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November 22, 1996

BY HAND DELIVERY

DOCKET FILE COPY ORIGINAL

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

Re: MM Docket No. 96-204

Dear Mr. Caton:

On behalf of Terry Hailey, there is submitted herewith, by hand, one original and four copies of Comments in response to the Notice of Proposed Rule Making in MM Docket No. 96-204.

Should any question arise concerning this matter, kindly advise the undersigned.

Respectfully submitted,



Philip R. Hochberg

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NOV 22 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

In the Matter of)	
)	
Amendment of Section 73.202(b)	)	MM Docket No. 96-204
Table of Allotments	)	RM-8876
FM Broadcast Stations)	
(Martin and Tiptonville, Tennessee))	

COMMENTS

Comes now Terry Hailey ("Hailey"), by his attorney, and hereby submits Comments in response to the Notice of Proposed Rule Making ("Notice") released on October 4, 1996, proposing to substitute Channel 267C3 for Channel 269A at Martin, Tennessee and to delete Channel 267C3 from Tiptonville, Tennessee. The Notice was issued after a Petition for Rule Making was filed by Thunderbolt Broadcasting Co. ("Thunderbolt"), licensee of WCMT-FM, operating on Channel 269A at Martin, Tennessee.

Hailey opposes the Commission proposal and urges the Commission to retain Channel 267C3 at Tiptonville, where Hailey states that he or an associated entity will apply for the channel.

BACKGROUND

On February 1, 1990, the Commission invited comments on adding a channel at Obion, Tennessee. On March 29, 1990, WENK of

Union City, Inc. ("WENK") filed Comments and a Counter-Proposal in that proceeding seeking to have Channel 267C3 allotted to Tiptonville, citing the fact that it would provide the first service to both the community and to Lake County, Tennessee.

WENK subsequently filed for and was awarded the Construction Permit to construct what became WAAT, Tiptonville. On September 15, 1994, WENK filed applications for an Extension of Time to Construct (BMPH-940915JA) and for a Modification of its Construction Permit (BMPH-940921IC), seeking to move to a site that was better suited in a number of respects.^{1/}

Subsequent to the FCC grant of the Tiptonville Construction Permit to WENK, Thunderbolt had become much more active in the same geographic region of Northwestern Tennessee (and Southwestern Kentucky) which was to have been served by WAAT.^{2/} On November 2, 1994 -- seven weeks after the Extension and

1/ WENK had sought to move its facility from a site adjacent to the Mississippi River -- which would have taken rich Delta farmland out of production ("farmland site") -- to a nearby site ("mountain site"). The mountain site was not the first alternative site identified by WENK. It had reached an agreement to lease a site in Elbridge, Tennessee and was prepared to seek a modification of its permit in July 1994. At the eleventh hour before filing, the existence of a new facility authorized at Jackson, Tennessee was discovered, precluding specification of the Elbridge site.

2/ In addition to its operation of WCMT (AM) and WCMT-FM in Martin (about 35 miles east of Tiptonville) and WCDZ-FM in Dresden (about 42 miles east of Tiptonville), Thunderbolt sought to have a channel added to Clinton, Kentucky (some 35 miles north of Tiptonville).

Modification applications were filed by WENK -- Thunderbolt filed an opposition to the applications.

Apparently adopting the role of a Private Attorney General, Thunderbolt raised questions about the WENK filings, but failed to identify what its interests were and failed to note its extensive operations in the area.^{3/}

On October 27, 1995, the Commission refused to grant the Modification sought by WENK and, at the same time, refused to grant the Extension of Time to permit construction at the original site. A Petition for Reconsideration was filed by WENK, but by letter dated July 31, 1996, the Commission denied the Petition, cancelled the Permit and deleted the call sign.^{4/}

On August 22, 1996, WENK notified the Commission that it would not seek further appeals of the Commission action.

Nine business days later, on September 5, 1996, Thunderbolt filed the Petition for Rule Making which resulted in the Commission's proposal, seeking to strip Tiptonville of its allotted channel. Thunderbolt's purpose, simply stated, was to

upgrade [its] existing station [in Martin]
... [and] to build the upgraded facility
promptly.^{5/}

3/ See Note 2 supra.

