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Office of the Secretary

May 7, 1992

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

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

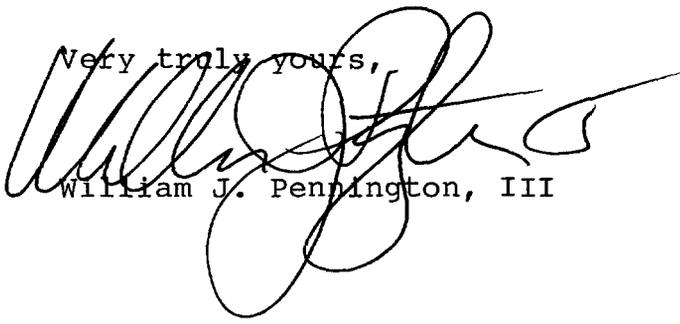
RM-8009

Dear Ms. Searcy:

Transmitted herewith, on behalf of KYOO Broadcasting Company, are an original and four copies of its "COMMENTS AND COUNTERPROPOSAL 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.)

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MAY - 8 1992

Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 92-49
Table of Allotments)	RM-7924
FM Broadcast Stations)	
(Greenfield and Seligman, Missouri)	RM 8009
and Huntsville, Arkansas))	

To: Chief, Policy and Rules Division

COMMENTS AND COUNTERPROPOSAL OF KYOO BROADCASTING COMPANY

KYOO Broadcasting Company (hereinafter "KBC"), permittee of KYOO-FM at Halfway, Missouri, by their counsel and pursuant to Section 1.401 of the Commission's Rules, herewith submits its Comments and Counterproposal with respect to the Commission's Notice of Proposed Rule Making and Order to Show Cause in MM Docket No. 92-49, released March 17, 1992, respectfully requesting the Commission to: (a) substitute FM Channel 226C3 for Channel 226A at Halfway, Missouri, and modify the authorized facilities of KYOO-FM, Halfway, Missouri to specify operation on Channel 226C3, (b) Substitute Channel 299A for Channel 228A at Greenfield, Missouri, and modify the authorized facilities of KXBR(FM), Greenfield, Missouri to specify operation on Channel 299A and (c) substitute Channel 228A for Channel 225A at Ozark, Missouri, and modify the authorized facilities of KZPF, Ozark, Missouri to specify operation on Channel 228A, thereby amending Section 73.202(b) of the Commission's Rules, FM Table of

Assignments, as follows:

<u>City</u>	<u>Channel No.</u>
Halfway, Missouri	226C3
Greenfield, Missouri	299A
Ozark, Missouri	228A

In support whereof the following is shown:

1. In its Notice of Proposed Rule Making and Order to Show Cause the Commission proposed the substitution of Channel 227C1 for Channel 227C2 at Seligman, Missouri and modification of Station KESE's license to operate on the higher class channel. To accommodate this upgrade at Seligman, the Commission proposed the substitution of Channel 299A for Channel 228A at Greenfield, Missouri, and the modification of Station KXBR's license to reflect the change in channels; substitution of Channel 258A for Channel 225A at Huntsville, Arkansas, and the modification of Station KFAY-FM's license to reflect the change in channels.

2. Should the Commission approve the proposal set forth in the Notice of Proposed Rule Making and Order to Show Cause, KBC would be precluded from upgrading its FM facility at Halfway to C3 classification on Channel 226. KBC asserts that the substitutions proposed in this docket would not bring about the most efficient use of the FM spectrum. The allotment of Channel 226C3 to Halfway would provide much needed additional service to a greatly underserved area of west central Missouri.

3. As is demonstrated in Exhibit 1, if Channel

substitutions are made at Greenfield and Ozark, Channel 226C3 can be allocated to Halfway, with a site restriction 20.0 kilometers west of the community.

4. In support of the proposed substitutions at Greenfield and Ozark, KBC notes that the Commission has on numerous occasions stated that the "substitution of an existing station's channel at one community serves the public interest where the substitution permits the provision of new or expanded service at another community." Eddyville and Fort Madison, Iowa, 4 FCC Rcd 7774 (1989); see also Marietta, Ohio and Ravenswood, WV, 2 FCC Rcd 4681 (9187) and Albany, NY, et al., 2 FCC Rcd 4300 (1987), 3 FCC Rcd 4681 (1987).

5. To accommodate the proposed upgrade at Halfway, Channel 299A would have to be substituted for Channel 228A at Greenfield and the license of Station KXBR modified accordingly. Exhibit 2 demonstrates that Channel 299A may be substituted for Channel 228A at the present KXBR transmitter location in full compliance with the Commission's minimum spacing requirements. Furthermore, should the Commission grant KBC's Counterproposal, KBC agrees to reimburse the KXBR licensee for its reasonable expenses incurred in changing to Channel 299A.

