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

MM Docket No. 96-43

In re)
)
Amendment of Section 73.202 (b)) RM-8754
Table of Allotments)
FM Broadcast Stations)
(Frederiksted, Virgin Islands))

To: The Chief, Allocations Branch

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REPLY COMMENTS OF PETITIONER

Jose J. Arzuaga ("petitioner"), by his counsel, herewith submits his reply comments in the above-captioned proceeding as follows:

1. Petitioner was served with two counterproposals in this proceeding. One counterproposal is advanced by Rafael Serra. He seeks allotment of Channel 298A at Saint John, U.S.V.I. To permit this, he proposes that Channel 296B1 be assigned to Frederiksted rather than Channel 297B1 as proposed by the Commission. The other counterproposal is advanced by Calypso Communications, permittee of WVNX (FM), Charlotte Amalie, Virgin Islands. Calypso seeks allotment of Channel 297B1 to Charlotte Amalie instead of Frederiksted and modification of its construction permit to specify operations on Channel 297B1 instead of Channel 246B.

The Serra Proposal

2. The Serra proposal specifies the same channel for Frederiksted as originally proposed by Arzuaga in his petition for rulemaking. Arzuaga has no objection to any site

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restriction which would be required to allocate Channel 296B1 to Frederiksted and reiterates his intention to apply for the permit if the frequency is allocated.

3. Arzuaga acknowledges that the Serra proposal would provide a first transmission service to Saint John in addition to a third transmission service to Frederiksted. It would therefore appear that the public interest is better served by the Serra proposal which is in accord with the original Arzuaga proposal.

The Calypso Proposal

4. Either the Arzuaga proposal or the Serra proposal provide new service benefits. The Calypso proposal seeks merely the substitution of its existing channel for a new channel. Calypso argues that it cannot build its station with its present allotment because “operation on Channel 246B would result in mutually destructive interference with respect to Channel 247C, which is authorized in Tortola, British Virgin Islands.” (Counterproposal at p. 4).

5. The operative word in Calypso’s statement is “authorized.” Please note that Calypso makes no reference to an operational station in Tortola. Obviously there is no such thing as interference from a station which is not on the air, and the Commission should not recognize the claim of interference from a station which does not exist. Seen in this light the Calypso proposal provides no new service and is therefore inferior to either the Arzuaga or Serra proposal.

6. Even assuming *arguendo* that the Calypso proposal would provide a new service to Charlotte Amalie, it is not at all clear that an 8th FM facility in Charlotte Amalie is to be preferred over a 3rd FM facility in Frederiksted. Neither community has a large population, and an 8th FM service (11th aural service) to a population of 12,331 is of no

decisional significance. The community is already served by a multitude of voices. On the other hand, the increase in FM voices in Frederiksted from 2 to 3 is of decisional significance. Clearly, three voices greatly enhances the diversity of voices in the market, and it is diversity of voices which is paramount - not the ratio of population to number of outlets, which is roughly proportional in both cases.

7. In any event, the Serra proposal would provide the additional benefit of a first service to Saint John, which Calypso states has a population of 3,504 persons. (Counterproposal at F.N. 2). In short, the Serra proposal provides for 2 new voices whereas the Calypso proposal at best only provides for 1 new voice to a community which is already more than amply served. The choice is clear. The Serra counterproposal must be adopted.

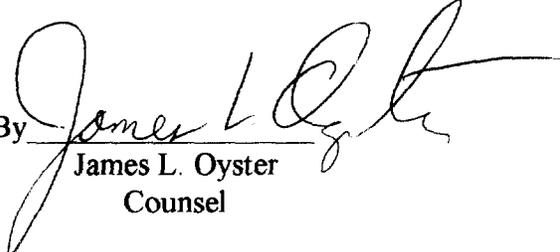
WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the Commission adopt either the Arzuaga or Serra proposals and deny the Calypso proposal.

Respectfully submitted,

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May 20, 1996

JOSE J. ARZUAGA

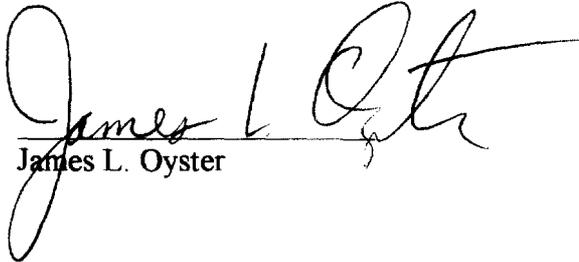
By 
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CERTIFICATE OF SERVICE

James L. Oyster hereby certifies that he has sent a copy of the foregoing by first class U.S. mail, postage prepaid, or by hand delivery, on or before the 20th day of May, 1996, to the following:

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