4/ Public Notice Report No. 23796, issued August 6, 1996.

5/ Thunderbolt Petition for Rule Making at 2.

SUBSTANTIVE ARGUMENT

(a) Expression of Interest

In its Notice of Proposed Rule Making, the Commission indicated that it would not be quite so quick to take away the first channel allotted for Tiptonville and Lake County. It said:

[W]e note that the Commission does not delete a channel in which interest has been expressed. Therefore, should the Commission receive an expression of interest ... for Channel 267C3 at Tiptonville, Tennessee, petitioner's proposal to delete Channel 267C3 at Tiptonville may be dismissed.^{6/}

With the instant filing, Hailey^{7/} hereby states to the Commission "an expression of interest" in keeping the channel in Tiptonville.

(b) Tiptonville's Need for Channel

Located at the southwest corner of Reelfoot Lake -- described by some as "the greatest hunting and fishing preserve in the nation" -- Tiptonville, the county seat of Lake County, is a thriving community which wants (and needs) its first local radio service. Indeed, as stated above, allotting a channel to Tiptonville would create the first service to any community in Lake County.

6/ Notice at Para. 3. (Footnote omitted.)

7/ It should be noted that Hailey was a principal of WENK, the Permittee of WAAT, owning 10% of the stock.

Tiptonville is a vibrant small community of 2149 in Western Tennessee. The community includes a significant minority population -- about thirty percent.

Industry thrives in Tiptonville. In addition to Georgia Gulf Corporation, Plastics Technology, and Tri-County Alfalfa Co-op, Inc. (listed in the attached summary), Tiptonville is the site of one of the major private employers in Western Tennessee, H.I. Siegel Corporation, manufacturers of Chic Jeans (for women), which employs some 225 persons.

The community is the headquarters of Reelfoot Lake State Resort Park. The Park, which covers some 18,725 acres, offers a large variety of motels, inns, restaurants, campgrounds, pools, fishing, boating, picnic areas, a museum, and an auditorium.

Tiptonville has full-time police and fire departments (supplemented by 20 volunteer firemen) and municipal garbage disposal.

From an educational standpoint, Tiptonville is the site of the only high school in the county and of one of two county elementary schools.

At present, only a portion of a small cable system and a weekly newspaper provide opportunities for expression in

Tiptonville. No radio station is licensed to the city or even provides local service to it.

Further information on Tiptonville can be found in the attached Demographic Exhibit from Reelfoot Area Tennessee Community Profile, published by the West Tennessee Industrial Association, Jackson, Tennessee.

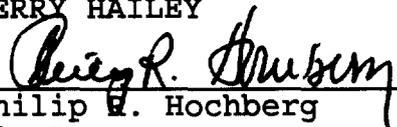
CONCLUSION

For the reasons stated above, Hailey urges that the Commission continue to allot Channel 267C3 to Tiptonville, Tennessee. If the Commission were to retain its Channel 267C3 allotment at Tiptonville, Hailey hereby commits to filing an application for the Tiptonville facility.

Respectfully submitted,

TERRY HAILEY

By


Philip W. Hochberg
His Attorney

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VLDC01-140826.1

DEMOGRAPHIC EXHIBIT

Tiptonville

LOCATION AND HISTORY

Tiptonville, the county seat of Lake County, is located in the northwest corner of West Tennessee, midway between Reelfoot Lake and the Mississippi River. The city of Memphis lies 100 miles directly downriver, and Nashville is 180 miles east. Hickman, Kentucky, is 22 miles north, and Portageville, Missouri, is 15 miles west.

The Mississippi River has always played an important part in Tiptonville's history. The first settlers came to the area in 1825 and soon established a river boat landing. In 1832, William Tipton came to the area as a merchant on a trading boat. It was later in his honor that the town was named "Tiptonville." Due to the caving banks of the Mississippi River, the town was forced to retreat eastward, until 1900, the same year the town was incorporated. Today the town is approximately one mile from its original location.

