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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Grandfathered Short-Spaced FM Stations)
)

MM Docket No. 96-120
RM 7651

To: The Commissioner

COMMENTS OF PINNACLE SOUTHEAST, INC. ~~DOCKET FILE COPY ORIGINAL~~
IN RESPONSE TO REPLY COMMENTS BY THE
NATIONAL ASSOCIATION OF BROADCASTERS

Pinnacle Southeast, Inc. ("Pinnacle"), licensee of WYNG-FM, Evansville, Indiana ("WYNG"), by its attorneys, respectfully submits these comments in response to the Reply Comments of the National Association of Broadcasters ("NAB") in the above-captioned proceeding.

WYNG is a grandfathered, short-spaced station that will be affected by this proceeding, and that was included in the study submitted by the NAB.^{1/} By Order Granting Extension of Time for Filing Reply Comments, DA 96-1222 (MMB released Aug. 2, 1996), the Commission granted an extension of time to and including October 4, 1996 within which Reply Comments could be filed by NAB and others, and further ordered that Comments in response to any Reply Comments submitted by NAB were to be filed by November 4, 1996.

In its Reply Comments, NAB identified 312 FM stations, including WYNG, that are involved in 460 probable short-spaced situations with second or third adjacent channels. NAB also studied the impact of any increased interference on receivers and concluded that the

^{1/} Grandfathered Short-Spaced FM Stations, Notice of Proposed Rulemaking, Docket No. 96-126, RM-7651, 11 FCC Rcd 7245 (1996).

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data did not support a general relaxation of second adjacent channel separation requirements. Based on these findings, NAB proposed in its Reply Comments an alternative to the Commission's rulemaking proposal to remove entirely second and third adjacent channel interference protections. Under the NAB alternative, a grandfathered, short-spaced FM station seeking any move or change of facilities would be required to make two showings: (1) a basic qualification showing that it meets the definition of a grandfathered, short-spaced FM station; and (2) a demonstration that the modification meets one or more of certain criteria. These criteria include a showing that the modification will result in a net decrease in the interference caused by the station based either on population or land area affected; that a shift in transmitter site is not to a location near a traffic thoroughfare; or that a shift in site is within some specified distance from the original site.

WYNG is a Class B FM station that is short-spaced to third adjacent channel WITZ, Jasper, Indiana. At present, the station operates at only 119 meters above average terrain rather than the maximum of 150 meters for a Class B facility. Under the current rules, WYNG could not improve its facilities at its present site because of the short-spacing with WITZ.

The changes proposed by the Commission would permit WYNG unilaterally to maximize its facilities for its class. While the NAB proposal would also allow such improvements, it would require burdensome demonstrations by the station that it both qualified as a grandfathered, short-spaced FM station and that it satisfied one or more of the criteria specified. These requirements seemed keyed toward Class A stations which are totally enveloped by their second or third adjacent short-spaced stations' 1.0 mV/m contour, or to a situation in which a station is proposing to change the location of its transmitter. Where a

change in transmitter site toward a short-spaced station is being proposed, the demonstrations suggested by NAB would be appropriate and justified, as well as the opportunity for the other station to demonstrate why the change in facilities should not be approved. In these circumstances, therefore, we would support NAB's alternative proposal. However, in the case of WYNG, there is only interference in a portion of the station's protected contour. Therefore, where a station is not totally encompassed by the protected contour of the other station and where no transmitter site change is involved, the Commission should allow stations with second and third adjacent short-spacing to increase to maximum facilities for their respective class without further demonstrations for the reasons stated in the Commission's notice.

Respectfully submitted,

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