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FEDERAL COMMUNICATIONS COMMISSION 0474
OFFICE OF SECRETARY

March 8, 1996

VIA HAND DELIVERY

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

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 92-214
FM Table of Allotments
(Columbia, Bourbon, Leasburg,
Gerald, Dixon and Cuba, Missouri)

Dear Mr. Caton:

Enclosed for filing on behalf of Zimmer Radio of Mid-Missouri, Inc., are an original and four copies of a Reply to Opposition to Motion to Sever, filed in the above-referenced proceeding.

Should any question arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,



Andrew S. Kersting
Counsel for
Zimmer Radio of Mid-Missouri, Inc.

Enclosure
cc (w/ encl.): Certificate of Service

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

To: Chief, Allocations Branch
Mass Media Bureau

REPLY TO OPPOSITION TO MOTION TO SEVER

Zimmer Radio of Mid-Missouri, Inc. ("Zimmer"), licensee of Station KCMQ(FM), Columbia, Missouri, by counsel, hereby replies to the "Opposition to Motion to Sever" ("Opposition"), filed by Lake Broadcasting, Inc. ("Lake"), on February 28, 1996. In support of this reply, the following is stated:

Lake opposes Zimmer's Motion to Sever ("Motion") on the basis that the Report and Order, 10 FCC Rcd 12624 (1995), issued in this proceeding erred by allotting Channel 221A at Dixon, Missouri, instead of holding that proposal in abeyance pending the outcome of a related FM rulemaking proceeding in MM Docket No. 89-120 (FM Table of Allotments (Northwye, Cuba, Waynesville, Lake Ozark, and Eldon, Missouri) 7 FCC Rcd 1449 (Mass Media Bureau 1992)). Specifically, Lake claims the allotment of Channel 221A to Dixon conflicts with its proposal in MM Docket No. 89-120 to allot that channel to Waynesville, Missouri. Opposition, p. 2. Lake also claims that the allotment of Channel 221A to Dixon "forecloses the possibility of allotting Channel

270C1 to Lake at Eldon." Id. Lake acknowledges, however, that the allotment of Channel 270C2 to Lake at Eldon, instead of Channel 270C1, would not require allotting Channel 221A to Waynesville. Id.

As demonstrated in Zimmer's Motion, the allotment of Channel 221A at Dixon is not contingent upon the final resolution of MM Docket No. 89-120. Lake's suggestion in MM Docket 89-120 that Channel 221A be allotted to Waynesville was made in the form of reply comments, and, thus, is not entitled to cut-off protection. Therefore, the allotment of that channel to Dixon is not dependent upon the final resolution of MM Docket No. 89-120.

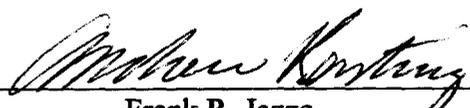
Moreover, in a petition for reconsideration filed by Lake in MM Docket No. 89-120, Lake stated it would be willing to accept a Class C2 upgrade at Eldon. The Commission acted within its discretion in holding Lake to the commitment it made regarding a Class C2 upgrade at Eldon in MM Docket 89-120 because its Class C2 proposal has been on file with the Commission since January 1993, and Lake made no effort to withdraw that commitment prior to the release of the Report and Order in this proceeding. Indeed, Lake has filed a one-step upgrade application for a Class C2 facility at Eldon which remains pending. Furthermore, the reason the MM Docket 89-120 rulemaking proceeding is being held in abeyance is because the Commission has instituted a license revocation proceeding to determine whether Lake is qualified to remain a Commission licensee in light of the felony convictions of one of its principals who serves as its President, Treasurer, and majority stockholder. See Order to Show Cause and Notice of Apparent Liability, MM Docket No. 95-154, FCC 95-410 (released October 10, 1995). Therefore, because the delay in resolving MM Docket No. 89-120 is the result of Lake's own doing, the Commission acted properly in holding Lake to the objective, manifested commitment it made in that proceeding, which Lake never sought to withdraw.

Finally, Lake claims that its objections to the allotment of Channel 221A at Dixon are "enhanced" by the argument made by Central Missouri Broadcasting, Inc. ("Central Missouri"), in its January 16, 1996, Petition for Reconsideration of the Report and Order. In its Petition for Reconsideration, Central Missouri argued that the allotment of Channel 221A to Dixon and the resulting site restriction to the west of the community will make the proposed station economically unviable. However, for the reasons stated at page 3 of Zimmer's Motion, Central Missouri's argument is unsupported and without merit. Therefore, Lake's reliance upon Central Missouri's "economic viability" argument must also be rejected.

WHEREFORE, in light of the foregoing, Zimmer Radio of Mid-Missouri, Inc., respectfully requests that its Motion to Sever to GRANTED.

Respectfully submitted,

ZIMMER RADIO OF MID-MISSOURI, INC.

By: 
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Its Counsel

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March 8, 1996

CERTIFICATE OF SERVICE

I, Andrew S. Kersting, hereby certify that on this 8th day of March, 1996, copies of the foregoing "Reply to Opposition to Motion to Sever" were mailed first class, postage prepaid, to the following:

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