

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

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 92-214
Table of Allotments,)
FM Broadcast Stations) RM-8062, RM-8144,
(Columbia, Bourbon, Leasburg,) RM-8145, RM-8146,
Gerald, Dixon, and Cuba, Missouri) RM-8147

TO: Chief, Allocations Branch
Mass Media Bureau

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PETITION FOR RECONSIDERATION

Central Missouri Broadcasting, Inc. ("CMB"), by its attorneys, seeks reconsideration of the Commission's Report and Order in this proceeding released November 24, 1995.¹ In its decision, the Commission, among other things, upgraded channel 244 in Columbia, Missouri from C3 to C1. In order to accomplish this change, the Commission resolved a counterproposal filed by CMB by allocating channel 221A to Dixon, Missouri, rather than channel 243A as requested by CMB. For the reasons set forth below, CMB asks the Commission to reconsider this aspect of its decision and allot channel 243A to Dixon. If channel 243A is allotted to Dixon, CMB will proceed promptly to file an application for the channel.

¹ The Commission's decision was published in the Federal Register on December 5, 1995. However, as a result of the suspension of operations by the Commission and the Commission's announcements on January 5 and January 11, 1996 (FCC Mimeo Nos. DA 96-1 and DA 96-2, respectively), the deadline for filing this petition was extended to January 16, 1996.

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Preliminary Statement

1. This proceeding commenced with a rule making petition filed by the licensee of Station KCMQ(FM), Columbia, Missouri to upgrade from channel 244C3 to channel 244C1. Along with other parties, CMB filed a counterproposal on November 13, 1992, supporting the allocation of channel 243A to Dixon, Missouri as that community's first local service. CMB noted that this would necessitate a site restriction of 9.2 km northeast of Dixon and would be in conflict with the assignment of channel 244C1 to Columbia.

Channel 243A Should Be Assigned to Dixon

2. In its decision, the Commission determines that it will allot channel 221A to Dixon even though the ultimate use of that channel there is tied to the final resolution of proceedings in Docket No. 89-120, which involves a number of Missouri allotments and communities, including Waynesville, Missouri. In Docket 89-120, Lake Broadcasting, Inc. ("Lake") sought the upgrade of Station KBMX(FM), Eldon, Missouri, from channel 270A to channel 270C1. In order to accomplish this upgrade, Lake asked the Commission to change the allocation in Waynesville, Missouri from channel 272A to channel 274A. In response to another counterproposal in Docket 89-120, Lake suggested that channel 221A could be substituted in Waynesville. In its decision in Docket 89-120, the Commission allotted channel 274A to Lake Ozark, Missouri, but did not assign channel 221A to Waynesville. Lake filed a petition for reconsideration in Docket 89-120 challenging the Commission's decision not to allot channel 221A to Waynesville, since that decision, by leaving channel 272A in Waynesville, would preclude Lake's proposed upgrade to channel 270C1 at Eldon.

3. In its decision in the instant proceeding, the Commission avoids the complications in the Docket 89-120 proceeding by observing that Lake noted its willingness to accept a class C2 upgrade for Eldon, a move that would obviate the need to allot channel 221A to Waynesville. *Report and Order*, Note 12.² However, on January 11, 1996, Lake filed a Petition for Reconsideration in this proceeding, noting that its offer concerning the acceptance of a C2 assignment in Eldon, which was conditioned upon its immediate acceptance and grant by the Commission, had terminated by the passage of time. Lake Petition, p. 5. Thus, aside from the merits of the instant proceeding, the ultimate ability to allocate channel 221A to Dixon remains clouded as a result of Lake's clear assertion of its rights and intentions with respect to the upgrade of KBMX in Eldon to channel 270C1.

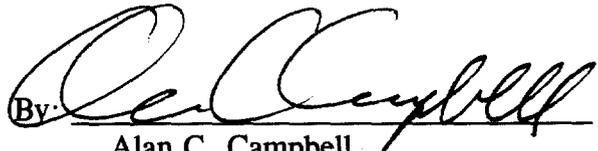
4. CMB's request to assign channel 243A to Dixon with the ability to locate the transmitter east of the city was premised on its assessment of the economic viability of the undertaking. This would permit the station to draw on a larger and more stable audience and economic base while offering the opportunity to provide a first local service to Dixon. As the Commission is aware, CMB is the licensee of KTXY(FM) in Jefferson City, Missouri, a station that provides a 60 dBu signal almost to Dixon. CMB is familiar with the area and its economic potential; however, a location west of the city, as would be the case with channel 221A, would, in CMB's opinion, make the project not economically viable. While the Commission has an obligation consistent with Section 307(b) of the Communications Act of 1934, as amended, to

² Despite the uncertainty caused by Lake's petition for reconsideration in Docket 89-120, the Commission states that it intends to open a window for the filing of applications for channel 221A in Dixon, although the processing of those applications may be deferred until Docket 89-120 is resolved. *Id.*

allocate stations throughout the United States on a fair and equitable basis, it should also make allocations in a manner that best assures their viability and survivability for the long term.

WHEREFORE, the Commission should reconsider its *Report and Order* to the extent that it allots channel 221A to Dixon, Missouri and, on reconsideration, assign channel 243A to Dixon as that community's first local service.

Respectfully submitted,
Central Missouri Broadcasting, Inc.

By: 

Alan C. Campbell
Its Attorney

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January 16, 1996

Certification in Support of Petition for Reconsideration

I, Alan R. Brill, certify under pain and penalty of perjury that:

1. I am the Vice President of Central Missouri Broadcasting, Inc.;
2. I have read the foregoing Petition for Reconsideration of Central Missouri Broadcasting, Inc. in connection with the allotment of a new FM channel to Dixon, Missouri; and
3. The facts set forth therein are true and correct to the best of my knowledge, information and belief.



Alan R. Brill
Vice President
Central Missouri Broadcasting, Inc.

CERTIFICATE OF SERVICE

I, Vanessa N. Duffy, a secretary with the law firm of Irwin, Campbell & Tannenwald, P.C., hereby certify that on this 16th day of January, 1996, a copy of the foregoing "Petition For Reconsideration" has been hand-delivered or served by first-class U.S. mail, postage pre-paid, upon the following:

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