POPULATION - 1960 - 1980

	<u>1960</u>	<u>1970</u>	<u>1980</u>
Tiptonville	2068	2407	2438

Population Characteristics

A breakdown of the population from the 1980 Bureau of Census report is as follows:

	<u>White</u>	<u>Black</u>	<u>Others</u>
Tiptonville	1685	752	1

UTILITIES

Electric Power

Electric power is distributed in Lake County by the Gibson Electric Membership Corporation, which has a contract with the Tennessee Valley Authority. Gibson Electric Membership Corporation, with headquarters in Trenton, Tennessee, has over 29,000 consumers in a 3200 square-mile service area. Its power is supplied through 14 primary substations with over 300,000 kW capacity. Lake County is served through a substation of 20,000 kW capacity and supplied through a 69 KV transmission line. Gibson Electric Membership Corporation operates under GP-10 and RP-11 rate schedules. (See Appendix 1 for rates.)

Fuel - Due to fluctuation of the price of coal and fuel oil, prices are not included. They will be furnished upon request.

Natural Gas - Natural gas is distributed by the Lake County Utility District and is purchased from Trunkline Gas Company. The supply is furnished to the city through a 4" and 6" high pressure transmission line. Heating value of the gas averages 1,015 BTU per cubic foot. Natural gas rates will be furnished upon request. (See Appendix 5 for rates.)

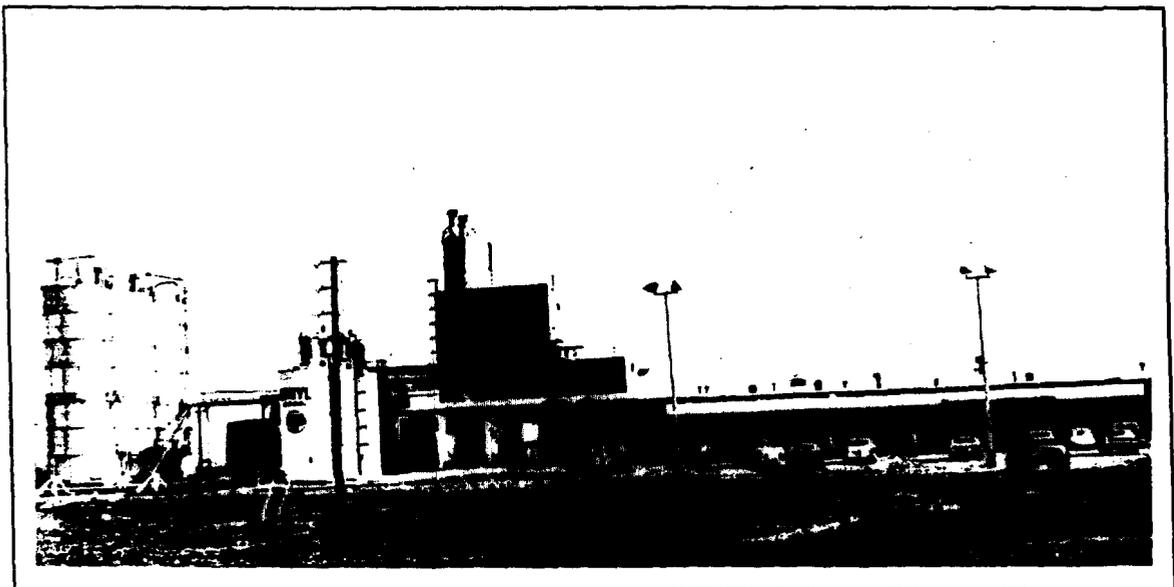
Water - A water plant has been constructed and provides emergency storage capacity for 24 hours. The city of Tiptonville has installed a new water supply system for future use that will provide 500,000 gallons of water for residential, commercial, and industrial uses. This system is computer controlled. In addition to the above mentioned, the city of Tiptonville has completed a water storage tank with a 200,000 gallon capacity. This is located in a one and one-half story building. (See Appendix 3 for rates.)

Sanitation and Sewerage - Wastewater facilities have been completed in which wastewater is purified to 99 percent purity.

EXISTING INDUSTRY

Georgia Gulf Corporation

Product:	Plastics
Employment:	Male - 65 Female - 6
Union:	United Rubber Workers



Georgia Gulf Corporation

Plastics Technology

Product: Plastic compounding & pelletization
thermo plastic injection molding
Employment: Male - 12 Female - 1
Union: None

Tri-County Alfalfa Co-op, Inc.

