

ORIGINAL

ANN BAVENDER*
ANNE GOODWIN CRUMP*
VINCENT J. CURTIS, JR.
PAUL J. FELDMAN*
ERIC FISHMAN*
RICHARD HILDRETH
EDWARD W. HUMMERS, JR.
FRANK R. JAZZO
CHARLES H. KENNEDY*
KATHRYN A. KLEIMAN
BARRY LAMBERGMAN
PATRICIA A. MAHONEY
M. VERONICA PASTOR*
GEORGE PETRUTSAS
LEONARD R. RAISH
JAMES P. RILEY
MARVIN ROSENBERG
KATHLEEN VICTORY*
HOWARD M. WEISS

*NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ROSSLYN, VIRGINIA 22209

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

HILDRETH@ATTMAIL.COM

ROBERT L. HEALD
(1956-1983)
PAUL D.P. SPEARMAN
(1936-1962)
FRANK ROBERSON
(1936-1961)

RETIRED
RUSSELL ROWELL
EDWARD F. KENEHAN
FRANK U. FLETCHER

OF COUNSEL
EDWARD A. CAINE*

WRITER'S NUMBER
(703) 812-

0420

RECEIVED

DEC 12 1994

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20541

94-115

DOCKET FILE COPY ORIGINAL

December 12, 1994

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Transmitted herewith, on behalf of Gary P. Alvarez, are an original and four copies of his Reply Comments in the above-referenced proceeding.

Should any additional information be necessary, please contact the undersigned.

Very truly yours,

FLETCHER, HEALD & HILDRETH, P.L.C.


Vincent J. Curtis, Jr.
Counsel for Gary P. Alvarez

VJC:mah
Enclosure

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

024

ORIGINAL

BEFORE THE

Federal Communications Commission RECEIVED

WASHINGTON, D.C. 20554

DEC 12 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 94-115
Table of Allotments,)	RM-8508
FM Broadcast Stations.)	
(Woodville, Mississippi;)	
Clayton and Jena, Louisiana))	

Directed to: Acting Chief, Allocations Branch

Reply Comments

Comes now Gary P. Alvarez (Alvarez), by his attorneys, and respectfully submits his Reply Comments in the above-referenced proceeding. With respect thereto, the following is stated:

1. On November 25, 1994, the date for filing Comments, Alvarez filed a counterproposal to delete Channel 299A from Woodville, Mississippi and allocate Channel 299C3 to Liberty, Mississippi. The proponent of the proceeding, PDB Corporation, did not file any Comments. Rather, in a Motion to Withdraw, filed on December 8, 1994, PDB seeks to withdraw its petition. For the reasons set forth below, it is submitted that the PDB petition must fail.

2. The date for filing Comments and counterproposals was set forth in the Notice of Proposed Rule Making and Order to Show Cause, DA94-1047, released October 4, 1994, as November 25, 1994. On that date Alvarez filed his counterproposal. PDB failed to

file any comments on the specified date and now, late again,¹ seeks to terminate this proceeding. To allow this to happen, the Commission would become a co-conspirator of an abuse of its own processes.

3. Alvarez, in response to the Commission's NPRM, filed his counterproposal. PDB not only ignored the time table established in the NPRM, but rather unilaterally sought to terminate the proceeding. If the Commission allows PDB to succeed, it will open the flood gate for further abuse. PDB could have sought to terminate this proceeding anytime up to and including the Comment date. Once that date was past and the counterproposal filed, PDB could not legally terminate this proceeding by its sole action. To do that, the Commission would bastardize their entire allocation procedure and open itself to wholesale abuse.²

¹The history of PDB's failure to follow the Commission's Rules and procedural dates is legend and has been set forth in this proceeding earlier.

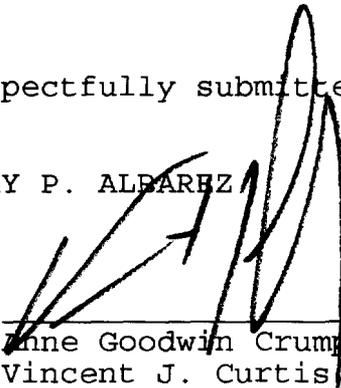
²If the Commission terminates the instant proceeding, it must simultaneously put forth the Alvarez counterproposal as an NPRM. However, it should be noted that the Commission by Public Notice, Report No. 2046, dated December 12, 1994, has officially noticed the Alvarez counterproposal.

Conclusion

Wherefore, the premises considered, it is respectfully requested that the Motion to Withdraw filed by PDB be denied.

Respectfully submitted,

GARY P. ALBAREZ

By: 

Anne Goodwin Crump
Vincent J. Curtis, Jr.

His Attorneys

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 N. 17th Street, 11th Floor
Rosslyn, Virginia 22209
(703) 812-0400

December 12, 1994

CERTIFICATE OF SERVICE

I, Mary A. Haller, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that true copies of the foregoing "Reply Comments" were sent this 12th day of December, 1994, by first-class United States mail, postage prepaid, to the following:

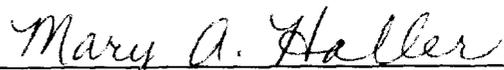
Dennis Williams*
Chief, FM Branch
Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 332
Washington, D.C. 20554

Pamela Blumenthal*
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8308
Washington, D.C. 20554

Donald B. Brady, President
PDB Corporation
204 Duncan
Jackson, Mississippi 39202

James J. Popham, Esquire
Association of Independent Television
Stations, Inc. (INTV)
1320 19th Street, N.W.
Suite 300
Washington, D.C. 20036
Counsel for Little River Radio Company

*By Hand Delivery



Mary A. Haller