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

FCC 02M-67
01333

In the Matter of)	MB DOCKET NO. 02-139
)	
YOUNGSTOWN RADIO LICENSE,)	File Nos. BAL/BALH-
L.L.C.,)	19991001ABM-ABP
(Assignor))	
)	
and)	
)	
CITICASTERS LICENSES, INC.,)	
(Assignee))	
)	
For Consent to Assignment of Licenses)	
of WNIO(AM) and WNCD(FM),)	
Youngstown, OH, WICT(FM), Grove City,)	
PA and WAKZ(FM), Sharpsville, PA)	

PREHEARING ORDER

Issued: July 16, 2002 Released: July 18, 2002

The captioned case is conditionally set to be heard under Hearing Designation Order FCC 02-165, released July 10, 2002 (“HDO”) to determine whether the public interest, convenience and necessity would be served by the proposed assignment. A formal, on-the-record, evidentiary hearing will be conducted provided that the assignment parties do not within **15 days** jointly elect to defer consideration of the assignment application. See HDO at ¶44.¹

The HDO also is stayed for a period of **20 days** from its release date in order to permit the assignment parties to amend their application or file additional materials deemed relevant “to ameliorate the competitive concerns” identified in the HDO. See HDO at ¶49.²

If the assignment parties elect to file additional materials and do not elect to defer, they shall submit a Status Report by **August 2, 2002**, summarizing the status of the assignment application, as supplemented, and briefly explaining how the new materials remove competitive concerns of the HDO. Any Response or Comment by the Enforcement Bureau may be filed by **August 12, 2002**.

¹ The Presiding Judge is to be notified on the same day that any such election is filed. Notification by courtesy copy should be sent by fax to OALJ at (202) 418-0195.

² If there has been no election to defer consideration of assignment filed within the prescribed 15 days, the stay will lift automatically on the 21st day from the release of the HDO.

If the parties elect adjudication under HDO ¶45, a Prehearing Conference will be held on **August 20, 2002**. See Order FCC 02M-64, released July 15, 2002. Counsel appearing at the conference shall have filed a Notice of Appearance in accordance with 47 C.F.R. §1.221.³ Counsel at the conference shall include lead litigation counsel for the hearing.

The Federal Rules of Civil Procedure with respect to expert witnesses shall be utilized, where applicable and appropriate, to facilitate discovery (e.g., data compilation and bases for expert opinions), while respecting privileges.⁴ Shortened methods of proof are the goal, and counsel may agree to categories of proof and evidentiary procedures which utilize proxy or surrogate evidence. Counsel are urged to agree to use frozen direct testimony and deposition testimony as evidence where possible.

There also may be relevant facts relating to the Clear Channel assignee in two other hearings involving different markets (MB Docket Nos. 137, 138). Counsel should consider procedures for taking evidence concerning Clear Channel that would be relevant to all three cases.

Finally, there shall be a schedule set for completion of document and deposition discovery (including depositions of expert witnesses), submission of trial briefs, exchange of cases in chief, notification of witnesses for cross-examination, and dates for hearings. Counsel for the assignment parties shall consult with Bureau counsel and submit a proposed schedule by **August 16, 2002**.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION



Richard L. Sippel
Chief Administrative Law Judge

³ Notices of Appearance must be filed on or before **August 19, 2002**. HDO at ¶50. Copies of Notices of Appearance are to be faxed to the Presiding Judge on the date filed.

⁴ See, e.g., FRCP 26(a)(2) (disclosure of expert testimony) and FRCP 26(b)(4)(5) (trial preparation, experts, privilege and protection).