Product: Dehydrated alfalfa
Employment: Male - 12 Female - 1
Union: None

CITY GOVERNMENT AND SERVICES

Tiptonville is governed by a mayor-alderman form of government. The Board of Aldermen is composed of six men elected every four years and a mayor elected to serve for a four-year term.

City Services

Police Department: 5 full-time policemen
2 cars

Fire Department: 1 full-time fireman
20 volunteers
2 trucks, 1,000 GPM

Class 7 fire insurance rating.

Garbage Disposal: Municipal Service
Residential - once weekly
Commercial - twice weekly

Parking Facilities - Sufficient on-street parking spaces are available in the central business district.

Planning and Zoning - Tiptonville has a zoning ordinance and planning commission with a contract with the Tennessee State Planning Commission.

CITY-COUNTY TAXES

The following property tax rates per \$100 evaluation are in effect for Tiptonville and Lake County:

	<u>Within City Limits</u>	Outside of City
City	\$1.35	\$0.00
County	<u>\$2.85</u>	<u>\$2.85</u>
	\$4.20	\$2.85

Assessed Valuation

City	.....	\$7,065,536
County	.....	\$34,807,400

Bonded Debt

City	.....	2,188,380
County	.....	\$176,446,152

FINANCIAL INSTITUTIONS

First State Bank & Trust Company

Assets	\$25,324,605
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The First State Bank in Tiptonville has modern facilities for every banking convenience.

TRANSPORTATION

Highways - Tiptonville is located on State Highway 78 which runs to Dyersburg, connecting with US Highway 51 north and south. From Dyersburg, State Highway 20 leads to Interstate 40 at Jackson. Highways 21 and 22 connect to Highway 51 at Union City.

Truck Lines

Service is available from any truck line needed by an industry. This service is provided direct to the company or through terminals throughout the area.

Airport

Reelfoot Airpark, state operated, is eight miles north of Tiptonville, on State Highway 78 and adjacent to Reelfoot Lake. The concrete 3500 foot airstrip is all-weather and lighted.



Airstrip at Reelfoot Airpark

Gooch's Airport, privately owned, is one and one-half miles east of Tiptonville on Highway 22. A sodded landing strip of 2400 feet is used extensively by light planes. No lights or services are available.

Dyersburg Municipal Airport, 25 miles, has two lighted 4200-foot concrete runways, with repair service, hangars and a FAA station.

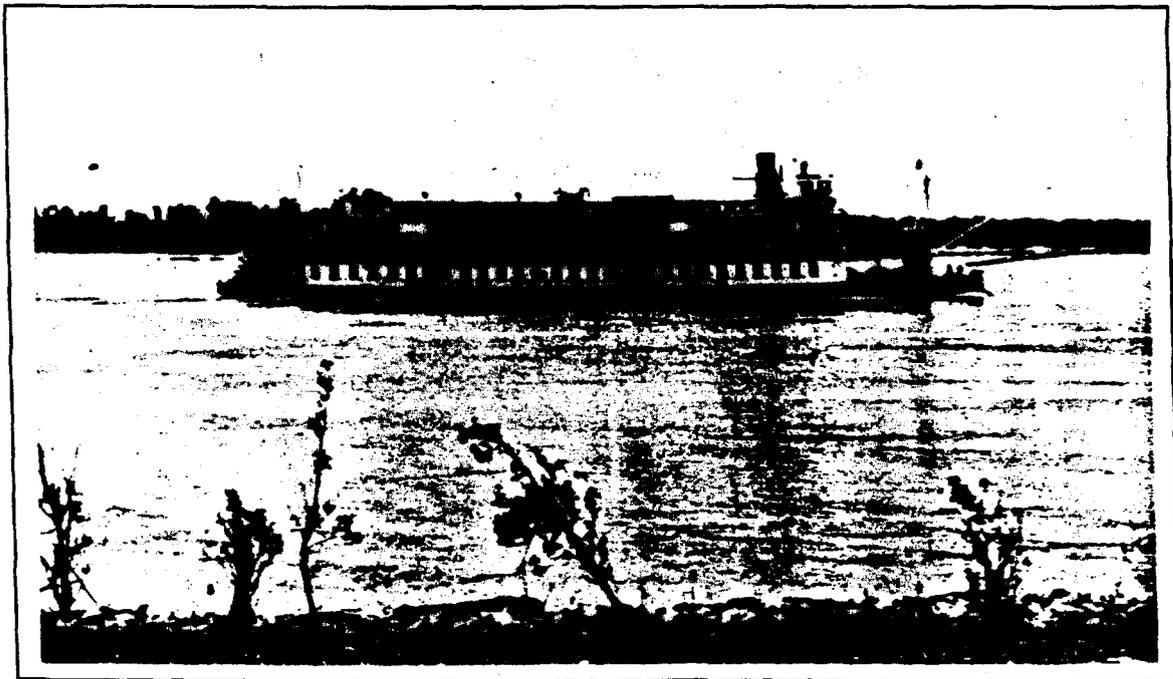
Memphis International Airport is approximately 110 miles from Tiptonville. Memphis offers eight major airlines, six commuter airlines, and 42 air freight companies. Federal Express is based in Memphis.

