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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MM Docket No. 92-192

In the Matter of

Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations,)
)
(Walton and Rochester, Indiana))

~~RM-7960~~

RM-8036

Reply Comments of Station WROI(FM)

In response to the Commission's Notice of Proposed Rule Making in the above-captioned proceeding (released August 26, 1992), and its invitation to file both Comments and Reply Comments with respect thereto, Station WROI(FM), Rochester, Indiana, herewith submits these Reply Comments. These Reply Comments are filed by the now-current licensee, Bair Communications, Inc. ("Bair"), which was recently approved by the Commission as assignee of WROI and has

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closed on the assignment since the filing of Comments on October 19, 1992 jointly by Bair and the former licensee (Manitou Broadcasting Corporation).

Practicalities of Original WDOF-FM Channel 229A Proposal for Rochester, Indiana

1. As WROI noted in its initial Comments, the correction to its coordinates would not exacerbate any existing short-spacing situations, nor create new ones. WROI supported and continues to support WDOF-FM's initial proposal; i.e., to assign Channel 229A to Rochester, specifying for allocations purposes its present site. If so allocated, such will be applied for by WROI as a full 6 KW facility. This would be a marked improvement to its current facilities. It would result in additional service on a realistic, economically sound basis, for this is a relatively sparsely populated county with few radio services; indeed, WROI is the only broadcast station licensed to Rochester, Indiana.

WDOF-FM's Reimbursement Commitment As Predicate for Implementation

2. WDOF-FM, as the initial proponent of this channel change, properly acknowledges and commits to "reimburse the licensee of Station WROI(FM) for its reasonable and prudent expenses in such a frequency change." (WDOF-FM Comments at p. 3) WROI has noted such should approximate \$15,000., which has nothing whatsoever to do with any improvement in its facilities--only the channel change itself. (WROI Comments at p. 3, fn. 3) WROI thus proceeds on the assumption that such figure, subject to WDOF-FM's verification of

the actual expenses, will be reimbursed by WDOW-FM if this channel change for WROI is approved and implemented by WROI.

Problems with Walton Proposal

3. J.B. Ladd, the proponent of Channel 229A's assignment to Walton, Indiana, filed Comments stating it would apply for a construction permit if the Commission were to assign the channel to Walton, and merely stated that the Commission's channel allocation priorities favored it as a first local service. WROI fully responded to this anticipated argument with a realistic comparison of Rochester vs. Walton (WROI Comments at para. 5 and 6), noting the realities of the situation and the potential severe technical problems engendered by Ladd's proposal with an Air Force base near Walton. WDOW-FM in its Comments (at para. 3), noted the Channel 229A assignment to Rochester would represent a "more efficient allocation." WROI fully agrees with this analysis, as it eliminates several short spacing situations **without** creating any **new** shortspacings.

WDOW-FM Counterproposal Seriously Flawed Technically and Economically

4. WROI will focus the balance of its Reply Comments on the Counterproposal of WDOW-FM. WDOW-FM, Dowogiac, Michigan, would alternatively -- having argued strenuously for its initial Channel 229A proposal -- now have the Commission seriously consider a completely different channel proposal for WROI; namely, Channel 293A. This proposal is totally **unacceptable** for several reasons, which WROI will elaborate on and which is supported by the

accompanying Engineering Report.

5. First and foremost, such counterproposed assignment will result in the creation of not one or two new shortspacings, but **three** such shortspacings when calculated from WROI's present site, listed by WDOW-FM as a possible allocation reference point. Shortspacing would be created to two Class B stations (WQLR, Kalamazoo, Michigan; by 7.3 km, and WLSN, Greensville, Ohio; by 5.1 km). WDOW-FM acknowledges this problem in its Comments at para. 5 and in its Engineering Statement at pp. 4-5. Further, it will result in allocation shortspacing to another Class A station (WUBU, South Bend, Indiana; by 2.8 km). (See attached Engineering Report) The Commission takes a rather dim view of the creation of new shortspaced situations. (See Sections 73.207(a) and 73.213(a).) Section 73.215 will not save this situation, for reasons identified in para. 8 infra.

6. As WDOW-FM points out in the alternative, an allocation over 8 miles from Rochester--WROI's community of license (and over 6 miles from the present location), would result in no such shortspacing. However, such a required move will result in WROI **barely** placing the requisite primary signal contour over its own community of license with full 6 kw facilities at maximum height. (See attached Engineering Report.) The cost of such physical location/channel change is conservatively estimated to be approximately \$100,000. (new 300 foot tower, antenna, and land acquisition), for which WDOW-FM would be obligated to reimburse WROI, since WROI would need such full facilities just to place the

WROI, since WROI would need such full facilities just to place the minimum signal over its community of license and come close to duplicating present coverage. While WDOF-FM acknowledges it would reimburse WROI for its reasonable and prudent expenses in connection with WDOF-FM's counterproposal (WDOF-FM Comments at p. 3 "Conclusions") -- which it would have to under FCC policy -- no expression of reimbursement interest at this high level has been made by WDOF-FM and WROI should not be forced to make such a change without such firm commitment -- and FCC order -- at such an expenditure level. Again, the conditions of reimbursement set out at para. 2 above must be met before WROI could be forced to implement any such counterproposal change in channel/frequency, location, and/or facilities (transmitter/antenna).

