

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

**RECEIVED**

MAR 20 2001

**FCC MAIL ROOM**

In the Matter of )  
 )  
FAMILY BROADCASTING, INC. )  
 )  
Order to Show Cause Why the Licenses for )  
Stations WSTX(AM) and WSTX-FM, )  
Christiansted, U.S. Virgin Islands, )  
Should Not Be Revoked )  
 )  
TO: The Full Commission )

EB Docket No. 01-39 /

**REPLY TO ENFORCEMENT BUREAU'S OPPOSITION  
TO PETITION FOR RECONSIDERATION**

Family Broadcasting, Inc. ("Family"), by its attorney, hereby respectfully replies to the Enforcement Bureau's Opposition to Petition for Reconsideration, filed in this proceeding on March 16, 2001. In reply thereto, it is shown:

1. In its Opposition, the Enforcement Bureau takes the position that Section 1.106(a) of the Commission's Rules applies and that under that section a petition for reconsideration of an order designating a case for hearing may not ordinarily be entertained.

2. Counsel for Family was and is aware of Section 1.106(a) of the Commission's Rules, having dealt with that section many, many times over the years. However, counsel concluded that Section 1.106(a) does not apply and continues to believe that the section does not apply.

3. Section 1.106(a) applies to an order designating a case for hearing. We do not have an order designating a case for hearing. In this instance, what we have is an order to show cause why the licenses for Stations WSTX AM and FM should not be revoked. The same order supplies an opportunity for hearing, but specifies that Family may waive its right to a hearing and seek mitigation instead. Thus, we do not have a Hearing Designation Order (“HDO”) in the conventional sense.

4. The cases cited by the Enforcement Bureau do not stand for the proposition that the Commission has deprived itself of the right to grant the equitable relief which Family seeks. Indeed, in Service Electric Cable TV, Inc., 51 FCC 2d 763 (1975), the Commission affirmatively suggested that the Petitioner file a motion with the Review Board, seeking essentially the same relief sought from the full Commission - a procedure no longer available, because there is no longer any Review Board.

5. What we have here is a Black American family, attempting to eek out a living from a radio station in extremely difficult economic circumstances. According to official statistics gathered by the Virgin Islands government, the unemployment rate on St. Croix is nearly double the national average.<sup>1</sup> A series of three devastating hurricanes have wreaked havoc on the retail businesses on the island - businesses upon which the radio station must rely for their very existence.

6. Funds are needed to relocate the WSTX-FM transmitter to the new lawful transmitter site specified in the application filed by Family on March 16, 2001 (File No. 20010316AAD). Funds are needed to replace the AM tower which has already been replaced twice

---

<sup>1</sup>It averaged 8.3% in 2000, according to the Virgin Islands BLS.

following hurricane destruction.<sup>2</sup>

7. Under the leadership and direction of Barbara James-Petersen, everything possible is being done to bring Stations WSTX AM and FM into full conformity with all of the Commission's Rules and Regulations. The rule violations and inaccurate statements referred to in the order to show cause all took place during a time when Luz James was the majority shareholder of Family and was in full charge of Family's affairs. Luz James has taken responsibility for his actions and has resigned as officer and director of the company. An application has been filed for FCC consent for Mr. James and his wife to convey all of their stock in Family to their children (File No. 20010315AAJ; 20010315AAK).

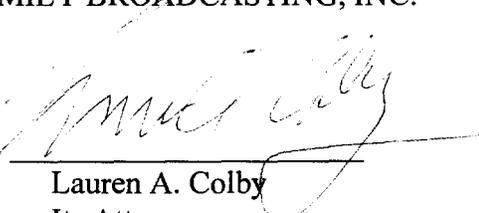
8. The forthcoming hearing proceedings, if they go forward, will merely serve to sap Family's resources and to divert funds which are sorely needed to bring the radio stations into full compliance with the terms of their licenses and the Commission's Rules and Regulations. That is why Family requests reconsideration of the show cause order.

Respectfully submitted,

FAMILY BROADCASTING, INC.

March 19, 2001

Law Office of  
LAUREN A. COLBY  
10 E. Fourth Street  
P.O. Box 113  
Frederick, MD 21705-0113

By:   
\_\_\_\_\_  
Lauren A. Colby  
Its Attorney

---

<sup>2</sup>Family is currently operating the AM station with a temporary antenna. Family's STA to operate in that manner has expired, but legal counsel is filing an application for replacement of the STA.

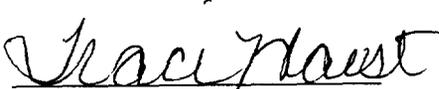
CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 19<sup>th</sup> day of March, 2001, to the offices of the following:

Honorable Richard L. Sippel  
Administrative Law Judge  
F.C.C.  
445 12<sup>th</sup> Street, S.W.  
Room 1-C768  
Washington, D.C. 20554

Kathy Berthot, Esq.  
Enforcement Bureau  
Technical and Public Safety Division  
F.C.C.  
445 12<sup>th</sup> Street, S.W., Room 7-C802  
Washington, D.C. 20554

Charles Kelley, Esq.  
James Shook, Esq.  
Enforcement Bureau  
Investigations/Hearing Division  
F.C.C.  
445 12<sup>th</sup> Street, S.W.  
Room 3-B443  
Washington, D.C. 20554

  
Traci Maust