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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Station,  
(Detroit Lakes and Barnesville,  
Minnesota, and Enderlin, North  
Dakota)

MM Docket No. 00-53 /  
RM-9823  
RM-9950

To: The Chief, Allocations Branch

**CONSOLIDATED OPPOSITION TO PETITIONS FOR RECONSIDERATION**

Clear Channel Broadcasting Licenses, Inc., a licensee subsidiary of Clear Channel Communications, Inc. (together "Clear Channel"), by its attorneys and pursuant to Section 1.429(f) of the Commission's Rules, hereby submits its consolidated opposition to the petitions for reconsideration of the Report and Order ("R&O") in the above-captioned proceeding filed by Enderlin Broadcasting Company ("EBC") and Triad Broadcasting Company, LLC ("Triad" and with EBC, the "Petitioners") on February 6, 2002, and February 7, 2002, respectively.<sup>1</sup> The Petitioners utterly fail to present any reason why the decision of the Allocations Branch in the R&O to reallocate KRVI(FM), Detroit Lakes, Minnesota, to Barnesville, Minnesota, should be changed in any respect. The Commission must dismiss or deny the petitions expeditiously.

Triad devotes the majority of its petition to a regurgitation of its claim that Barnesville is "little more than an appendage of the Fargo-Moorhead Urbanized Area."<sup>2</sup> The Allocations

<sup>1</sup> This pleading is being filed within 15 days of February 26, 2002, the date on which the public notice announcing the filing of the petitions for reconsideration was published in the Federal Register. Accordingly, it is timely. See 47 C.F.R. §1.429(f); 47 C.F.R. §1.4(b)(1).

<sup>2</sup> Triad Petition at 2.

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Branch, however, clearly stated that, pursuant to its own analysis, a “majority of [the criteria articulated in *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988)] support a finding of independence from the Fargo-Moorhead Urbanized Area.”<sup>3</sup> Triad has not come close to demonstrating that this analysis is in error.

Even when Triad, at length, moves on, it does nothing more than repeat another tired argument that has already been rejected, claiming that the relocation of KRVI to Barnesville at the reference site will cause Clear Channel to be in violation of Section 73.3555 of the Commission’s rules.<sup>4</sup> In doing so, Triad resembles nothing so much as a ruminating cow, endlessly chewing its cud. As Clear Channel and the Commission previously have explained to Triad’s subsidiary, Monterey Licenses, LLC, when it argued this point, Clear Channel must demonstrate compliance with the multiple ownership rules when it files an application for construction permit, not at the allotment stage.<sup>5</sup>

Finally, Triad joins EBC in complaining that the Allocations Branch in the R&O did not address the “fact” that Channel 233C1 can be allotted to Enderlin, North Dakota, if a different reference site were used for the Barnesville allotment.<sup>6</sup> The lack of such a discussion is completely irrelevant, since, as observed by T&J Broadcasting, Inc., the prior licensee of KRVI and the original proponent in this proceeding, EBC in its initial comments and counterproposal failed to include the necessary expression of interest.<sup>7</sup> Filing the expression of interest late, as

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<sup>3</sup> R&O at 2-3.

<sup>4</sup> Triad Petition at 16-17.

<sup>5</sup> See Letter from Peter H. Doyle, Acting Chief, Audio Services Division, Mass Media Bureau, to Paul A. Cicelski, Esq., et al., File No. BAPH-20001101ABD (May 24, 2001), and related pleadings.

<sup>6</sup> Triad Petition at 3; EBC Petition at 3.

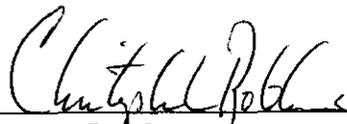
<sup>7</sup> T&J Reply to Comments and Counterproposal at 8-9.

EBC did, is tantamount to filing the entire counterproposal late, and the Commission generally does not accept such defective submissions when, as in the instant proceeding, there is a valid conflicting proposal that would be prejudiced.<sup>8</sup>

In sum, there is no basis for the Commission to change its decision in the R&O. The Commission must dismiss or deny the petitions.

Respectfully submitted,

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Dated: March 13, 2002

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<sup>8</sup> See, e.g., Smith and Reno, Nevada, Susanville and Truckee, California, 12 FCC Rcd 3739, n. 2 (1997) (“Generally, acceptance of late filed comments supporting an allotment proposal is limited to situations where there is no opposition to the proposal and where there would be *no adverse impact on another pending proposal.*”) (emphasis added); Butler and Reynolds, Georgia, MM Docket No. 01-5 (2002) (holding that the Commission could not consider an “untimely expression of interest in the face of [a] conflicting proposal”).

**CERTIFICATE OF SERVICE**

I, Julie Drake, a secretary in the law firm of Wiley Rein & Fielding LLP do hereby certify that I have on this 13<sup>th</sup> day of March, 2002 caused a copy of the foregoing "Consolidated Opposition to Petitions for Reconsideration" to be served by first class mail, postage prepaid, upon the following:

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