

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

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In re )  
)  
Amendment of Section 73.202(b) )  
Table of Allotments, )  
FM Broadcast Stations )  
(Cheyenne, Wyoming and )  
Gering, Nebraska) )

MM Docket No. 97-106  
RM-9071

RECEIVED

JUN 23 1997

Federal Communications Commission  
Office of Secretary

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**REPLY COMMENTS OF TSB II, INC.**

TSB II, Inc. ("TSB II"), by its attorneys, hereby submits its reply comments in the above-referenced proceeding that proposes to amend Section 73.202(b) of the Commission's rules, the Table of Allotments for FM Broadcast Stations, to allot Channel 280C2 to Cheyenne, Wyoming as the sixth local FM service to that community and substitute Channel 239C3 for Channel 280C3 at Gering, Nebraska.

As stated in its original comments, TSB II initiated the instant rule making proceeding and proposed the amendment of the FM Table of Allotments to permit the allocation of Channel 280C2 to Cheyenne, Wyoming. In support of that proposal, TSB II attached as Exhibit I of its original Petition for Rule Making and Order to Show Cause and its original comments an Engineering Report and accompanying channel spacing study which shows that the allotment of Channel 280C2 to Cheyenne satisfies all the Commission's spacing requirements for a new FM allotment as long as a substitution is made for Channel 280C3 at Gering, Nebraska. The

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Commission has concurred with this finding and thus issued a *Notice of Proposed Rule Making and Order to Show Cause*, released March 28, 1997, in the above-captioned proceeding (DA 97-585)(“*NPRM*”). In the *NPRM*, the Commission seeks comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission’s rules, to allot channel 280C2 at Cheyenne, Wyoming, and substitute channel 239C3 for channel 280C3 at Gering, Nebraska in order to accommodate TSB II’s request.

TSB II hereby reaffirms its support for its original proposal and its intention to apply for an FM radio station on Channel 280C2 in Cheyenne should such an allotment be made and an application filing window subsequently opened as a result of this rule making. When and if said application is granted, TSB II intends to proceed to construct the radio station without delay, and will promptly commence service to the residents of Cheyenne and the surrounding area in the public interest.

Furthermore, as stated in its Petition for Rule Making and Order to Show Cause and its original comments in this proceeding, in the event that TSB II is granted a construction permit to build a new facility to operate on Channel 280C2 in Cheyenne, it agrees to reimburse Tracy Broadcasting Corporation (“TBC”), the licensee of Station KOLT-FM, which currently uses Channel 280C3 at Gering, Nebraska, for the latter’s reasonable expenses incurred in making the proposed change. In its own comments and counterproposal filed in this proceeding, TBC “estimates that the modification proposed by TSB II will cost [TBC] approximately \$100,000.”<sup>1</sup> While TSB II recognizes and accepts its obligation to reimburse TBC for the latter’s *reasonable* expenses incurred if the Commission finds that TBC’s KOLT should operate on a different

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<sup>1</sup> TBC Comments at ¶10.

channel in order to accommodate TSB II's proposal, TBC's estimate of \$100,000 is excessive. For this reason, although the issue is not entirely relevant in the instant rule making proceeding, TSB II urges the Commission to clarify in its order, should one be issued that grants TSB II's proposal, that TSB II is not responsible for excessive upgrade and other expenses that are not *reasonable* and should more appropriately be incurred by TBC itself. In any event, should its proposal be granted, TSB II is confident that the parties will be able to negotiate the reimbursement of the reasonable expenses that would result from the relocation of KOLT's operation to another channel.

It is also important to note TSB II's understanding that the above acceptance of its obligation to reimburse TBC for the reasonable expenses incurred in changing channels of operation under TSB II's proposal does not translate into an acceptance of responsibility for any expenses, reasonable or otherwise, incurred through implementation of TBC's counterproposal, in the event that TBC's counterproposal is granted instead of TSB II's original proposal. By presenting its counterproposal before the Commission in this proceeding, TBC has shown its willingness to implement the upgrades proposed therein and TBC alone should be responsible for the costs, however high, of the extensive upgrades it alone has proposed.

WHEREFORE, TSB II continues to support its original proposal to amend Section 73.202(b) of the Commission's rules, the Table of Allotments for FM Broadcast Stations, to allot

Channel 280C2 to Cheyenne, Wyoming as the sixth local FM service to that community and substitute Channel 239C3 for Channel 280C3 at Gering, Nebraska.

Respectfully submitted,

**TSB II, INC.**

By:   
Alan C. Campbell  
Elizabeth A. Sims

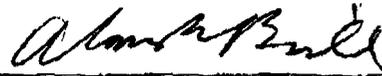
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June 3, 1997

DECLARATION OF ALAN R. BRILL

I, Alan R. Brill, President of TSB II, Inc. ("TSB II"), under pain and penalty of perjury, do hereby declare that I have read the foregoing "Reply Comments of TSB II, Inc.," filed on this date by TSB II, and the facts presented therein are true and correct to the best of my knowledge, information and belief.



Alan R. Brill  
President

Date: \_\_\_\_\_

6/2/97

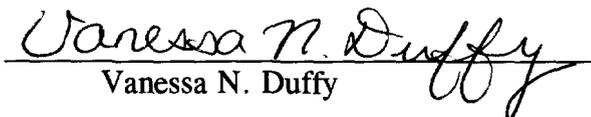
## CERTIFICATE OF SERVICE

I, Vanessa N. Duffy, hereby certify that on this 3rd day of June, 1997, copies of the foregoing "Reply Comments of TSB II, Inc." have been served by U.S. first-class mail, postage prepaid, upon the following:

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