DOCKET FILE COPY ORIGINAL

ORIGINAL

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	MM Docket No. 01-65
	)	RM-10078
Amendment of Section 73.202(b),	)	RM- 10188
Table of Allotments,	)	RM- 10189
FM Broadcast Stations.	)	
(Emmetsburg, Sanborn and Sibley, Iowa,	)	
and Brandon, South Dakota)	)	

RECEIVED
AUG - 8 2001
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
Mass Media Bureau

RESPONSE

Saga Communications of Iowa, LLC ("Saga"), by its attorneys, hereby files its Response to Reply To Counterproposal of Eisert Enterprises, Inc. ("Eisert").

In *Notice of Proposed Rule Making*, DA 01-564, released March 2, 2001 the Commission's proposed amendment of Section 73.202(b) of the Rules to (a) delete Channel 262A from Sibley, Iowa, and (b) substitute Channel 261C3 for Channel 261A at Emmetsburg, Iowa, with a corresponding modification of the license of KDWD, Emmetsburg, to operate on Channel 261C3. On April 23, 2001, Saga filed a Counterproposal that proposes to substitute Channel 261C3 for vacant Channel 261A at Brandon, South Dakota. On April 23, 2001, Eisert licensee of KDWD, filed a pleading styled Comments and Counterproposal that proposes to allot Channel 261C3 to Emmetsburg and also substitute Channel 264A for Channel 262A at Sibley, Iowa, and reallot Channel 264A to Sanborn, Iowa, as its first local service. In it's Reply Comments, filed May 8, 2001 Saga supported the allotment of Channel 264A to Sanborn. However, Saga showed that the allotment of Channel to 261C3 to Brandon is preferred to the allotment of Channel 261C3 to Emmetsburg. On May 8, 2001 Eisert also filed Reply Comments

No. of Copies rec'd 0+4
List ABCDE

in which it asserted that allotting Channel 261C3 to Emmetsburg is preferred to the allotment of Channel 261C3 to Brandon.

Brandon not Emmetsburg is the Preferred Allotment for Channel 261 C3

Brandon is a growing community. As set forth in the attached Technical Comments, Brandon had a 1980 population of 2,589, it increased to 3,543 in 1990 and increased again in 2000 to 5,693; a 119% gain over this 20-year period of time. Emmetsburg's population on the other hand has been steadily decreasing. Emmetsburg had a 1980 population of 4,621 it decreased to 3,940 persons in 1990 and then gained 18 persons to 3,958 in 2000. Thus the population loss from 1980 to 2000 was over 14%. Eisert's claims in its Reply Comments that Emmetsburg deserves the upgrade facility because it is the seat of Palo Alto County. Nonetheless, Eisert has chosen to place its main studio in Spencer, Iowa a community in Clay County, 24.3 miles from Emmetsburg. In addition, of the 25,568 new persons Eisert's proposal would serve only 1,303 reside in Palo Alto County. Eisert's upgrade proposal is nothing more than an attempt on its part to serve Spencer as a Class C3 facility.

The current use of Channel 261A at Brandon would provide 60 dBu (1 mV/m) service to 159,366 persons in 2,489.58 square kilometers. The Technical Comments state that an upgrade to Channel 261 C3 would provide 60 dBu service to 186,605 persons in 4,730.56 square kilometers. Upgrading KDWD from Class A to Class C3 would increase the 60 dBu coverage of KDWD from 24,443 persons in 2,463.38 square kilometers to 50,011persons in 4,758.68 square kilometers.[1]

[1] In the Reply Comments, Eisert in calculating its coverage used two different methods. To calculate its Class A coverage it used actual terrain data. However, in calculating its Class C3 coverage it assumed theoretical uniform terrain. The result was to provide for actual terrain obstructions for its Class A facility, while pretending there were no terrain obstructions for its proposed Class C3 coverage. This mixing of apples and oranges permitted Eisert to claim for its proposed Class C3 greater new coverage and consequently more new population than if it had used a uniform method of comparing coverage. In order for the Commission to make an apples to apples comparison of

