

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Ardmore, Brilliant, Gadsden, Moundville,)
Pleasant Grove, Scottsboro, Trussville,)
Tuscaloosa, and Winfield, Alabama,)
Columbus and Okolona, Mississippi,)
McMinnville, Pulaski, and Walden,)
Tennessee)

MM Docket No. 01-62
RM-10053

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MAY - 9 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch

REPLY COMMENTS OF SOUTHERN BROADCASTING, LLC

Southern Broadcasting, LLC ("Southern Broadcasting"), by its undersigned attorneys, hereby submits these Reply Comments in the above-referenced proceeding. This proceeding was initiated when Capstar TX Limited Partnership ("Capstar") and Jacor Licensee of Louisville II, Inc. ("Jacor") proposed a host of interrelated channel and community of license changes for several existing radio stations. In response, several commenters, including Southern Broadcasting, filed counterproposals requesting new allotments that would result in the creation of new primary services in communities currently without such service. Moreover, Capstar and Jacor, together with Clear Channel Broadcasting Licenses, Inc. (collectively, "Petitioners") made minor adjustments to the original Capstar/Jacor proposal, but still did not propose the creation of any new services. Southern Broadcasting hereby urges the Commission to adopt a combination of counterproposals that would result in the creation of four new primary services to communities currently without local transmission service and would permit a significant upgrade

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of a minority-owned station. Southern Broadcasting believes that adoption of these latter proposals is preferable to the shuffling of existing stations proposed by Petitioners.

I. PRELIMINARY STATEMENT

Petitioners' proposal, as amended, will result in changes to ten existing stations – six community of license changes, three channel changes, and one downgrade in class. Should the proposal be granted, no new services will be created, a substantial number of listeners to long-established stations will lose reception service, and stations will relocate from large well-served communities to smaller but still well-served communities or to even larger suburban communities that already have a host of reception services. By contrast, Southern Broadcasting and other commenters in this proceeding propose new primary services to communities currently without transmission service as well as a substantial upgrade to a minority-owned station whose signal currently suffers from significant interference.

In addition to its own proposal, Southern Broadcasting supports the following counterproposals:

- Cox Radio, Inc.'s ("Cox") proposal to allot Channel 288A to Springville, Alabama as the community's first local service. This proposal reiterates Southern Broadcasting's request for an allotment at Springville.
- Buffalo River Broadcasters' ("Buffalo River") proposal to allot Channel 253A to Linden, Tennessee as the community's first local service.
- Jim Lawson Communications, Inc.'s ("Lawson") proposal to upgrade WQZZ(FM), Eutaw, Alabama, from Channel 282A to Channel 278C3 and to allot Channel 282A to Moundville, Alabama as that community's first local service.

As demonstrated below, adoption of these proposals, rather than that of Petitioners, would result in a preferential new arrangement of allotments under the Commission's guidelines and would better serve the public interest.

II. DISCUSSION

A. **The Residents of Springville and Derma Have a Strong Interest in and Need for a Radio Station**

As explained in the attached letters from Derma Mayor Dock H. Gabbert and Springville Mayor Charles Griffin, both the Derma and Springville communities have a strong interest in and need for a radio station. *See* Exhibit B. According to its mayor, Derma, the third largest town in Calhoun County, is a thriving community in need of a radio station to provide information and entertainment to its residents. *Id.* Similarly, the mayor of Springville indicates that a local radio station would be very beneficial and informational to the residents of that growing community. *Id.*¹

Moreover, as evidenced by the Southern Broadcasting and Cox proposals to serve Springville, there is a strong interest in providing service to this community.

