

DOCKET FILE COPY ORIGINAL

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations,)
(Cheboygan and)
Rogers City, Michigan)

**MM Docket No. 00-69
RM - 9850**

RECEIVED
JUL 3 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

**REPLY COMMENTS
OF
MacDONALD GARBER BROADCASTING, INC.**

MacDonald Garber Broadcasting, Inc. ("MGBI"), by Counsel, pursuant to the *Notice of Proposed Rule Making and Order to Show Cause (DA 00-916, released April 25, 2000)* ("NPRM"), hereby submits these Reply Comments to the "Counterproposal" filed herein on June 16, 2000 by D&B Broadcasting, L.L.C. ("D&B"). In support hereof, MGBI submits the following:

1. MGBI is the licensee of the following radio stations: WMBN-AM and WLXT-FM at Petoskey, Michigan; WMKT-AM and WKHQ-FM at Charlevoix, Michigan; and WATT-AM and WLXV-FM at Cadillac, Michigan.

2. By way of brief summary, the NPRM proposes the allotment of Channel 260C2 at Cheboygan, Michigan for new local FM radio service, which would also require Radio Station WHAK-FM at Rogers City, Michigan to modify its channel of operation from 260C2 to 292C2.

3. D&B's Counterproposal suggests that the public interest would be

No. of Copies rec'd 0+3
List A B C D E

better served if Radio Station WSRQ-FM at Bear Lake, Michigan be permitted to modify its license from Channel 261A to 260C1 in conjunction with a change in the station's community of license from Bear Lake, Michigan to Bellaire, Michigan. D&B's counterproposal also includes the allotment of Channel 259A to Rapid River, Michigan as that community's first local aural service.

4. MGBI questions the public interest merit to D&B's proposal, essentially due to the fact that D&B's Radio Station WSRQ-FM has been silent almost 100% of the time during the past five years. D&B has shown no interest in meeting its public interest obligations to its current community of Bear Lake; D&B should not be rewarded for its blatant failures by getting the opportunity to relocate and upgrade its radio station.

5. MGBI has secured the statement of another broadcaster that is local to Bear Lake, and that statement is attached hereto as Attachment No. 1. According to the statement of Donald Noordyk (who is President and sole owner of Noordyk Broadcasting, Inc., licensee of Radio Stations WSHN-AM and WSHN-FM at Fremont, Michigan), Radio Station WSRQ-FM has been off the air for almost all of the past five years. Noordyk spoke with Roger Hoppe, owner of the station, several times beginning in 1998. Mr. Hoppe stated the station had been off the air since the Spring of 1997. Last year, when WSRQ-FM was faced with the automatic termination of its license for failure to be on-air for an entire year, the radio station briefly resumed broadcasting for a few days at just a few watts of power. The radio station went dark again quickly thereafter, and it remains dark to this day.

6. Donald Noordyk contacted the FCC Field Office in Detroit in the Spring of 1998 and told FCC Representatives that the station was dark. In March 1998 he contacted FCC Headquarters in Washington, D.C., and informed the Mass

Media Bureau of the silent station. Finally, in April of 1999, Noordyk inquired with local businesses about the station and found it was still silent. Noordyk is a local broadcaster, so he naturally follows what his competitors are doing. (Or in this situation, what they are not doing.)

7. MGBI submits that the Commission should fully investigate these matters before even considering the relocation and upgrade desired by D&B. Such an investigation can be easily conducted with the investigation of the station's operating and program logs, and the interviewing of other local broadcasters and nearby businessmen. D&B's proposal makes a sham of the Commission's processes, and the Commission should not tolerate it.

WHEREFORE, the foregoing premises considered, MGBI respectfully requests that the Commission INVESTIGATE Radio Station WSRQ-FM and HOLD IN ABEYANCE and consideration of relocating or upgrading Radio Station WSRQ-FM until such matters are closely scrutinized.