7. Because of the somewhat sparse population in WROI's home county of Fulton, and the engineering realities of having to move such a distance to secure a fully spaced allocations site, WROI would still be better off with a 3 kw operation at its present site¹ than a 6 kw full height facility at this new, remote site, and having to lose audience identification in a full dial channel change. (See attached Engineering Report)

Commission Rule Compliance Problems with WDOF-FM's Counterproposal

8. WDOF-FM's counterproposal creates a third shortspacing

¹WROI has authority to increase power to 4.3 kw at its present site under the Commission's revised Rules. ("CHANGES TO: 'Fully Spaced Class A Stations' List Re: MM Docket No. 88-375," Mimeo #11615, released February 11, 1991) This represents an increase in service to some 8,850+ people, which is significant in this thinly populated and sparsely served area. (See attached Engineering Report)

situation at WROI's present site--to Class A co-channel Station WUBU. It violates Section 73.207 of the Rules since any new allotments must meet the Commission's new minimum distance separation requirements. While there are built-in exceptions to this Rule, none of them apply in this particular situation, as the attached Engineering Report points out. Section 73.215 of the Rules speaks to allowing short-spaced assignments if contour protection is assured. However, as the accompanying Engineering Report notes, a directional antenna array would have to be employed, which would be very expensive (on the order of \$85,000.-\$100,000.), since a new directional antenna and a new tower to support such would have to be constructed. Again, WDOW-FM would have to reimburse WROI for such to effectuate WDOW-FM's counterproposal's channel change even at WROI's current site. WROI wonders if WDOW-FM realizes the full import of its counterproposal and significant reimbursable costs it will incur if its counterproposal is accepted by the Commission and WROI is forced to implement it.

9. Such required use of a directional antenna would then undoubtedly and adversely impact on WROI's ability to serve its existing service area--i.e., a loss of service of some magnitude would result. Indeed, WROI might not even be able to meet minimum contour coverage of its community of license. (See attached Engineering Report) Further, the Commission has clearly indicated it will not waive its FM short-spacing Rules. (Amendment of Part 73 of the Commission's Rules to Permit Short-Spaced FM Station

Assignments By Using Directional Antennas, MM Dkt. No. 87-121, 69 RR2d 1106, 1991) absent use of such directional antennas.

Rejection of WDOF-FM's Counterproposal is Warranted

10. For the above-noted reasons, WROI submits that the WDOF-FM counterproposal, either at a fully spaced new site or at WROI's present site, will not comport with the Commission's various Rules and policies, and waiver thereof is either unavailable, or even if available in some limited circumstances, is not warranted because of the huge expense entailed and the inefficiencies created thereby.

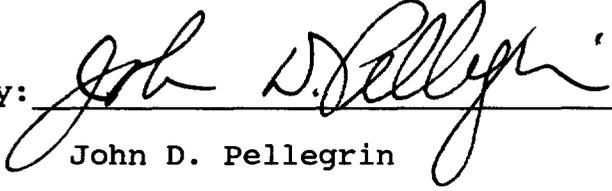
Original Channel 229A Proposal Is Most Efficient and Practical

11. Thus, WROI urges again that the Commission allot Channel 229A to Rochester, Indiana, which then allows WROI to specify full 6 kw power. Upon such allotment, WROI will promptly file an application to modify its current facilities to specify Channel 229A at maximum 6 kw power and will promptly build and operate such facilities upon FCC grant thereof. This would be the rational and practical approach for a station in its attempt to reach and serve a wider audience with a better quality signal in a relatively thinly populated county. The Commission should not be pressed into making an assignment to Walton which will result in multiple applications and years of delay through comparative hearing before

any possible station is awarded to serve a tiny community completely surrounded and served by much large communities' stations.