B. **Adoption of the Southern Broadcasting, Cox, Buffalo River, and Lawson Proposals Will Permit the Creation of Four New Radio Broadcast Services in Communities that Currently Lack Transmission Service as well as the Upgrade of WQZZ(FM)**

Should the Commission adopt the Southern Broadcasting, Cox, Buffalo River, and Lawson proposals, the new facilities will provide new transmission service to four communities, new 60 dBu reception service to 259,357 people in a total area of 10,057 square kilometers. None of these communities currently has local aural transmission service. Thus, all these allotments meet the third allotment priority. Moreover adoption of these proposals will have the

¹ Mayor Griffin was out of the office when Southern Broadcasting attempted to contact him regarding Springville's interest in a radio station. However, because of the town's strong interest in a local radio station, his staff was willing to send Southern Broadcasting a copy of the letter that it had previously sent to Cox regarding its Springville proposal.

additional public interest benefit of allowing WQZZ(FM) to improve its signal and provide service to an additional 28,000 people over 4,404.4 square kilometers. *See* Exhibit A.²

C. Adoption of the Proposals of Petitioner and of STG Media, LLC is not in the Public Interest

Petitioners' proposed channel substitutions, community of license changes, and downgrades will be highly disruptive. Should Petitioners' entire proposal be adopted, 583,724 people will lose service from stations on which they have come to rely, including the loss of service by 57,061 people due to the downgrade of WZHT(FM), Troy, Alabama alone. *See* Petitioner's Engineering Statement in Support of Comments and Amended Proposal, Exhibit E, Figure 15. Moreover, the three channel changes proposed by Petitioners, while not causing large losses in service, will result in listener confusion.

Petitioners' proposal is particularly troublesome because almost all of the community of license change proposals involve a relocation from a large community to a small community that is closer to a metropolitan area that is already well served by numerous radio stations. For example, Petitioners propose to (a) move WTRZ-FM from McMinnville to Walden, Tennessee, which is much closer to Chatanooga; (b) move WACR(FM) from Columbus to Okolona, Mississippi, which is closer to Tupelo; (c) move WQEN(FM) from Gadsden to Trussville, Alabama, which is within the Birmingham Urbanized Area; and (d) move WKSR-FM from Pulaski, Tennessee to Ardmore, Alabama, which is much closer to both the Huntsville and

² Yalobusha Broadcasters, another participant in this proceeding, has proposed the allotment of Channel 279A to Vardaman, Mississippi, which proposal is mutually exclusive with Southern Broadcasting's Derma proposal. Vardaman and Derma are both located in Calhoun County and are separated by approximately 10 miles. According to the 2000 U.S. Census, Derma's population is 1,023, while Vardaman's population is 1,065. This slight difference, however, is *de minimis*. Thus, these proposals are very similar, and, in any event, allotment of a channel to either community is preferable to adoption of Petitioners' proposal.

Decatur Urbanized Areas. While Petitioners attempt to show that each of these new communities are separate and distinct from any metropolitan areas, nevertheless, these communities, by virtue of their close proximity to urban centers, are currently extremely well served by numerous radio stations. Thus, competing proposals to provide new service to less urban communities should be preferred over these proposals to move existing stations closer to urban centers. *See, e.g., Cowden and Tower Hill, Illinois*, 10 FCC Rcd 10511 (1995).

Moreover, the public interest does not favor the other two station relocations proposed by Petitioners. Specifically, while the relocation of WRTR(FM) to Brookwood, Alabama would move the station's community of license slightly east of Tuscaloosa, the station's 70 dBu signal would continue to cover almost all of the Tuscaloosa Urbanized Area, and the relocation would require the downgrade of WZHT(FM) and loss of reception service by 57,061 people. Also, Petitioner's proposal to move WENN(FM) from Trussville to Hoover, Alabama will permit the station to increase 70 dBu coverage of the Birmingham Urbanized Area to approximately 90%.³

Finally, as Southern Broadcasting pointed out in its original Counterproposal, Petitioners do not propose to create any new service but merely to shuffle existing stations to new communities that are already extremely well served. In this case, proposals to create first local services to new communities better serve the public interest. *See, e.g., Sibley, Iowa, and Brandon, South Dakota*, 15 FCC Rcd 19130 (2000), *Benton, El Dorado, Hampton, Harrison, Mena and Sherwood, Arkansas; Homer, Louisiana; Sallisaw and Vinita, Oklahoma; Hooks and Kilgore, Texas*, 2 FCC Rcd 1963 (1987) (noting Commission policy that creation of new primary service provides greater public interest benefit than an increase in authorized service).

