

**MULLANEY ENGINEERING, INC.**

9049 SHADY GROVE COURT  
GAITHERSBURG, MD 20877

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**JUN - 4 1999**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

**FCC MAIL ROOM**

In the Matter of )  
 )  
Request for Investigation of FM Allotment )  
Rule Making petitions and Adoption of )  
Policy Regarding Qualifications to File )  
Multiple Rule Making Requests )

MM Docket No.  
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**Comments of Mullaney Engineering, Inc.**

Mullaney Engineering, Inc. (MEI), has reviewed the initial petition filed by Saranac Lake Radio, L.L.C., on May 10, 1999, and the opposition filed by Victor A. Michael, Jr., on May 25, 1999.

MEI supports Saranac's request that something must be done before it is too late and MEI opposes the opposition of Victor A. Michael to any such action. In fact, prior to becoming aware of the Saranac petition, MEI filed, on its own initiative, two separate letters (April 31 & May 26, 1999) with the Keith Larson, Assistant Chief of the Mass Media Bureau, in which it questioned the mass filing of RM petitions by Michael & others. MEI believes that if an abuse of the FCC processes has not already taken place, the atmosphere is right for future abuse if steps are not immediately taken.

MEI does not believe that the past cases cited by Michael are applicable to the issue at hand. In those cases, the FCC declined to investigate instances involving a single rule making petition and was not confronted with a situation involving hundreds of petitions for rule makings filed by a single entity. Failure to take steps to prevent abuse when a single entity supports multiple new allotments is totally contrary to the requirement for the petitioner to certify that it has a bona fided intent to file and prosecute a construction permit application for a new allotment.

As indicated by Michael, MEI recognizes that evaluation of financial qualifications in every rule making would be overly burdensome for

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the limited resources available to the FCC. That is why MEI suggests the rules be amended to implement the following:

To require financial certification in a petition for rule making in any case where the petitioner has expresses a bona fided commitment to file and prosecute a construction permit application in more than five other pending petitions or adopted allotments for which no construction permit has been issued. Furthermore, the new rules should require each petition to continually include a list all allotments for which the petitioner during the previous five years failed to file an application. MEI recognizes that circumstances beyond the control of the petitioner will on occasion prevent it from filing an application. However, this is a very good way to identify a clear pattern of abuse. It should be noted that when a petition is filed by an attorney on behalf of a petitioner only a very minimal amount of information about the petitioner is required to be filed. To avoid potential abuse, an attribution rule needs to be implemented.

If the FCC decides to require a minimum auction bid the NPRM should indicate the amount of this minimum bid so the petitioner's comments in support of the allotment will be with advance knowledge of this additional financial obligation.

The FCC currently does not charge a rule making fee in new allotments since the petitioner has no guaranteed vested interest. However, we believe this policy should be changed. At a minimum, an advance fee should be required in any instance where the petitioner has an interest in more than five other pending petitions or adopted allotments for which no construction permit has been issued.

An automatic sunset provision should be incorporated thereby deleting any allotment which has been included in two

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consecutive auction windows and for which no CP has resulted. That is the allotment should automatically be considered deleted once the second auction window has closed if no application was filed.

The opposition by Michael states that he is an experienced operator and as such has the ability to "construct stations very cost effectively". However, we believe that Michael is currently supporting or has supported over two hundred allotments which have yet to be resolved. In the past the FCC has been worried about speculation. While the presumed payment of an auction fee is expected to minimize such speculation that has yet to be proven. In addition, we believe that many of the Michael allotments may be singleton or go totally un-applied for. Consequently, the speculation deterrent is non-existent since no auction fee would have been paid and thus subject to forfeit. Thus, many of the allotments will simply clog-up the spectrum preventing the future adoption of new allotments or the upgrade by existing stations.

We believe it is appropriate and consistent with the rules for the staff on its own motion to currently require additional information from Michael or any petitioner which currently has numerous pending petitions for new allotments. If upon receipt of that additional information the staff concludes that the petitioner is unable to meet its current obligations that NPRM should be denied. In addition, action should be undertaken to delete previously adopted allotments which were also falsely certified.

Respectively submitted.

June 1, 1999.

  
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John J. Mullaney

MULLANEY ENGINEERING, INC.

CERTIFICATE OF SERVICE

I, John J. Mullaney of Mullaney Engineering, Inc., hereby certify that I have sent this 1st day of June 1999, by first-class, postage prepaid, U.S. Mail, copies of the foregoing comments in support of an investigation and policy statement regarding petitions to amend the FM table of allotments to the following:

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