Respectfully submitted,

**MacDONALD GARBER
BROADCASTING, INC.**

By:  NSQ
Cary S. Tepper

Its Attorney

Booth, Freret, Imlay & Tepper, P.C.
5101 Wisconsin Avenue, N.W.
Suite 307
Washington, D.C. 20016-4120
(202) 686-9600

July 3, 2000

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 3rd day of July, 2000, have served a copy of the foregoing "**Reply Comments of MacDonald Garber Broadcasting, Inc.**" first-class, postage-prepaid, on the following:

*John A. Karousos
Chief, Allocations Branch
Federal Communications Commission
445 12th Street, S.W.; Room 3-A266
Washington, D.C. 20554

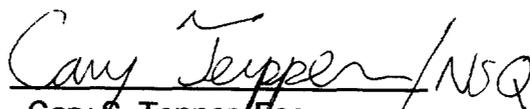
Jerrold D. Miller, Esquire
Miller & Miller, P.C.
1990 M Street, N.W.; Suite 760
Washington, D.C. 20036
(Counsel to D&B Broadcasting, LLC)

Robert J. Buenzle
12110 Sunset Mills Road; Suite 450
Reston, VA 20190
(Counsel to Fort Bend Broadcasting Company)

Ives Broadcasting, Inc.
Radio Station WHAK
1491 M-32 West
Alpena, MI 49707

Lyle Robert Evans, President
Escanaba License Corp.
1101 Ludington Street
Escanaba, MI 49829

Lake Michigan Broadcasting, Inc.
Radio Station WKLA
215 Harbor Drive
Ludington, MI 49431


Cary S. Tepper, Esq.

*/ indicates delivery by hand

Attachment No. 1

**Statement
of
Donald Noordyk**

June 30, 2000

To Whom It May Concern:

Over the past five years I have spoken to Roger Hoppe on a number of occasions. Jim Richard and I visited Bear Lake in May of 1998, for the purposes of discussing the acquisition of the radio station, WZTU, 100.1 in Bear Lake. At that time the radio station was off the air. It was indicated to me by Roger Hoppe and confirmed in my notes from the conversation that the radio station had been dark since the Spring of 1997. Mr. Hoppe indicated the transmitter was off the air and indicated to me it was un-repairable. After visiting and seeing the transmitter, first hand, it was quite obvious the facility was mismanaged and not maintained. Mr. Hoppe stated to me that the station had been off the air for quite some time because he did not have the funds to repair the transmitter facility.

In the Spring of 1998, I had contacted Roger Hoppe again for acquisition purposes. I called three local businesses in Bear Lake, at random to ask them to listen to WZTU, 100.1 and tell me if the radio station was on the air. All three sources confirmed to me that the radio station was in fact, not on the air. At that time, I contacted the FCC Field office to report the facility being off the air. I spoke to FCC Representative Paul Mako and Mr. Bridgewater from the FCC Field Office at 24897 Hathaway Street, Farmington Hills, MI 48335-1552. I registered my complaint.

After receiving my complaint, the FCC proceeded to call the local law enforcement department in Bear Lake to confirm whether or not WZTU, 100.1, Bear Lake was indeed dark. Paul Mako responded to me with an affirmative call stating that the police department visited the studios of WZTU, 100.1. They reported the radio station off the air with no personal present at the broadcast facility during normal business hours. He also mentioned that the police thought the facility had been empty and neglected for quite some time. The FCC then gave Roger Hoppe one year to resume broadcasting. On March 10, 1999, WZTU claims, without evidence, that they resumed broadcasting at full power.

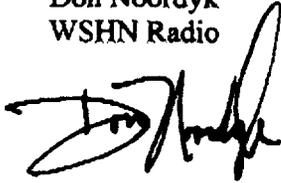
Also, in March 1998, I contacted Glen Greiseman and Charlene Loft, both with the FCC in Washington, Mass Medio Bureau, FM/AM Silent Station Division. Even though WZTU, 100.1 Bear Lake was dark for a number of years, it was never reported to the FCC. At the time of my call, they had no listing of WZTU in Bear Lake being dark. It wasn't until Paul Mako from the FCC in Detroit contacted Charlene and Glen to inform them of the silent station in Bear Lake.

In April of 1999, I once again contacted two businesses at random to inquire whether or not WZTU was broadcasting. The report was no signal was found on 100.1 WZTU.

In June of 1999, I tried to contact the Mr. Hoppe once again regarding acquisition. My call was returned by Dave from Lansing, a near relative or friend of Roger Hoppe. He stated that the radio stations were now under his control and that they were for sale. He also mentioned the possibility of moving the tower for WZTU closer to Ludington. No further correspondence has transpired to date.

To the best of my knowledge, the above information is factual and true.

Don Noordyk
WSHN Radio

A handwritten signature in black ink, appearing to read "Don Noordyk", written in a cursive style.