³ See Michael Tomberlin, *WENN Seeks to Move to Hoover*, Birmingham News, May 8, 2001, at A1 (noting that the purpose of the WENN(FM) move is to permit the station to "serve the fast-growing [Birmingham] suburb." Exhibit C hereto).

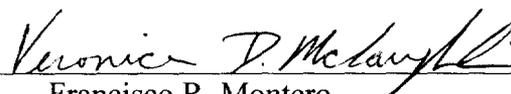
Similarly, the proposal of STG Media, LLC ("STG Media") to allot Channel 278A to New Hope, Alabama should not be granted. This proposal requires the relocation of WQEN(FM) from Gadsden to Trussville, Alabama, which in turn is contingent on WACR(FM)'s relocation from Columbus to Okolona, Mississippi. As demonstrated above, however, these relocations do not best serve the public interest.

III. CONCLUSION

For these reasons, Southern Broadcasting respectfully requests that the Commission adopt its proposal to allot new FM Channels 279A to Derma, Mississippi, and 288A to Springville, Alabama, as each community's first local service. Southern Broadcasting hereby restates its intent to file applications for Channel 279A at Derma and for Channel 288A at Springville when the Commission opens a filing window and, if authorized, to proceed promptly with construction and operation of the new stations should the Commission adopt its proposals. Moreover, Southern Broadcasting also supports the proposals of Cox, Buffalo River, and Lawson.

Respectfully submitted,

SOUTHERN BROADCASTING, LLC

By: 
Francisco R. Montero
Veronica D. McLaughlin

Its Attorneys

SHAW PITTMAN
2300 N Street, NW
Washington, DC 20037-1128
(202) 663-8000

Dated: May 9, 2001

Exhibit A

ENGINEERING STATEMENT

**Technical Comments
in support of
Southern Broadcasting, LLC
Derma, MS and Springville, AL
May 2001**

These Technical Comments are in support of the Counterproposal filed by Southern Broadcasting, LLC for new broadcast facilities at Derma, MS (279A) and Springville, AL (288A). This request continues to counterpropose MM Docket No. 01-62, RM-10053 filed jointly by Capstar TX Limited Partnership and Jacor Licensee of Louisville II, Inc.

The Joint Petitioners of Docket 01-62 have now changed their own proposal to serve Hoover, AL with Channel 288 C2 rather than the original Pleasant Grove, AL Class C3 service. This proposed Hoover facility is mutually exclusive with the Southern Broadcasting proposal to allocate Channel 288A at Springville, AL.

The Joint Petitioners' Hoover site¹ is within the Birmingham Urbanized Area. The Petitioners disclose that the proposed Hoover Class C2 serves greater than 50% of the Urbanized area. However, a closer calculation indicates that approximately 90% of the Urbanized Area would be served by the 70 dBu of their proposal. The Birmingham Urbanized Area is not lacking for fulltime broadcast services. In the FM service alone there are seven Class C FM stations serving 100% of the Urbanized Area: WDJC, WYSF, WMJJ, WZRR, WZZK, WODL and WRAX with their 70 dBu signal.

¹ Joint Petitioners' Hoover site is North Latitude 33 22 41 and West Longitude 86 48 35

Alternatively, a new FM allotment at Springville, AL would create new FM service mainly independent of the Birmingham Urbanized Area. From the Southern Broadcasting reference site² only approximately 2% of the Birmingham Urbanized Area will be within the Springville 70 dBu as previously noted in the original Southern counterproposal.