6. In addition, to allow the upgrade at Halfway, Channel 228A would have to be substituted for Channel 225A at Ozark and the license of Station KZPF be modified accordingly. Exhibit 3 demonstrates that Channel 228A may be substituted for Channel 225A at the present KZPF transmitter location in full compliance

with the Commission's minimum spacing requirements. Furthermore, should the Commission grant KBC's Counterproposal, KBC agrees to reimburse the KZPF licensee for its reasonable expenses incurred in changing to Channel 228A.

7. If the above mentioned substitutions are made at Greenfield and Ozark, the permissible site area for a station operating on Channel 226C3 at Halfway is ample, and a large portion of that area is close enough to Halfway that a station operating on Channel 226C3 should have no difficulty placing a 70 dBu service contour over the entire community of Halfway.

8. The allotment of Channel 226C3 to Halfway, and modification of KBC's construction permit to specify operation thereon, will permit KBC to serve a much larger area, thereby increasing the number of signals available to the public in the given area and thus promoting efficient use of the spectrum. The Commission has determined that expanded service to the public and spectrum efficiency provide significant public interest benefits. See Report and Order in MM Docket No. 85-313, 60 RR 2d 114, 118 (1986). Thus, KBC's proposal would serve the public interest.

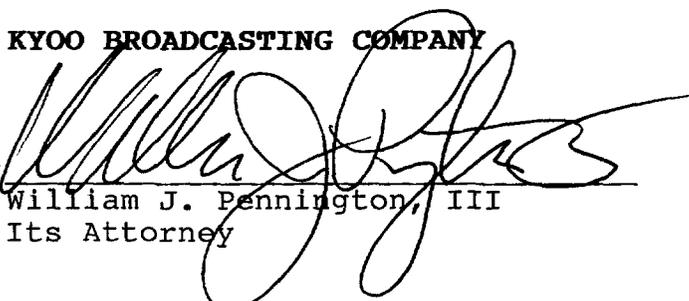
9. Because Channel 2263 would not be available to a third party for use at Halfway, KBC's construction permit may be modified to specify operation on a higher class channel pursuant to Rule 1.420(g). Upon grant of this request, KBC will proceed promptly with construction of its new station.

10. Based upon the foregoing, KBC respectfully requests

that the Commission deny the allotment proposal advanced in this proceeding by KJEM FM, A Limited Partnership and alternatively amend Section 73.202 of its Rules by (a) substituting Channel 226C3 for Channel 226A at Halfway, Missouri, and modifying the authorized facilities of KYOO-FM, Halfway, Missouri to specify operation on Channel 226C3, (b) substituting Channel 299A for Channel 228A at Greenfield, Missouri, and modifying the authorized facilities of KXBR, Greenfield, Missouri to specify operation on Channel 299A, (c) substituting Channel 228A for Channel 225A at Ozark, Missouri, and modifying the authorized facilities of 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
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May 7, 1992

FM SPACING STUDY

JOB TITLE: HALFWAY, MO
 CHANNEL: 226C3
 COORDINATES: 37-36-00 93-30-00

Call	Channel	City	State	Bear'	Dist'	R'qrd	Margin
KYOO-FM	226A	Halfway	MO	55.41	17.51	142.0	-124.49
KZPF(CP)	225A	Ozark	MO	154.04	64.22	89.0	-24.78
KXBR(CP)	228A	Greenfield	MO	228.96	24.49	42.0	-17.51
ADD	227C1	Seligman	MO	205.60	139.24	144.0	-4.76
KXBR	228A	Greenfield	MO	235.31	41.71	42.0	-0.29
DEL	228A	Greenfield	MO	235.31	41.71	42.0	-0.29
KMXV	227C	Kansas City	MO	331.15	180.14	176.0	4.14
KZLE(CP)	226C	Batesville	AR	139.84	246.74	237.0	9.74
PROP	228A	Ozark	MO	154.04	64.22	42.0	22.22
DEL	227C2	Seligman	MO	205.60	139.24	117.0	22.24
KESE	227C2	Seligman	MO	205.50	139.24	117.0	22.24
KSYN	223C1	Joplin	MO	237.81	109.89	76.0	33.89
KZLE	226C1	Batesville	AR	139.84	246.74	211.0	35.70
DEL	229A	Warsaw	MO	8.31	72.36	42.0	30.36
ALOPEN	229A	Warsaw	MO	8.31	72.36	42.0	30.36
KIRK	279C	Lebanon	MO	69.54	70.68	31.0	39.68
APP	229A	Warsaw	MO	8.11	83.17	42.0	41.17
DEL	228A	Osage Beach	MO	50.81	92.90	42.0	50.90
KYLC	228A	Osage Beach	MO	50.81	92.90	42.0	50.90
KLOZ	224C2	Eldon	MO	43.72	114.54	56.0	58.54
ADD	227C1	Steelville	MO	64.19	204.72	144.0	60.72
DEL	225A	Huntsville	AR	183.21	167.49	89.0	78.49
KFAY-FM	225A	Huntsville	AR	183.21	167.49	89.0	78.49
ADD	223A	Mountain Grove	MO	114.68	122.17	42.0	80.17