In a similar case, *Benton, Clarksville, Dardanelle, El Dorado, Hampton, Harrison, Huntsville, Mena, Ozark and Sherwood, Arkansas; Homer, Louisiana; Sallisaw and Vinita, Oklahoma; Hooks and Kilgore, Texas,* 7 FCC Rcd 2555 (1992), the Commission, *inter alia,* authorized the upgrade of Station KAKI, Benton, Arkansas, because it would serve a significantly greater number of persons within its 1 mV/m gain area:

> "After careful consideration of this matter, we affirm our earlier action upgrading Station KAKI, Benton, Arkansas, to specify operation on Channel 294C2. We emphasize that the Benton proposal will serve a significantly greater number of persons within its 1 mV/m gain area (419,438 compared to 117,489). This is a significant preference under priority 4."

In the case at bar, the upgrade of Channel 261A at Brandon to Channel 261C3 will serve a significantly greater number of persons within its 1 mV/m gain area (186,605 compared to Eisert's 50,011). Like the case of Benton, Arkansas, this is a significant preference under priority 4, and results in a preferential arrangement of allotments.[2]

As demonstrated in the Technical Comments, the upgrade of the Brandon facility from a Class A to a Class C3 would provide new 60 dBu service to 27,239 persons. By contrast, the upgrade of the Emmetsburg station from a Class A to a Class C3 station would provide new 60 dBu service to 25,568 persons. Therefore, Saga's proposal is superior to Eisert's because it would provide new 60 dBu service to 1,671 more persons. As Eisert admitted in its Reply Comments, under priority 4, this population difference is "determinative." *Benton and Dardanelle, Louisiana,* 3 FCC Rcd 4840, 4842; *Galesburg, Illinois and Ottumwa, Iowa,* MM Docket No. 97-130, RM-8751, DA 00-2423, released October 27, 2000 (stating that under

---

the two proposals, Saga's Technical Comments were prepared applying uniform terrain data to both Saga's and Eisert's proposals.

[2] Under *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1982), the Commission's assignment priorities are (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Priorities 2 and 3 are given equal weight.

priority 4, the Commission will favor the proposal that would expand service to the greatest number of people).

Thus, Saga's proposal is clearly superior.[3]

Conclusion

In light of the above, the Commission should deny Eisert's proposal to allot Channel 261C3 to Emmetsburg, and instead, substitute Channel 264A at Sanborn for Channel 262A at Sibley, Iowa; and substitute Channel 261C3 for Channel 261A at Brandon, South Dakota as outlined in the following table:

Iowa

Community	**Present Channel**	**Proposed Channel**
Sanborn	--	264A
Sibley	262A, 282A	282A
	South Dakota	
Brandon	261A	261C3

[3] In its Reply Comments Eisert contends that Saga should be required to make a showing that Brandon is not part of the Sioux Falls Urbanized Area. Brandon is in fact not part of the Sioux Falls Urbanized area and therefore there is no need to make a *Faye and Richard Tuck* showing. See, *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). Eisert also contends that Saga cannot upgrade a vacant channel pursuant to Section 1.420 (g) of the Commission's rules. This would only be true if Saga were seeking to upgrade a vacant channel without allowing the opportunity for new applicants. *See e.g., Santa Margarita and Guadalupe, California* 2 FCC Rcd 6030 (1987). In this case the Brandon allotment has not yet been scheduled for auction. Interested parties will be able to file for the Brandon Class C3 allocation when it becomes available.

Saga again restates its intention to file an application for a construction permit to use Channel 261C3 at Brandon, South Dakota, and to construct a station on the channel, in the event it is allotted.

Respectfully submitted,

SAGA COMMUNICATIONS OF IOWA, LLC

By: _____
Gary S. Smithwick
Arthur V. Belendiuk
Its Attorneys

Smithwick & Belendiuk, P.C.
5028 Wisconsin Ave., N.W.
Suite 301
Washington, DC 20016
(202) 363-4050

August 8, 2001

RESPONSE TO REPLY TO COUNTERPROPOSAL
MM Docket No. 01-65, RM-10078
Saga Communications, of Iowa, LLC
Brandon, SD and Emmetsburg, IA
August 2001

These Technical Comments support the Saga Communications of Iowa, LLC ("Saga") comments to upgrade the unused Channel 261A at Brandon, South Dakota to Class C3. This proposal is in conflict with the proposal by Eisert Enterprises, Inc. ("Eisert") to upgrade the facilities of KDWD at Emmetsburg, Iowa from Class A to Class C3. Both proposals concern Channel 261.[1]

At the time for filing the Comments to the Notice of Proposed Rulemaking we used the latest Census data available to us, which was the 1990 and 1999 estimates. However, by the time the Reply to Comments were due, the 2000 Census became available, therefore this response now uses that data.