The Southern Broadcasting Counterproposal includes a proposal to allocate Channel 279 A to Derma, MS. The Derma proposal is mutually exclusive with many facets the Joint Petitioners' petition. Initially, Derma is mutually exclusive with the proposal to reallocate 280 C2 from Columbus, MS to Okolona, MS. Without the Okolona, MS allocation, the 279 C move from Gadsden, AL to 279 C1 at Trussville, AL becomes impossible. This then makes mutually exclusive the Joint Petitioners' proposals for 290 C3 at Brookwood, AL; 278 A at Russellville, AL and 249 A at Winfield, AL.

Other interested parties have commented and counterproposed in this proceeding. The Southern Broadcasting Counterproposal can co-exist and therefore Southern Broadcasting supports the following comments and proposals:

Cox Radio, Inc also requests that Springville be allotted Channel 288A.

² Southern Broadcasting Springville, AL Reference Coordinate is North Latitude 33 46 30 and West Longitude 86 28 17.

Jim Lawson Communications, Inc. requests the increase from 278 A to 278 C3 at Eutaw, AL as well as the allotment of 282 A at Moundville, AL. Attachment A is a depiction of the Class C3 coverage, present Class A coverage and loss area. Please note a net population gain of 28,000 persons and a net area gain of 4,404.35 square KM.

Buffalo River Broadcasters request the allotment of Channel 253 A at Linden, TN.

The addition of Channel 278 A at New Hope, AL requested by STG Media, LLC is dependent on Channel 279 C1 being reallocated to Trussville, AL and is not supported by Southern Broadcasting.

Summary

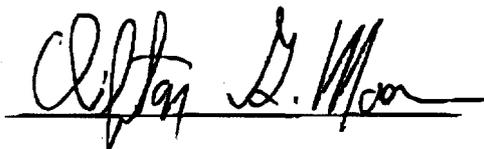
By granting the Counterproposal of Southern Broadcasting, LLC, the following new services would result³:

City	Channel	Area Sq Km	Population
Derma, MS	279 A	2514.3	23,586
Springville, AL	288 A	2514.3	179,659
Moundville, AL	282 A	2514.3	30,951
Linden, TN	253 A	2514.3	25,161
Eutaw, AL	278 C3	4404.4	28,000
		<hr/>	<hr/>
Total		14461.6	287,357

³ All counterproposal areas assume the 60 dBu uniform terrain radius of 28.29 KM. The 2000 Census was used to calculate population. Usage of the 2000 Census is an update from previous filings of Southern Broadcasting and thought to be more accurate than previous filings.

