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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC

In the Matter of

Amendment of Section 73.202(b)	)	
Table of Allotments	)	
FM Broadcast Stations	)	MM Docket No. 98-55
(Pleasanton, Bandera and Hondo, Texas)	)	RM - 9255

REPLY COMMENTS

Reding Broadcasting Company ("RBC"), licensee of Station KBUC(FM), Pleasanton, Texas, by its counsel, hereby submits Reply Comments to the "Comments and Counterproposal" of Comal Broadcasting Company ("Comal") and the "Comments and Counterproposal of North American Broadcasting Company" ("NABC"). Both filings are fatally defective as counterproposals and should not be accepted and placed on Public Notice. In support hereof, RBC states as follows:

Comal Broadcasting Company

1. Comal requested the allotment of Channel 253C2 to Blanco, Texas. According to the channel study submitted with the filing, Channel 252A must be deleted from Bandera and Channel 276A substituted there and Channel 253A must be deleted from Hondo, Texas and 290A substituted there. Comal states that it will apply for Channel 253C2 if allotted to Blanco. However Comal fails to state that it would reimburse James Withers, licensee of Station KEEP(FM), Bandera, Texas, for the reasonable costs of its channel change. See Circleville, Ohio, 8 FCC 2d 159(1967).

2. In addition, Comal fails to include a statement from Five Points Broadcasting, Inc. ("Five Points"), the permittee of Station KRBH(FM), Hondo, Texas, that it is willing to change its transmitter site should the Commission grant the Blanco proposal. It is true that Five Points agreed

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to change its transmitter site for RBC's proposal. However RBC obtained Five Point's prior consent based on the agreement submitted with the counterproposal. Although Five Points has not constructed KRBH, it could certainly do so at this time and should not be required to pay the costs of its own transmitter site change should Channel 290A be substituted at Hondo. See Burkesville and Russell Springs, Kentucky et. al., 5 FCC Rcd 677 (1990). In the event Five Points decided to construct its station prior to final action on this rule making proceeding and were then required to change to Channel 290A, it would be entitled to reimbursement.

3. The Commission requires that counterproposals be technically and procedurally correct at the time they are filed. See e.g., Naples, Florida, 10 FCC Rcd 6548 at para 9 (1995); ("the reimbursement pledge is a fundamental component of any counterproposal and must be present or the counterproposal is deficient and must be dismissed); and Lonoke, Arkansas, et. al., 6 FCC Rcd 4861 at note 4 (1991). Comal, as a benefitting party, was required to state at the time of filing its counterproposal that it would reimburse the Bandera and, if necessary, the Hondo stations if its Blanco proposal were granted. The Blanco proposal is in direct conflict with the counterproposal filed by RBC to allot Channel 253C1 at Schertz, Texas in place of the current allotment of Channel 252A at Pleasanton, Texas.[1] Therefore, RBC would be prejudiced by the acceptance of the Comal counterproposal.

NORTH AMERICAN BROADCASTING COMPANY

4. NABC proposes an alternate channel for Station KEEP(FM), Bandera, Texas at its current transmitter site so that Channel 276C2 at Karnes City, Texas can be allotted at a new

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1. The Blanco proposal also conflicts with the proposed upgrade of Station KBUC from Channel 252A to Channel 253C2 at Pleasanton.

reference point 5.9 km north instead of 16 km east. NABC is one of three applicants for Channel 276C2 at Karnes City. NABC fails to demonstrate that Channel 276C2 can be allotted to Karnes City at a new reference point by failing to provide coordinates and a channel study. It is not known whether there is any short spacing at this new location. NABC's failure to offer a technical showing for its new reference point is a fatal defect making its counterproposal unacceptable for filing. See e.g., Provincetown, Massachusetts, et al., 8 FCC Rcd 19 (1993) ("at a minimum, we have held that the petition must provide...specific transmitter site coordinates and engineering studies which indicate that the station would meet the minimum separation...requirements."). Rockport, Texas et. al. 4 FCC Rcd 8075 at para. 2 (1989) and Rosendale, New York, 10 FCC Rcd 11471 (1995).

5. Neither of the other two applicants were served with this new proposal in order to provide them with an opportunity to comment on the effect that the new reference point would have their application site or their willingness to compete for the allotment.

6. In addition, NABC proposes to substitute Channel 251A for Channel 256A at Camp Wood, Texas. NABC fails to state that it would reimburse the permittee for any reasonable costs in changing channels should the permittee take any significant steps towards constructing the facility on Channel 256A. RBC is aware that the permittee, La Radio Cristiana Network, Inc. ("LRCN"), has filed reply comments supporting the channel change to 251 because the new channel will allow an increase to Class C3 facilities. However, any such increase must await the outcome of this rule making proceeding because the request for a higher class channel can not be made in reply comments and the permittee did not indicate that it desires a nonadjacent channel upgrade which subjects it to other expressions of interest.

7. With the knowledge that LRCN can not have its upgrade approved in this proceeding and that it must await a favorable outcome here and then file for its upgrade, there is no certainty that the upgrade will be available at a later date. Since the Commission will not accept the 251C3 proposal here, the channel will not be protected against subsequent filings. Thus, LRCN may desire to construct its facility on Channel 256A. See Burkesville and Russell Springs, Kentucky et. al, supra. But NABC has failed to indicate that it is willing to reimburse LRCN should it decide to construct during the period when the instant rule making is pending. This failure to pledge reimbursement is also a fatal defect. See e.g., Naples, Florida., supra.

8. Thus, RBC urges the Commission to dismiss NABC's counterproposal as unacceptable for filing.

Respectfully submitted,

REDING BROADCASTING COMPANY

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CERTIFICATE OF SERVICE

I, Lisa M. Balzer, do hereby certify that on this 23rd day of June, 1998, I have hand delivered or mailed the foregoing "REPLY COMMENTS" to the following:

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