

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	EB Docket No. 03-152
)	
WILLIAM L. ZAWILA)	Facility ID No. 72672
)	
Permittee of FM Station KNKS, Coalinga, California)	
)	
AVENAL EDUCATIONAL SERVICES, INC.)	Facility ID No. 3365
)	
Permittee of FM Station KAAX, Avenal, California)	
)	
CENTRAL VALLEY EDUCATIONAL SERVICES, INC.)	Facility ID No. 9993
)	
Permittee of FM Station KYAF, Firebaugh, California)	
)	
H. L. CHARLES D/B/A FORD CITY BROADCASTING)	Facility ID No. 22030
)	
Permittee of FM Station KZPE, Ford City, California)	
)	
LINDA WARE D/B/A LINDSAY BROADCASTING)	Facility ID No. 37725
)	
Licensee of FM Station KZPO, Lindsay, California)	

To: Marlene H. Dortch, Secretary
Attn: Chief Administrative Law Judge Richard L. Sippel

ENFORCEMENT BUREAU'S MOTION TO STRIKE UNAUTHORIZED REPLY

1. On July 17, 2015, Avenal Educational Services, Inc. (Avenal) and Central Valley Educational Services, Inc. (Central Valley) filed a Reply to the Enforcement Bureau's (Bureau) Opposition to Avenal and Central Valley's earlier-filed Motion to Strike.¹ While the Bureau is loath to file yet another pleading on this issue, this Reply is unauthorized and should not be entertained.² On this basis alone, the Chief, Enforcement Bureau, respectfully requests that the Presiding Judge strike Avenal and Central Valley's Reply in its entirety from the record.

2. Moreover, Avenal and Central Valley's unauthorized Reply fails to present anything new concerning whether this proceeding should be enlarged to include the issue of Avenal and Central Valley's applicant eligibility at the time they filed their respective applications for Stations KAAX (FM) and KYAF (FM). In its Motion to Add Issues, the Bureau demonstrated that the question of whether Avenal and Central Valley were qualified applicants under Section 73.503(a) of the Commission's rules at the time they filed their applications is of decisional significance to those issues already designated for hearing in the Order To Show Cause, Notice of Opportunity For Hearing, and Hearing Designation Order (HDO).³ Specifically, the Bureau noted that if Avenal and Central Valley were not qualified applicants under the Commission's rules, then they should never have been granted the authorizations for these Stations, and as a result, the issues designated in the HDO relating to Avenal's and Central

¹ See Reply to Enforcement Bureau's Opposition to Motion to Strike, filed July 17, 2015 (Reply).

² See 47 C.F.R. § 1.294(b) (stating that, except as to the limited categories set forth in subsection (c) – none of which apply here – “replies to oppositions will not be entertained”).

³ See Enforcement Bureau's Motion to Add Issues, filed June 16, 2015, at 4-6. In response to a request from the Presiding Judge to include a proposed order, the Bureau filed the same motion as it filed on June 16 but added a proposed order. See Enforcement Bureau's Supplemental Motion to Add Issues With Proposed Order, filed June 18, 2015, at 4-6 (EB Motion).

Valley's responsibilities for the operation of these Stations would be moot.⁴ Avenal and Central Valley do not refute that resolution of the applicant eligibility question is of decisional significance to the issues already designated in the HDO.⁵

3. Instead, they use their unauthorized Reply as another opportunity to assert that they are not subject to the applicant eligibility requirements for non-commercial stations set out in Section 73.503 because they filed their applications in a non-reserved band that allows them to change the status of their stations from non-commercial to commercial.⁶ This is the same argument Avenal and Central Valley made in their June 24, 2015 Opposition to the Bureau's Motion to Add Issues⁷ and again in their July 6, 2015 pleading,⁸ which they entitled a Motion to Strike but which they have subsequently admitted was a thinly-disguised sur-reply.⁹ The Bureau has already responded to Avenal and Central Valley's argument in two previous pleadings.¹⁰ Avenal and Central Valley should not be permitted to continue to clutter the record with repetitive (and unauthorized) pleadings. On this basis, as well, the Bureau respectfully requests that the Presiding Judge strike Avenal and Central Valley's Reply from the record.

⁴ See EB Motion at 4-6.

⁵ See Reply at 2 ("[t]he requested issue...is a legal assumption that, if accepted, would result in the summary dismissal of this permittee's authorizations, and derivatively would terminate their rights in the hearing").

⁶ See, e.g., Reply at 2-3.

⁷ See Opposition to Enforcement Bureau's Supplemental Motion to Add Issues With Proposed Order, filed June 24, 2015.

⁸ See Motion to Strike, filed July 6, 2015.

⁹ See Reply at 2.

¹⁰ See Enforcement Bureau's Reply Brief In Support Of Its Supplemental Motion To Add Issues With Proposed Order, filed July 1, 2015, at 5; Enforcement Bureau's Opposition to Motion to Strike, filed July 15, 2015. In their Reply, Avenal and Central Valley accuse the Bureau of ignoring the differences between the non-reserved and reserved bands. Reply at 2-4. The Bureau has not ignored these differences. Instead, the Bureau contends that it is immaterial for the purposes of Section 73.503(a) of the Commission's rules whether Avenal and Central Valley *could* change their status from non-commercial to commercial, because at the time they sought their construction permits, and the licenses to cover those permits, their stations were designated as a non-commercial, and as such were subject to the rules for non-commercial stations.

Respectfully submitted,

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July 23, 2015

CERTIFICATE OF SERVICE

Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 23rd day of July, 2015, sent copies of the foregoing "ENFORCEMENT BUREAU'S MOTION TO STRIKE UNAUTHORIZED REPLY" to:

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