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February 3, 1999

BY HAND DELIVERY

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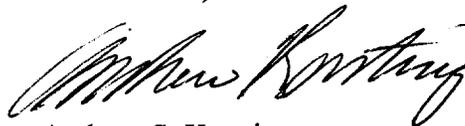
Re: Reply Comments
MM Docket No. 98-209; RM 9406
(De Ridder, Louisiana)

Dear Ms. Salas:

Transmitted herewith on behalf of Proctor-Williams, Inc., are an original and four copies of its Reply Comments in the above-referenced rulemaking proceeding.

Should any questions arise concerning this matter, please communicate directly with this office.

Very truly yours,
FLETCHER, HEALD & HILDRETH, P.L.C.



Andrew S. Kersting
Counsel for Proctor-Williams, Inc.

Enclosure

cc (w/ encl.): Certificate of Service (by hand & first-class mail)

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In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 98-209
Table of Allotments,)	RM-9406
FM Broadcast Stations)	
(De Ridder, Louisiana))	

To: Chief, Allocations Branch, Mass Media Bureau

REPLY COMMENTS

Proctor-Williams, Inc., licensee of Station KWDX(FM), Silsbee, Texas, by counsel and pursuant to Section 1.415 of the Commission’s rules, hereby submits these comments in response to the “Comment and Counterproposal,” filed January 19, 1999, by Coochie Brake Broadcasting Company (“Coochie Brake”) in connection with the *Notice of Proposed Rule Making*, DA 98-2369 (released November 27, 1998) (“*NPRM*”), in the above-captioned proceeding. In support of these reply comments, the following is stated:

I. Introduction.

In its *NPRM*, the Commission proposed to substitute Channel 250A for Channel 269A at De Ridder, Louisiana, and modify the license of Station KEAZ(FM), De Ridder, to operate on the new channel. The Commission noted that the proposed channel substitution at De Ridder would enable KEAZ to improve its Class A facilities to six kilowatts, and thereby expand its primary coverage to 53,966 persons in a 2,513 square kilometer area. The proposal to enhance KEAZ’s service represents an increase of 7,132 persons in a gain area of 838.5 square kilometers. *NPRM* at ¶2.

On January 19, 1999, Coochie Brake, permittee of a new FM station to operate on Channel 293A at Atlanta, Louisiana, filed a "Comment and Counterproposal" in support of the proposed reallocation at De Ridder. Coochie also proposed, however, the substitution of Channel 269A for Channel 294A at North Fort Polk, Louisiana, and the modification of license for Station KCIJ(FM) at North Fort Polk to operate on the new channel. In addition, Coochie Brake proposed that its construction permit for a new FM station at Atlanta, Louisiana, be upgraded from Channel 293A to Channel 293C2. Coochie Brake claims that its proposal to upgrade Channel 293 at Atlanta to a Class C2 facility would enable its Atlanta station to serve approximately five times as many people within its service contour. Coochie Brake Comment and Counterproposal, pp. 1-2.

II. Coochie Brake's "Comment and Counterproposal" Should Be Dismissed Because It is a Defective Counterproposal.

"A counterproposal is a proposal for an alternative and mutually exclusive allotment or set of allotments in the context of the proceeding in which the proposal is made." *See McFarland and Coalinga, California*, 13 FCC Rcd 13135, n.2 (Allocations Branch 1998), quoting *Implementation of BC Docket 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931, 933 n.5 (1990). "Counterproposals" which are not mutually exclusive with the proposal set forth in a Notice of Proposed Rulemaking are defective and subject to dismissal. *McFarland and Coalinga, California*, 13 FCC Rcd 13135; *Potts Camp and Saltillo, Mississippi*, 13 FCC Rcd 11909, n. 1 (1998). *See also Martin, Tiptonville and Trenton, Tennessee*, 13 FCC Rcd 17767, 17770 (Allocations Branch 1998); *Campton and Frenchburg, Kentucky*, 11 FCC Rcd 4660 (1996).

Coochie Brake's "Comment and Counterproposal" is not mutually exclusive with the proposed substitution of Channel 250A for Channel 269A at De Ridder, but, rather, is

complimentary with, and contingent upon, the proposed reallocation. Therefore, Coochie Brake's counterproposal should be dismissed without consideration. In the event that Coochie Brake wishes to pursue its proposal to substitute Channel 269A for Channel 294A at North Fort Polk, and upgrade Channel 293A at Atlanta to a Class C2 facility, Coochie Brake should be required to file a petition for rulemaking requesting its proposed reallocations.

WHEREFORE, in light of the foregoing, Proctor-Williams, Inc. respectfully requests that the "Comment and Counterproposal" filed January 19, 1999, by Coochie Brake Broadcasting Company be DISMISSED without consideration, and that the Commission GRANT the proposal set forth in the *Notice of Proposed Rule Making* and substitute Channel 250A for Channel 269A at De Ridder, Louisiana.

Respectfully submitted,

PROCTOR-WILLIAMS, INC.

By: 

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February 3, 1999

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CERTIFICATE OF SERVICE

I, Delphine I. Davis a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 3rd day of February, 1999, copies of the foregoing "Reply Comments" were hand-delivered or mailed first-class, postage pre-paid, to the following:

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