

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of) MM Docket 94-63
)
Amendment of Section 73.202(b),) RM-8526
Table of Allotments,)
FM Broadcast Stations.)
(Rocky Mount and Stanleytown,)
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, submits herewith his Reply Comments to the counterproposal suggested by the Commission in its Public Notice released September 26, 1994 (Report No. 2031) for the captioned proceeding.

Background

1. In a Petition for Rule Making filed March 1, 1994, WNLB Radio, Inc., licensee of FM station WZBB, Rocky Mount, Virginia ("Petitioner" or "WZBB") proposed reassignment of Channel 260 from Rocky Mount to Bassett, Virginia. In response thereto, the Commission issued a Notice of Proposed Rule Making released June 28, 1994 (designated RM-8450) proposing the allotment of Channel 260C3 to Bassett, Virginia and deletion of Channel 260A from Rocky Mount, Virginia.

2. Baker tendered Comments August 19, 1994, pointing out that the proposed channel changes were not only unnecessary, but were

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antithetical to the public interest. Petitioner filed Comments and a counterproposal, conceding that its original proposal for Bassett might be untenable:

In light of the questions the Commission has raised with respect to its original proposal, WNLB also submits herewith a counterproposal that Channel 260C3 be substituted for Channel 260A and that the channel be reallocated from Rocky Mount to Stanleytown, Virginia.

Baker filed Reply Comments September 6, 1994, opposing the Bassett proposal and likewise demonstrating that the counterproposal involving Stanleytown was so lacking in substance as to merit no consideration by the Commission. Baker also demonstrated that there was no available site for either the Bassett or the Stanleytown proposal and emphasized its previously submitted engineering data attesting to site non-availability. Baker also attached to his Reply Comments, a statement under penalty of perjury showing that Stanleytown lacks any symptom of cohesion as a community and was designated solely on the basis of political persuasion for the convenience of factory workers at the Stanley Manufacturing Company.

3. Petitioner filed no reply comments.

4. As a forenoted, the Commission issued Report No. 2031 September 26, 1994, treating the Stanleytown proposal as a counterproposal to the Bassett petition and suggesting that "Reply Comments" be submitted within fifteen days.

Argument

5. In his previous Reply Comments in RM-8450, Baker showed that Stanleytown did not and should not be regarded as a community

for allotment of a new FM channel or reallocation of an existing one. Accordingly, it is respectfully requested that all facts and arguments set forth therein be incorporated into this pleading as if repeated herein.

6. Under fear of repetition, Baker shows that the Stanleytown counterproposal (apparently an afterthought) in Petitioner's Comments in RM-8450 fails to establish that Stanleytown is in fact a community meriting the allotment of an FM channel, much less a Class C3 channel.

(a) No data have been provided with respect to populations lost or gained by the reallocation and classification change proposed by petitioner.

(b) Its statement that Stanleytown is adjacent to Bassett and "quite comparable to Bassett" is but conclusory and unsupported by any data relating to the alternative community.¹

(c) Petitioner provided no information concerning characteristics of Stanleytown including industries, churches, schools, clubs, utilities, hospitals, or other components that make a community unique and demonstrate a cohesion of population indicative of community spirit.

7. Although Stanleytown is listed as a Census-Designated Place (CDP), such designation, in the absence of additional community data, does not establish the need for allotment of a FM

¹ Nor can population statistics and community data be provided in Reply Comments which must be confined to reply material.

channel. East Hemet, et al. CA, 4 FCC Rcd 7895 (Ch. P&R, Div. 1989) concluded:

The area defined by the East Hemet CDP contains none of the social, economic or cultural components that the Commission generally associates with community status.

See also Report and Order (Searles Valley, CA), 3 FCC Rcd 5221 (Dep. Ch P&R Div. 1988).

8. To emphasize the lack of community attributes of Stanleytown, there is attached a copy of the Statement Regarding Characteristics of Stanleytown, VA made under penalty of perjury by Edward A. Baker.²

Conclusion

9. The Commission must deny the allotment of a Class C3 FM channel to Stanleytown, Virginia, for any one (or all) of the following reasons:

- (1) There has been no showing of record that the public interest mandates a station in Stanleytown.
- (2) There is no available site that could meet adequate spacing requirements of Commission rules.

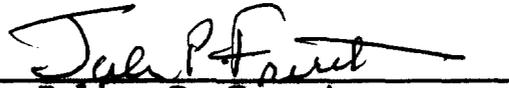
² This is the same statement attached to the previously filed Reply Comments in RM-8450.

(3) Stanleytown lacks all social, economic or cultural components that the Commission requires for allotment of a new FM channel.

Respectfully submitted,

EDWARD A. BAKER d/b/a
RADIO 900

BY


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October 11, 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 counsel, 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.

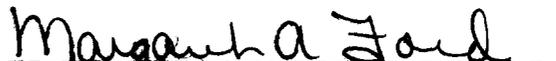
Edward A Baker

CERTIFICATE OF SERVICE

I, Margaret A. Ford, office manager 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 11th day of October, 1994, via U. S. Mail, postage prepaid, first class, to the offices of the following:

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