Barge Facilities

The Mississippi River is located three miles west of Dyersburg via State Route 21. Public barge facilities are located at Hickman, Kentucky, and Caruthersville, Missouri. Excellent distribution services with overnight trucking are available from the Memphis port facility.

COMMUNICATIONS

Postal Facilities - Tiptonville is served by a second class post office with eleven employees.



The mighty Mississippi River that borders Tiptonville and Lake County provides both transportation and recreation.

Telephone - Telephone service is provided by South Central Bell.

Radio - There are no local radio stations; however, there is good reception from Dyersburg, Tennessee; Union City, Tennessee; Memphis, Tennessee; Portageville, Missouri; and Blytheville, Arkansas.

Television - Various networks are received from Memphis, Tennessee; Jackson, Tennessee; Paducah, Kentucky; and Cape Girardeau, Missouri; Channel 2 Cable News Networks from Tiptonville; Cable TV; HBO; and Cinemax are available.

Newspapers - Weekly - The Lake County Banner. Daily - The Commercial Appeal (Memphis).

LIVING CONDITIONS

Elevation - 290 feet above sea level.

The mighty Mississippi River that borders Tiptonville and Lake County provides both transportation and recreation.

Housing - New home prices average approximately \$30 to \$35 per square-foot for construction cost.

Churches - There are nine churches in the community, of several Protestant denominations. Catholic and Episcopal churches are located in Dyersburg and Union City.

Medical Facilities

Located in Tiptonville is a city-owned clinic with limited bed space for emergencies, childbirth, county-wide health department, etc. Tiptonville is also served by a dentist and a 119-bed long term care nursing home, The Reelfoot Manor. Ridgely (eight miles) has no doctors at the present time but has one dentist and access to the county-wide health department. There are 80 units for elderly residents, age 62 and above, completed in Tiptonville in 1986, Wesley Homes with 43 units and Colonial House with 37 units.

Dyersburg (25 miles) has a modern well-staffed 160-bed hospital, a 71-bed nursing home, and a 50-bed private nursing home. Union City (30 miles) has an excellent 173-bed hospital, an 86-bed nursing home and a 49-bed rest home. The South's leading medical center is in Memphis (100 miles).

Education

Lake County High School, grades 9 through 12, is located in Tiptonville. The high school has been expanded to include a \$350,000 vocational wing which will provide facilities on the campus for all the vocational classes now requested plus possible future ones.