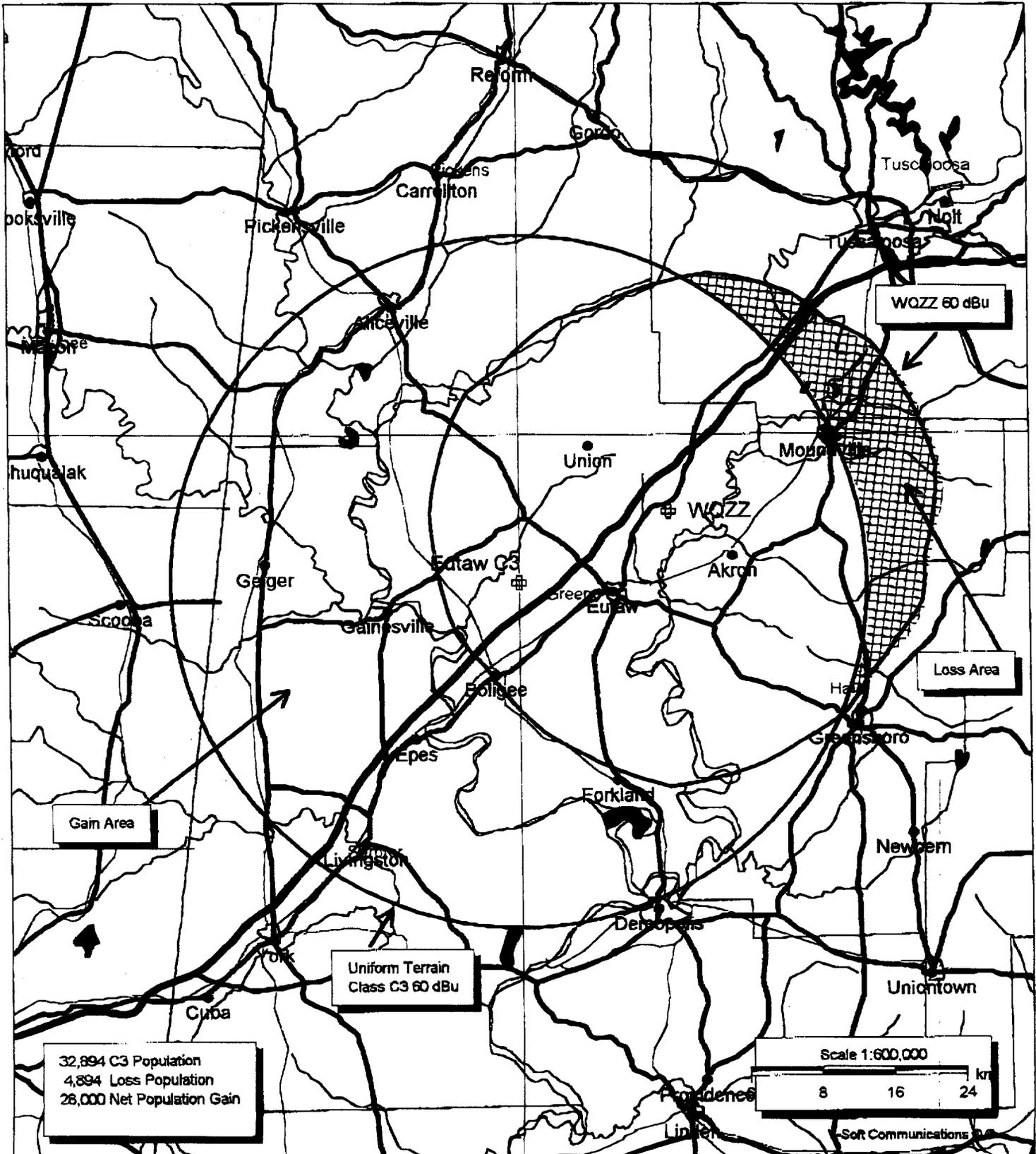
The four new services would be unencumbered allocations and open to the normal Commission process of expressions of interest and bidding rather than a reshuffle of previously owned stations. It is thought the public interest would be served by allowing Derma, Springville, Moundville and Linden to have their first broadcast stations as well as Eutaw to have expanded service.

All information contained herein is thought to be true and accurate to the knowledge of the undersigned.

A handwritten signature in black ink, appearing to read "Clifton G. Moor", is written over a horizontal line.

Clifton G. Moor
Technical Consultant to
Southern Broadcasting, LLC

May 8, 2001



Attachment A
Southern Broadcasting, LLC
Eutaw, AL Gain Calculation

Bromo Communications, Inc.
 Atlanta, Georgia
 May 2001

Exhibit B

TOWN OF DERMA

120 SOUTH MAIN STREET
P. O. BOX 98
DERMA, MISSISSIPPI 38839-0098

MAYOR: DOCK H. GABBERT

CLERK: JOANNA D. RUSSELL

WATER SUPERVISOR: SHANE CHILDS

Phone 601-628-6635

Fax 601-628-4101

ALDERMEN
RICHARD BLAYLOCK
EUGENE R. GOOD
JUNIOR LANGFORD
CHARLES PULLIAM
JUDY TEDFORD

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

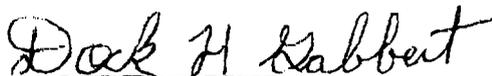
Dear Ms. Roman Salas:

I am writing to express my support for Southern Broadcasting, LLC's proposal to locate a FM radio station in the Town of Derma, Mississippi.

