

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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SEP 9 1996

FCC MAIL ROOM

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments, FM Broadcast)
Stations, to Allocate Channel 265A)
to Siren, Wisconsin)

MM Docket No. 96-105
RM-8852

DOCKET FILE COPY ORIGINAL

TO: Chief, Allocations Branch

MOTION FOR LEAVE TO FILE REPLY COMMENTS

Badger Broadcasting Corporation hereby requests leave to file late Reply Comments in the above-captioned proceeding. Badger is unrepresented by counsel and was unaware of the reply comment deadline as it was not contained in the related Public Notice. We respectfully apologize to the Commission. However, the Commission's acceptance of the Reply Comments tendered with this Motion one week after the due date will not prejudice any other party and will serve the public interest by providing a complete record as a basis for action by the Commission.

Respectfully submitted,
BADGER BROADCASTING CORPORATION



Steven T. Moravec
President

Badger Broadcasting Corporation
1407 Sumner Street
Suite 200
St. Paul, MN 55116-2645

September 6, 1996

SEP 10 1996 Ody

CERTIFICATE OF SERVICE

I, Virginia L. Moravec, secretary of Badger Broadcasting Corporation, do hereby certify that a true and correct copy of the foregoing was duly served by U.S. mail, first class, postage prepaid, on the 6th day of September, 1996, to the offices of the following:

Timothy E. Welch
Hill & Welch
Suite 113
1330 New Hampshire Ave., N.W.
Washington, D.C. 20036

Pine City Broadcasting Company, Inc.
Station WCMP
R.R. 2
Pine City, MN 55063

David G. O'Neil
Rini, Coran, Lancellotta, P.C.
Suite 350
1350 Connecticut Ave., N.W.
Washington, D.C. 20036

Matthew H. McCormick
Reddy, Begley & McCormick
Suite 350
10001 22nd Street, N.W.
Washington, D.C. 20037

Tom W. Davidson, P.C.
Michael Ray
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
Suite 400
1333 New Hampshire Ave., N.W.
Washington, D.C. 20036


Virginia L. Moravec

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TO: Chief, Allocations Branch

REPLY COMMENTS OF BADGER BROADCASTING CORPORATION

Badger Broadcasting Corporation (“Badger”), the Petitioner in the above-captioned Rule Making, hereby reaffirms that it intends to apply for a construction permit for a new FM broadcast facility to operate on Channel 265A at Siren, Wisconsin if it is assigned, and, if authorized, to promptly build the facility. In support thereof, it is respectfully submitted:

1. The instant FM channel, would provide the village of Siren and Burnett County, Wisconsin, with its FIRST LOCAL FM SERVICE. Currently, Burnett County has no commercial AM or FM broadcast service licensed to it; its residents must rely on out-of-county and out-of-state stations which provide little local coverage.

2. On August 21, 1996, Harbor Broadcasting, Inc. ("HBI"), acting through its attorney, Timothy E. Welch, filed an Opposition to Petition For Rulemaking in response to the proposed Rule Making filed by Badger on June 28, 1996.

3. HBI, in its accompanying Engineering Statement dated August 20, 1996, proposed that the Commission consider the alternative allocation of Channel 289A at Siren, Wisconsin so as to allow HBI's upgrade of Station WWAX at Hermantown, Minnesota, a suburb of Duluth, Minnesota. (The Duluth-Superior market is home to nearly three dozen AM, FM and television stations.) Badger remains vigorously opposed to the substitution. Badger asserts that the public interest would be better served by an undiminished FIRST LOCAL FM SERVICE to the village of Siren and Burnett County, Wisconsin. Why must the needs of small town America always be subordinated to the country's larger markets?

4. HBI's proposal continues to be technically inferior to that submitted by Badger. Channel 265A is fully spaced near Siren and would allow an applicant a broad search area for a transmitter site. Substitution of Channel 289A reduces the site search area significantly, as the proposed reference coordinates for the latter channel are approximately seven miles (8.2 kilometers) northwest of Siren between two designated wildlife areas, the existence of which was known to but not discussed in HBI's pleading. The foregoing would greatly limit and severely impair the site selection process, perhaps rendering the substitute allocation unusable for all practical purposes, thereby negatively impacting on

any applicant's ability to provide quality FIRST LOCAL FM SERVICE to the village of Siren as well as all of Burnett County, Wisconsin.

5. HBI makes much of the existence of a transmission tower at its reference point to support its proposal. Badger asserts this "presumption" is without foundation whatsoever. The tower, part of the State of Wisconsin Educational Communications Board system, was built in the late 80's. By what stretch of imagination can it be construed that this in any way demonstrates a willingness on the part of the necessary governmental units and agencies to permit another such structure now? The argument lacks merit, and is no more than mere speculation.

6. In its so-called Engineering Statement HBI also speculates that "...the antenna for operation on Channel 289A *could* be mounted on this (the State system) tower". Badger finds this "possibility" unlikely at best, perhaps even misleading.

Badger's president, in a conversation on September 3, 1996, with the supervising engineer for the tower, was informed that the prospect was "highly doubtful" and that no commercial station has ever been allowed on any of the Board's collection of more than thirty towers across the state. Again, HBI has attempted to create its own version of reality to support its proposal.

7. Finally, in a classic example of "grasping at straws" HBI alleges that, with its proposal, 234 more persons would receive second service. Perhaps. But Badger wonders where these people reside? We desire to provide FIRST LOCAL FM SERVICE to Siren and all of Burnett County, Wisconsin, not one for already-served areas of bordering Minnesota.

WHEREFORE, it is respectfully requested that Badger's petition for allocation of Channel 265A at Siren, Wisconsin, be GRANTED and that HBI's proposal be DENIED.

Respectfully submitted,
BADGER BROADCASTING CORPORATION

A handwritten signature in black ink, appearing to read "S. Moravec", with a large, stylized initial "S" that loops around the first part of the name.

Steven T. Moravec
President

Badger Broadcasting Corporation
1407 Sumner Street
Suite 200
St. Paul, MN 55116-2645

September 6, 1996

(See companion Motion for Leave to File Reply Comments of September 6, 1996.)

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