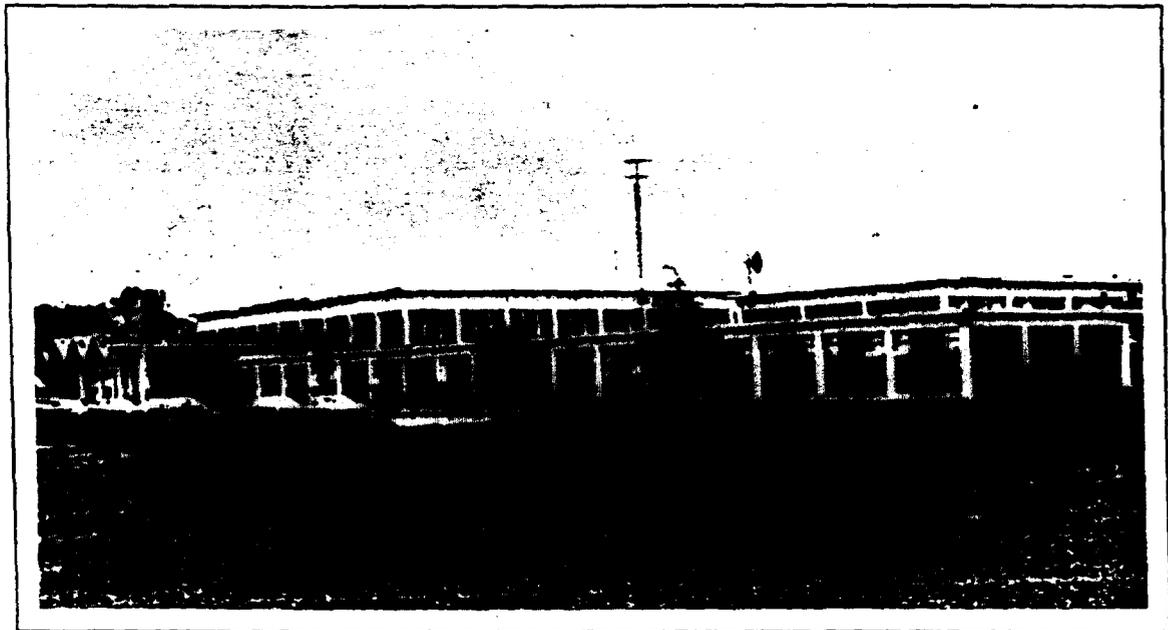
Also located in Tiptonville is Margaret Newton, grades K through 6. For additional educational information see page 18 of the county information.

Fraternal and Civic Organizations - Tiptonville has the following clubs and organizations: Masonic Lodge, Lions Club, Kiwanis Club, Civitan Club, American Legion and Auxiliary, Senior Women's Club, Chickasaw Junior Woman's Club, Reelfoot Woman's Club, Junior Woman's Club, Sub-Junior Woman's Club, Lake County Historical Society, and the Junior Chamber of Commerce (which is located at the Lake County Regional Correctional Facility, three miles north of Tiptonville.) Tiptonville is also a participant of the Reelfoot Area Chamber of Commerce and a Booster Club.

Recreation

Tiptonville has a lighted baseball park used for summer recreation for Little League and men and women's softball. Civic clubs sponsor and coach Little League teams. Tennis courts are also available.

Reelfoot Lake State Park, located in Lake and Obion Counties, contains about 18,725 acres, 18,000 of which are water. Reelfoot, created by a series of severe earthquakes during the winter of 1811-12, is said to be the greatest hunting and fishing preserve in the nation. The park offers a large variety of motels, inns, restaurants, campgrounds, swimming pools, fishing, boating, picnic areas, a museum and auditorium.



Lake County High School

INDUSTRIAL SITE

1. Tiptonville Industrial Site

Acres: 35
Location: Three miles east of the Mississippi River and located within the extreme east city limits of Tiptonville, 300 feet west of State Highway 78.
Rail: The Tennken Railroad, 300 feet west of the Tiptonville industrial site, serves this area.
Utilities: Electricity - Can be made available through Gibson Electric Membership Corporation.
Water - Served by City of Tiptonville, 10" 75 p.s.i. line, adjacent to site.
Sewer - Served through 12" line
Gas - Served by Lake County Utility District through 4" line.
Zoning: Industrial

CERTIFICATE OF SERVICE

I, Dawn Adkins, a legal secretary with the law firm of Verner, Liipfert, Bernhard, McPherson & Hand, hereby certify that on this 2nd day of November, 1996, I placed in the mail via first class, postage prepaid, copies of the foregoing **Comments of Terry Hailey** in **MM Docket No. 96-204** , to the following:

John Garziglia, Esq.
Pepper & Corazzini
1776 K ST., NW
WASHINGTON, D.C. 20006


Dawn Adkins