Saga contends that it is appropriate to conduct an apples-to-apples comparison of the Brandon/Emmetsburg signals. Eisert depends on the real-world 60 dBu (compiled with actual terrain data) of KDWD to calculate the present Emmetsburg Class A population and area, but switches to the theoretical uniform terrain for their proposed Class C3 facility. This is the problem: the mixing of theoretical uniform terrain to calculate some contours with the actual terrain data to calculate other contours. This change in methodology produces unreliable results. Regardless of which city prevails in this rule making proceeding, the resulting FCC 301 application must be compiled using the actual terrain. We therefore will level the playing field and use contours calculated with actual terrain in our following comparisons.

Facility	Population	Area (Sq. km)
Brandon 261A	159,366	2,489.58
Brandon 261C3	186,605	4,730.56
Brandon Gain =	27,239	2,240.98
Emmetsburg 261A	24,443	2,463.38
Emmetsburg 261C3	50,011	4,758.68
Emmetsburg Gain =	25,568	2,295.30

[1] It is believed that no statement of interest was filed to keep Channel 261A at Sibley, IA during the comment period, therefore we will not consider the Sibley allocation in these comments.

Comparing all of the contours in this real-world way causes the Saga proposal to serve 1,671 more people than the Eisert proposal. The areas served by each proponent are nearly equal with Eisert serving 54.32 square kilometers more.

The proposal to upgrade KDWD to Channel 261C3 will provide 60 dBu service to a total of 50,011 persons. To upgrade Channel 261 at Brandon to Class C3 will provide service to 186,605 persons. If you look at the population of the individual communities, Emmetsburg had a 1980 population of 4,621 and lost to 3,940 persons in 1990 and then gained 18 persons to 3,958 in 2000. Thus the loss from 1980 to 2000 was over 14%. While Brandon had a 1980 population of 2,589, it increased to 3,543 in 1990 and increased again in 2000 to 5,693 or a 119% gain over this 20-year period of time.

The KDWD studios are located in Spencer, Iowa rather than at Emmetsburg. Spencer has three other licensed stations (2 FM and 1 AM) and located some 39 km or 24.3 miles west of Emmetsburg. The KDWD studios are very near the FCC's limit requiring a station's studio to be located within 25 miles of its city of license. In addition of the 25,568 new persons to be served by Eisert's proposed upgrade, only 1,303 would reside in Palo Alto County.

In conclusion, the Saga proposal to upgrade Channel 261A to Channel 261C3 at Brandon, South Dakota is preferable to that of KDWD at Emmetsburg, Iowa. The city of Brandon is not within the urbanized area of Sioux Falls, South Dakota and the proposed upgrade would serve a total of 186,605 persons compared to 50,011 persons who would be served by the upgrade of KDWD. Therefore, this Brandon, South Dakota upgrade would be in the public interest.

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

Bromo Communications, Inc.

William G. Brown

August 7, 2001

William G. Brown
Technical Consultant to Saga Communications, Inc.

CERTIFICATE OF SERVICE

I, Angela Y. Powell, a paralegal in the law offices of Smithwick & Belendiuk, P.C., hereby certify that on August 8, 2001, copies of the foregoing Reply Comments were sent via First Class Mail, postage pre-paid to the following:

Ms. Kathleen Scheuerle*
Allocations Branch
Mass Media Bureau
Federal Communications Commission
The Portals II
445 Twelfth Street, S.W.
Room 3-A247
Washington, DC 20554

Peter Tannenwald, Esq.
Kevin M. Walsh, Esq.
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue, N.W.
Suite 200
Washington, DC 20036

*by hand

Angela Y. Powell