

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Amendment of the Commission's Rules)
Governing Modification of FM and AM) MB Docket No. _____
Authorizations) RM - 10960
)

To: Office of the Secretary

COMMENTS

Susquehanna Radio Corporation, by its counsel, hereby submits its Comments in the above captioned proceeding. *See Public Notice*, Report No. 2657, (released April 22, 2004). The proceeding solicits comment on various proposals raised by First Broadcasting Investment Partners, LLC ("First Broadcasting") in a Petition for Rule Making filed on March 5, 2004 (the "First Broadcasting Petition"). As described more fully below, Susquehanna supports First Broadcasting's proposal to permit a change of community of license as a minor change in an application filing.

1. Susquehanna's experience with the rule making process, while perhaps not typical, has not been completely satisfactory. Several examples will illustrate the extraordinary lengths of time it has taken for the Commission to approve changes that Susquehanna (or its affiliated companies) have requested.

2. In November, 1997, a Susquehanna license subsidiary filed a petition for rule making to relocate its Station WWWQ(FM) from Anniston, Alabama to College Park, Georgia (MM Docket No. 98-112). The petition was consolidated with one other competing proposal. Although there were several appeals, the FCC issued a final decision in that proceeding granting Susquehanna's proposal just this year – a processing time of over six years.

3. In November, 1998, a Susquehanna license subsidiary filed a petition for rule making to change the community of license of Station WABZ(FM) from Albemarle, North

Carolina to Indian Trail, North Carolina (MM Docket No. 99-240). Only one station was involved and only two objections were filed. There was nothing extraordinary or complex about this case. In fact, the record in the case is relatively small compared to other cases. Yet an initial decision was not issued until July, 2001 – two and a half years later. When one party filed an application for review, the final Commission decision took another three years, for a total of 5½ years before the Commission.

4. In late 1999, a Susquehanna license subsidiary filed a petition to relocate Station KIKT(FM) from Greenville to Cooper, Texas (MM Docket No. 00-63). This was a routine rule making proceeding – a single station changing its community of license with no other changes required and no other parties to the proceeding. Even so, the decision was issued in February, 2002, more than two years after the petition was filed.

5. In August, 2001, a Susquehanna licensee subsidiary filed a proposal in comments in MM Docket 01-143 to relocate Station WQKC from Seymour to Sellersburg, Indiana in connection with an ongoing proceeding. In May, 2003, the Commission issued a decision separating the WQKC proposal from the remainder of the proceeding, and issued a new notice of proposed rule making (MB Docket No. 03-98). The proceeding has not yet been decided, and has now been pending for almost three years since the proposal was filed.

6. Each of the case histories described above involved a simple change in community of license that resulted in a lengthy delay in introducing first local service and expanded service to the public. These delays could have been avoided or shortened considerably if First Broadcasting's proposal regarding changes in community of license were adopted. Currently, any licensee of an FM station desiring to change its community of license must file a petition for rule making to amend the FM Table of Allotments.¹ First Broadcasting proposes to

¹ Section 73.202(b) of the Commission's Rules lists FM channel allotments by community and state.

permit the licensee of an FM station to change its community of license by minor modification application rather than by rule making.² Granting this proposal by itself would have a very substantial and beneficial effect on the distribution of radio service and on the Commission's valuable resources.

7. The majority of FM allotment petitions that are filed propose a change to one or more communities of license. Permitting these proposals to be filed as applications would greatly benefit the Commission and the public by (i) reducing the amount of agency staffing and processing time required to handle routine changes in community of license; (ii) reducing the backlog in rule making processing; and (iii) speeding the introduction of improved service to the public. The agency could focus its limited resources on more complex proposals involving more than four changes³ and petitions for new allotments.

8. The Commission already permits certain amendments to the FM Table of Allotments to be accomplished by application. Under the "one-step" procedures, an FM licensee may apply for an adjacent channel or a change in class as long as the change is mutually exclusive with the existing facilities.⁴ When such an application is granted, the rule changes take effect upon publication in the Federal Register.⁵ Such a procedure complies with the Commission's obligations under the Administrative Procedure Act to provide notice to the public and an opportunity to comment.⁶

² See First Broadcasting Petition at p. 8.

³ Section 73.3517(e) permits up to four contingent FM applications to be filed and processed together. More than four applications would still require a rule making proceeding under First Broadcasting's proposal.

⁴ See *Amendment of the Commission's Rules to Permit FM Channel and Class Modifications by Application*, 8 FCC Rcd 4735 (1993) ("FM Channel").

⁵ *Id.* at 4737 n.18.

⁶ See *1998 Biennial Regulatory Review -- Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, 15 FCC Rcd 21649 at n. 54 (2000) (amendments treated as minor and non-controversial).

9. The Commission will be able to make the public interest determination under Section 307(b) pursuant to existing rules and policies by requesting an exhibit discussing the various policy requirements as is currently required in a petition for rule making. Such analysis can be made in connection with the processing of an application just as is currently performed in the rule making context. During the AM filing window that closed on February 1, 2000, the Commission entertained many applications to change communities of license that contained Section 307(b) showings, and the comparative analysis was made under the Commission's existing policies and precedent without formal rule making procedures.

10. Susquehanna urges the Commission to promptly issue a notice of proposed rule making setting forth the proposal to permit a change in community of license by minor modification application, and other proposals that may be supported in comments in this proceeding. It should adopt new processing rules without delay in order to streamline the allocations process, conserve its resources, and better and more efficiently administer the radio spectrum.

Respectfully submitted,

SUSQUEHANNA RADIO CORPORATION

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May 24, 2004

CERTIFICATE OF SERVICE

I, Lisa Balzer, a secretary in the law firm of Vinson & Elkins, LLP, do hereby certify that I have on this 24th day of May, 2004, caused to be mailed by first class mail, postage prepaid, copies of the foregoing “**Comments**” to the following:

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