I have been the Mayor of Derma for the past 32 years. Derma began in 1897 as a country post office, which became a small, one-square mile railroad town. It was incorporated on November 21, 1905 and has grown and thrived considerably since then. Derma is now the third largest town in Calhoun County according to the 1990 census, and is home to 26 businesses, several churches, recreational facilities and organizations serving our residents. I am very enthusiastic about the prospect of our community's first local radio station. The welcome addition of a radio station will provide information and entertainment to the residents of Derma and would help our community continue to thrive.

I hope that the FCC will consider Southern Broadcasting, LLC's proposal and look upon it favorably. If there is any further way in which I can assist your evaluation of this proposal, please feel free to contact me.

Sincerely,



Dock H. Gabbert
Mayor of Derma

Charles Griffin
Mayor
Brenda Roberts
Town Clerk

Town of Springville
P. O. Box 919
6327 US Highway 11
Springville, Alabama 35146

Henry Wright
District 1
Bronnie Keith
District 2
Carole Dawkins
District 3
Wayne Tucker
District 4
Ricky Buckner
District 5
Billy Joe Green
District 6
Larry Stirling
District 7

Earl Peoples
Superintendent of Public Works
Ronald Black
Chief of Police
Lynn Kliner
Chief, Fire and Rescue Service

(205) 467-6133
(205) 467-6136 Fax

May 7, 2001

Federal Communications Commission
Washington, D. C.

RE: Proposal 288A, Springville, Alabama

Dear Sir:

Cox Broadcasting Corporation has indicated a desire to locate a radio station in the corporate limits of the Town of Springville. We would like to go on record as supporting that effort.

Springville is located approximately thirty miles northeast of Birmingham on Interstate 59. We are a growing community and are currently seeing an influx of persons who reside in our city and work in the metro Birmingham area as well as the surrounding St. Clair County area. Having a local radio station would be very beneficial and informational for our residents.

We hope that this proposal will be looked upon favorably.

Sincerely,

Charles Griffin
Charles Griffin
Mayor

CG/rb

Exhibit C

WENN seeks to move to Hoover

By MICHAEL TOMBERLIN
News staff writer

The owner of WENN-FM 105.9 has asked federal regulators for permission to move the historic radio station to Hoover so it can serve the fast-growing suburb.

Clear Channel Broadcasting said in a Federal Communications Commission filing that Hoover is the largest city in Alabama and one of the largest in the Southeast without a licensed station.

"Hoover is a slam dunk," said Lee Reynolds of Reynolds Technical Associates in Montgomery, who compiled the FCC filing's technical information. "It means a lot to the people of the City of Hoover because it is recognition of their place in the metro area. Trussville has a station, Homewood has a station, even Columbiana has a station."

Clear Channel's competitors in Birmingham complained to the FCC that Hoover is covered by Birmingham area stations and does not need a station of its own.

"Hoover is not an alien world — it's part of the greater Birmingham area," said Ben McKinnon, general manager of WRSS-FM 101.1, which filed a challenge with the FCC. "This is maneuvering by a major conglomerate to clutter up the Birmingham radio market."

The move would mark another big change for WENN, whose call letters are perhaps the most identifiable in Birmingham radio. Part of the late A.G. Gaston's business empire, the station was a unifying force during the city's civil rights era and remained the black community's most popular station until the 1990s, when WBFI-FM 95.7 and WBHK-FM 98.7 began pulling listeners away.

Since then, WENN has gone through ownership changes, frequency shifts and format tweaks. It now plays "jammin' oldies" on the weak 105.9 frequency, which only reaches into east Jefferson, north Shelby and west St. Clair counties.

"I think that it is pretty ironic that it's a station geared toward a black audience and it's wanting to be licensed to Hoover," said David DuBose, general manager of WBHK, WBHI, WAGG-AM 610 and WRUS-AM 1320. "I'm not sure that the people operating that station now are aware of its history."