Respectfully submitted,

Bair Communications, Inc., Licensee of
Station WROI(FM), Rochester, Indiana

By:  _____
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Date: November 3, 1992

ENGINEERING REPORT

Harry R. Seabrooke

RR #5 Box 456-A

COMMUNICATIONS CONSULTANT

Hedgesville, WV 25427-9224

Bair Communications, Inc.
Rochester, Indiana

This is an engineering review of the counter proposal by Dowagiac Broadcasting Company, Inc., to delete Channel 221A from Rochester and replace it with Channel 293A. It has been confirmed that, as stated by Dowagiac, there is a site location area to the southwest of Rochester in which Channel 293A may be allotted and meet all the spacing requirements of Section 73.207 of the FCC Rules. At the site specified by Dowagiac, a station with 6 kW ERP and an antenna height of 100 meters AAT appears to place a predicted 3.16 mV/m signal just barely over all of Rochester. However, WROI does not have its transmitter located at the site specified by Dowagiac. WROI operating at its present location with its present facilities of 3 kW ERP at 63 meters AAT places a predicted minimum signal of 6.9 mV/m over all of Rochester, 7 db greater than that achieved by changing transmitter location and increasing facilities to 6 kW at 100 meters AAT on Channel 293A.

If WROI is forced to change its operation to Channel 293A at its present location there will be created three (3) new short-spacings:

Call	Auth	Licensee Name	Chan	ERP-kW	Latitude	Az-to	Dist	Req
City of License	St	FCC File No.	Freq	EAB-m	Longitude	-from	(km)	(km)
WUBU	CP MOD	Goodrich Broadcasting	292A	3.0	41-40-36	1.2	69.18	72
South Bend		IN BMPH-920506IG	106.3	89	86-15-08	181.2	<u>-2.82</u>	<u>SHORT</u>
WQLR	LIC	Fairfield Broadcastin	293B	33.	42-28-32	22.0	170.72	178
Kalamazoo		MI BLH-7764	106.5	183	85-29-22	202.5	<u>-7.28</u>	<u>SHORT</u>
WLSN	LIC	Treaty City Broadcast	293B	50.	40-08-49	125.2	172.87	178
Greenville		OH BLH-901105KD	106.5	146	84-36-36	306.3	<u>-5.13</u>	<u>SHORT</u>

This circumstance concerning Channel 293A can result in WROI being required to change its transmitter location to a far less desirable site in the terms of signal strength to its principal community or require processing and authorization under Section 73.215 and use of a directional antenna at WROI to maintain its present transmitter location. Such a channel change will also dictate moving from its established position on the tuner dial to a location clear across the dial.

ENGINEERING REPORT

Harry R. Seabrooke

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COMMUNICATIONS CONSULTANT

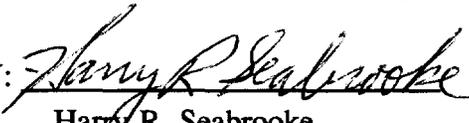
Hedgesville, WV 25427-9224

Bair Communications, Inc.
Rochester, Indiana

The manufacturer of the present WROI tower has advised that the tower is not capable of supporting the load of a directional antenna. It is estimated that to change to a directional antenna at the present location it may cost up to \$50,000 for a directional antenna and mounting structure and an additional \$35,000 to \$50,000 for a new tower to support the directional antenna and mounting structure. Although it cannot be rigorously proved without carrying this study to the final design of a directional antenna pattern which meets the protection requirements for Channel 293A, it is highly likely that such a requirement may result in the deterioration of principal community required coverage so that the city of Rochester is not totally included within the 3.16 mV/m contour as well as a significant loss of service to the present 1 mV/m contour in the northeastern portion of the service area.

If WROI is permitted to change to Channel 229A and increase its power to 6 kW the population served within its 1 mV/m contour will increase to 30,344 persons in an area of 621 square miles. Conversely, if WROI is forced to move to a transmitter site that meets the spacing requirements of Section 73.207 for operation on Channel 293A it is estimated that this move will cost more than \$100,000 for the land, transmitter, antenna, transmission line, 330'± tower, studio transmitter link equipment and transmitter building in order to provide service to a total population of 43,729 persons; a modest increase of 13,385 persons at a relatively high cost. If WROI remains on Channel 221A and increases its ERP to 4.3 kW that the FCC has notified that it may, it is estimated that there will be an increase in 1 mV/m coverage of 8,854 persons, for a total population of 26,844 within its 1 mV/m contour by merely increasing its transmitter output power.

I certify that my qualifications are matter of record at the FCC, and that I have personally prepared this report. All computations and data contained herein or on which this exhibit has been based are in accordance with the pertinent requirements of the FCC Rules, appropriate international broadcasting agreements and standards of good engineering practice, unless otherwise specifically so stated. I declare under the penalty of perjury that the contents of this report are true and accurate to the best of my knowledge and belief.

BY: 
Harry R. Seabrooke
November 2, 1992

CERTIFICATE OF SERVICE

I Kathy Nagl, a secretary in the law firm of John D. Pellegrin, Chartered do hereby certify that I have on this 3rd day of November, 1992 sent a copy of the attached " Reply Comments of Station WROI(FM)" by first class U. S. Mail, postage prepaid, to the following:

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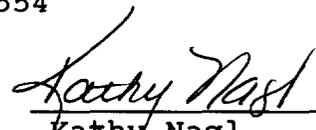
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