CHANNEL 226C3 MEETS ALL SPACING REQUIREMENTS IF THE SELIGMAN PROPOSAL IS DENIED AND CHANNEL 299A IS SUBSTITUTED FOR CHANNEL 228A AT GREENFIELD AND CHANNEL 228A IS SUBSTITUTED FOR CHANNEL 225A AT OZARK.

FM SPACING STUDY

JOB TITLE: GREENFIELD, MO

CHANNEL: 299A

COORDINATES: 37-23-10 93-53-16 (CURRENT LICENSED SITE)

Call	Channel	City	State	Bear'	Dist'	R'grd	Margin
PROP	299A	Greenfield	MO	0.0	0.00	115.0	-115.00
KLWT-FM	300C2	Lebanon	MO	73.0	110.90	106.0	4.90
KEZA	300C	Fayetteville	AR	184.2	170.54	165.0	5.54
ALOPEN	298C1	Ketchum	OK	244.1	154.88	133.0	21.88
KMAJ-FM	299C	Topeka	KS	315.7	254.36	226.0	28.36
KGND	298C2	Ketchum	OK	236.3	139.48	106.0	33.48
KMOQ	296A	Baxter Springs	KS	248.3	77.89	31.0	46.89
CP	299A	Otterville	MO	29.9	172.29	115.0	57.29
KKOW-FM	245C1	Pittsburg	KS	264.3	82.66	22.0	60.66
KKTZ	298C1	Mountain Home	AR	130.9	200.05	133.0	67.05

FM SPACING STUDY

JOB TITLE: OZARK, MO
 CHANNEL: 228A
 COORDINATES: 37-04-47 93-10-58

Call	Channel	City	State	Bear'	Dist'	R'grd	Margin
KXBR(CP)	228A	Greenfield	MO	304.8	56.87	115.0	-58.13
DEL	228A	Greenfield	MO	298.5	71.21	115.0	-43.79
KXBR	228A	Greenfield	MO	298.5	71.21	115.0	-43.79
KZPF(CP)	225A	Ozark	MO	0.0	0.00	31.0	-31.00
ADD	227C1	Seligman	MO	232.5	111.54	133.0	-21.46
ADD	228C3	Osage Beach	MO	21.8	144.94	142.0	2.94
DEL	227C2	Seligman	MO	232.5	111.54	106.0	5.54
KESE	227C2	Seligman	MO	232.5	111.54	106.0	5.54
KYLC	228A	Osage Beach	MO	21.0	124.27	115.0	9.27
DEL	228A	Osage Beach	MO	21.0	124.27	115.0	9.27
***PROP	226C3	Halfway	MO	334.2	64.22	42.0	22.22
KYOO-FM	226A	Halfway	MO	348.6	68.99	31.0	37.99
KZPD(CP)	281A	Ash Grove	MO	293.1	48.64	10.0	38.64
KSPQ	230C1	West Plains	MO	94.3	113.85	75.0	38.85
KISR	229C	Fort Smith	AR	212.2	204.08	165.0	39.08
DEL	229A	Warsaw	MO	352.0	131.11	72.0	59.11
ALOPEN	229A	Warsaw	MO	352.0	131.11	72.0	59.11
KIXQ	230C2	Webb City	MO	278.8	118.91	55.0	63.91
APP	229A	Warsaw	MO	353.4	140.98	72.0	68.98
KLKC-FM	228A	Parsons	KS	279.1	184.23	115.0	69.23

***CHANNEL 226C3 IS SHOWN AS BEING ALLOCATED TO HALFWAY, MISSOURI AT THE COORDINATES DESIRED BY KYOO BROADCASTING COMPANY. THE PROPOSED USE OF CHANNEL 228A AT THE PRESENT KZPF AUTHORIZED SITE MEETS ALL SPACING REQUIREMENTS IF THE PROPOSAL AT SELIGMAN IS DENIED. THERE WOULD BE NO SHORT SPACING TO GREENFIELD AS IT IS PROPOSED TO SUBSTITUTE CHANNEL 299A FOR CHANNEL 228A IN THAT COMMUNITY

CERTIFICATE OF SERVICE

I do hereby certify that on this 2nd day of May 1992, I deposited copies of the foregoing "**Comments and Counterproposal of KYOO Broadcasting Company**" in the United States mail, first class, postage prepaid, addressed to the following:

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KZPF Radio
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Elvis Moody
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William J. Pennington, III