ozark Mountain Broadcasting, Inc.  
512 West Edgewood  
Springfield, MO 65807

Elvis Moody  
KJEM-FM Limited Partnership  
216 North Main Street  
Bentonville, AR 72712



William J. Pennington, III