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

In the Matter of) MM Docket 94-63
)
Amendment of Section 73.202(b),) RM-8450
Table of Allotments,)
FM Broadcast Stations.)
(Rocky Mount and Bassett, Virginia)

DOCKET FILE COPY ORIGINAL

TO: Acting Chief, Allocations Branch

REPLY COMMENTS OF
EDWARD A. BAKER d/b/a RADIO 900

Edward A. Baker ("Baker") d/b/a Radio 900, licensee of AM Broadcast Station WCBX, Bassett, Virginia, submitted Comments in Opposition to the FM channel changes proposed in the captioned proceeding, and now tenders his Reply Comments.¹

At the outset, Baker respectfully requests that the facts, figures and arguments offered in his Comments be incorporated herein by reference.

Petitioner points out that Baker's Bassett station WCBX "appears not to be operating." The appearance is not deceiving: after 30 years of serving as Bassett's only local station, WCBX is moving its site and is temporarily off the air. Baker is ready, willing, able and eager to return to operation as soon as the Commission grants his site change application. (BMP-940407AC). Construction permits are outstanding for stations at Fieldale and Martinsville, both Virginia, each some 5-6 miles from Bassett, so

¹ The only other comments were filed by petitioner.

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additional service to the area will be forthcoming in the near future.

Petitioner notes that its engineer estimates that the area that will lose service through its proposal "would comprise about 10% of present coverage" and he "believes that all of the loss area receives at least five other full-time services." Neither in its Petition for Rule Making nor in its Comments does Petitioner set forth any figures for its loss area or loss of population, much less a map of the terrain and location of the loss area.² In the absence of an area map and specific figures of loss area and population, the Commission cannot make any determination of the validity of Petitioner's engineer's speculations. And his "belief" of existing service is likewise interesting but no basis for Commission conclusions.

The claim of Petitioner that the proposed move will ". . . more than double the existing service rendered by WZBB-FM" is at best unreasonably inflated. Baker's Comments reveal that if Commission-accepted contours are used, the increase would be 62.5% or 30,595 persons.

Pointing out that Bassett is in Henry County, Petitioner makes the curious statement that it proposes to bring a first local full time service to Patrick County, where it will not be located. The statement that "In keeping out its record of public service to

² In his Comments, Baker provided loss figures and a map (Fig. 1.2) of the loss area. The showing by Baker was not available to Petitioner when it filed its Comments.

Rocky Mount WZBB would provide important news and particularly emergency information to Patrick and Henry Counties, and this will make a substantial and much-needed contribution to the quality and life in this region" is impressive, but Petitioner demonstrates no "record of public service to Rocky Mount" (and whether WZBB's alleged public service to Rocky Mount be withdrawn from the larger community) nor any showing that Patrick and Henry Counties (or either of them) is in "much need" of additional "important news and particularly emergency information."

Such self-serving puffery must be ignored by the Commission and cannot serve as basis for any conclusions regarding a need for service.

As an alternative to Bassett, Petitioner now proposes Stanleytown, adjacent to Bassett, and "quite comparable to Bassett." However, no data other than a population figure is offered concerning the new proposal. Population characteristics, industry, churches, schools, clubs, post office, etc., etc. are lacking; the Commission is indeed offered a pig in a poke. In the absence of any demographic data, the Commission cannot conclude whether the public interest does or does not dictate moving an established station from the large community of Rocky Mount to the hamlet of Stanleytown.³

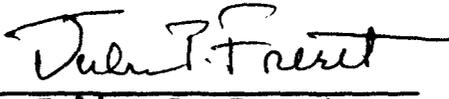
The most important consideration in this proceeding is the inability of Petitioner to secure a fully spaced site for its

³ See attached statement under penalty of perjury by Edward A. Baker.

original Bassett or its substitute Stanleytown proposal. Baker raised in his Comments the unavailability of sites in the area delineated as the only area fully spaced in accord with Commission rules. It thus becomes incumbent upon Petitioner to establish that a site in the triangular fully spaced area was in fact available to it. Absent such a showing the Commission must deny the rule changes proposed herein by Petitioner.

Respectfully submitted,

Edward A. Baker d/b/a
Radio 900

By 
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His Counsel

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September 6, 1994

STATEMENT REGARDING CHARACTERISTICS OF STANLEYTOWN, VA.

Upon learning that a Rocky Mount FM radio station has proposed relocating to the village of Stanleytown, Virginia, I set forth the following facts concerning it. Stanleytown is not a town as defined in Virginia. It is an undefined area in Henry County, Virginia, contiguous to Bassett, Virginia. Although listed in the U. S. Census, it is not incorporated, has no defined boundaries, no government, no mayor or city council, no high or middle schools, hospitals, chamber of commerce, civic clubs, community center, or physicians. Its water, sewer, garbage and law enforcement services are provided by Henry County. Life saving and voluntary fire department services are furnished by nearby Bassett, Virginia. High school students who live in the area attend the Bassett, Virginia, High School.

Stanleytown, Virginia is an area in which the Stanley Furniture Mfg. Co. is located near the major railroad tracks and state route. It has a post office located near the Stanley Mfg. Co., and provides mostly rental mail boxes. It has three employees, and is an intermediate post office of the Bassett, Virginia, post office which employs twenty employees. Rural delivery around Stanleytown is from the Bassett, Virginia, post office.

It is understood that a former Governor named Stanley was from the family who founded the Stanley Mfg. Co. Mr. Stanley married into the famous Bassett family of Bassett, Virginia. When Governor Stanley was president of Stanley Mfg. Co., he was instrumental in obtaining an intermediate post office near the family furniture company, less than three miles from the Bassett, Virginia, post office, for the convenience of the factory workers and the Stanley Mfg. Co.

I have been unable to discern in Stanleytown any element of community cohesion among the residents and as a broadcaster cannot believe that the FCC would remove an existing FM station from Rocky Mount in order to establish a Class C3 facility in a hamlet as lacking in community attributes as Stanleytown Virginia.

The foregoing statement is made under penalty of perjury this second day of September, 1994.

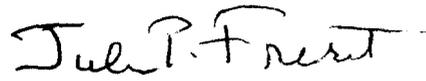
Edmond A Baker

CERTIFICATE OF SERVICE

I, Julian P. Freret, a partner in the law firm of Booth, Freret & Inlay, do certify that copies of the foregoing REPLY COMMENTS OF EDWARD A. BAKER d/b/a RADIO 900 were mailed this 6th day of September, 1994, via U. S. Mail, postage prepaid, first class, to the offices of the following:

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Julian P. Freret

* Via Hand Delivery