Reynolds said the FCC will study objections to Clear Channel's filing, with a ruling

► See Radio, Page 2A

RADIO: WENN seeks to be Hoover's 1st station

► From Page 1A

expected in four to six months. If approval is granted, Clear Channel could build a new tower or put an antenna and transmitter on WMJJ's tower atop Red Mountain.

"I know Clear Channel would like to have the new WENN on the air by Christmas," Reynolds said.

The move would require Clear Channel to make changes to three other stations it owns in

Alabama, and it would have ramifications for other stations in the state and in Tennessee and Mississippi.

Among the most substantial changes the move would require:

► Changing WENN's frequency to FM 105.5, changing its city of license from Trussville to Hoover and boosting the signal from 6,000 watts to 50,000 watts.

► Tuscaloosa's WRTR-FM 105.5, a Clear Channel station, would change its frequency to 105.9, change its city of license to Brookwood and boost its signal from 6,000 watts to 25,000 watts.

► Changing the city of license for WQEN-FM 103.7 from Gadsden to Trussville.

► Reducing power at Troy's WZHT-FM 105.7, partially owned by Clear Channel, to prevent interference with WENN and WRTR.

Clear Channel's FCC proposal calls for at least 15 different radio moves. Ardmore, Brookwood and Hoover are three Ala-

bama cities that would get their first radio stations, as would Okolona, Miss., and Walden, Tenn.

Clear Channel says the moves would mean nearly 1.3 million more people would be able to pick up the radio stations involved.

The WENN move alone would add 234,523 people to that station's coverage area.

After the change, WENN would be expected to cover Hoover news events and keep a quarterly program list on file at the station showing what it is doing to serve its community, said Mark Lipp, an attorney with Washington, D.C.'s Shook, Hardy & Bacon law firm, who helped compile Clear Channel's FCC request.

Another legal requirement that the station's studios be within 25 miles of its city of license would allow Clear Channel to keep WENN's studios at the current Red Mountain location.

Clear Channel is the largest radio company in the country,

owning or operating stations. In Birmingham Channel owns WENN 96.5, WQEN-FM 103.7, WQEM-FM 102.5, WQEM-FM WERC-AM 960.

CORRECTIONS and CLARIFICATIONS

The telephone number for Birmingham Festival Theatre was incorrect in a drama review Sunday. The number is 933-2383.

CERTIFICATE OF SERVICE

I, Cherie Mills, hereby certify that I have on this 9th day of May, 2001 caused a copy of the foregoing "**REPLY COMMENTS OF SOUTHERN BROADCASTING, LLC**" to be served by first class U.S. mail, postage prepaid, upon the following:

*John A. Karousos, Chief
Federal Communications Commission
Mass Media Bureau
Policy and Rules Division
Allocations Branch
Portals II
445 Twelfth Street, S.W., Room 3-A266
Washington, DC 20554

*Robert Hayne
Federal Communications Commission
Mass Media Bureau
Portals II
445 Twelfth Street, S.W., Room 3-A262
Washington, DC 20554

Mark N. Lipp, Esq.
J. Thomas Nolan, Esq.
Shook, Hardy & Bacon
600 14th Street, NW, Suite 800
Washington, DC 20005

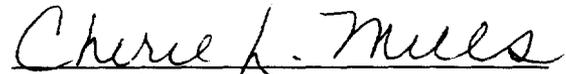
Gregory L. Masters, Esq.
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

David G. O'Neil, Esq.
Jonathan E. Allen, Esq.
Rini, Coran & Lancellotta, P.C.
Suite 900
Washington, DC 20036

Elizabeth A. McGeary, Esq.
Nam E. Kim, Esq.
Dow, Lohnes & Albertson, PLLC
Suite 800
Washington, D.C. 20036

Lauren A. Colby, Esq.
Law Office of Lauren A. Colby
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

Ellen Mandell Edmundson, Esq.
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, NW, Suite 301
Washington, DC 20016


Cherie Mills

*via hand delivery