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Before the

**FEDERAL COMMUNICATIONS COMMISSION**

Washington, D.C. 20554

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DEC 13 1999

In the Matter of: )  
)  
Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations, )  
(Inglis, Florida) )

MM Docket No. 99-306  
RM - 9729

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

**REPLY COMMENTS  
OF  
LEVY COUNTY BROADCASTING**

Levy County Broadcasting ("Levy"), by Counsel, pursuant to the *Notice of Proposed Rule Making (DA 99-2187, released October 15, 1999) ("NPRM")*, hereby submits these Reply Comments to the "Comments of WGUL-FM, Inc.," dated December 6, 1999. In support hereof, Levy submits the following:

1. WGUL-FM, Inc. ("WGUL") submitted brief comments to oppose the allocation of a second FM channel to the community of Inglis, Florida. WGUL is the licensee of an FM radio station near the community of Inglis, and it complains that the area cannot support additional radio competition. WGUL also speculates that anyone starting a new radio station in Inglis would simply be doing so for the purpose of selling the station in the future. For the reasons explained below, the Commission must reject such an argument and speculation.

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2. Levy has already expressed its commitment to construct and operate the new radio station at Inglis. Levy has done so after carefully evaluating the interests and needs of the Inglis community. While WGUL is entitled to its *opinion* regarding the viability of an additional radio station at Inglis, Levy believes that longstanding Commission case law and policy require the rejection of WGUL's argument.

3. To warrant the denial of the institution of new broadcast service, the mere allegation of economic injury to the complainant is insufficient. Rather, the complainant must show that there will be injury to the public. *See generally, Hubbard Broadcasting, Inc., 48 RR 2d 367 (1980)*. WGUL has not provided even a glimpse of evidence that the public would be injured by the institution of new radio programming to the residents of Inglis.

4. The Commission also addressed identical matters in the context of Docket 80-90, wherein hundreds of new FM allotments were added throughout the country. In the Commission's "Report and Order" in that proceeding, the following guidance was enunciated:

..... if a community really has little potential for establishing an additional station, we believe it unlikely that applicants or investors would be willing to extend the effort or financial backing that is required. As a second matter, potential competition should not be curtailed by the Commission second guessing a market's potential. *FM Broadcast Stations, 53 RR 2d 1550 (1983) at para. 18.*

5. While Levy can appreciate the concern of new competition by any existing business, the Commission should not decide matters such as these on

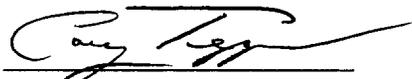
factors of fear and speculation. Levy is confident that it will provide new and unique programming that is responsive to the Inglis community and surrounding areas. And, Levy is willing to expend a significant amount of money to construct and operate this new radio station. Such a scenario is what Section 307 of the Communications Act fosters.

WHEREFORE, the above premises considered, Levy respectfully urges the Commission to AMEND § 73.202(b) of the Commission's Rules, FM Table of Allotments, as follows:

<u>City / State</u>	<u>Existing</u>	<u>Proposed</u>
Inglis, Florida	282A	257A, 282A

Respectfully submitted,

**LEVY COUNTY BROADCASTING**

By:   
Cary S. Tepper

Its Attorney

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December 13, 1999

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 13th day of December, 1999, I have served a copy of the foregoing "**Reply Comments of Levy County Broadcasting**" first-class, postage-prepaid, on the following:

\*John A. Karousos  
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Cary S. Tepper, Esq.

\*/ indicates delivery by hand