Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules Regarding Modification of FM and AM Authorizations	)	RM - 10960
	)	
	)	

COMMENTS OF OLVIE E. SISK

Olvie E. Sisk, the licensee of WCNA(FM), Potts Camp, Mississippi ("Sisk"), through counsel, hereby comments on the Petition for Rulemaking (the "Petition") filed by First Broadcasting Investment Partners, LLC ("First Broadcasting") on March 5, 2004 in the above-referenced proceeding.

Sisk generally supports First Broadcasting's proposed streamlining and rationalization of FCC processing of licensee filings to change a broadcast station's community of license. Sisk agrees that the FCC's system should be brought up to date to comport with the realities of contemporary broadcasting, thus ensuring the Communications Act's goal of "fair, efficient and equitable distribution of radio services."[1]

---

[1] *Petition* at 17 (*citing* 47 U.S.C. § 307(b)).

Sisk believes that allocation practices that were originally implemented based on a multiplicity of public interest concerns have become so routinized in their administrative application, that communities that should not qualify for first local service preferences today, have been granted a seemingly perpetual right to keep their status as a community of license despite enormous demographic, economic, cultural and political changes over the course of decades.

While it is true that precedent matters in the application of law, it is also true that historical pedigree alone should not dictate application and interpretation of the law today, especially if "the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past." *US v. Dege,* 364 U.S. 51 (1960) (*citing* Oliver Wendell Holmes, *The Path of the Law*, 10 Harv. L. Rev. 457, 469 (1897)). Therefore, Sisk endorses First Broadcasting's call for a rule making that would create administrative reforms that would make it possible to change communities of license when the course of history militates for a different allocation of spectrum.

In addition to First Broadcasting's proposals, Sisk also urges the Commission to incorporate two additional proposed rules into any notice of proposed rule making.

First, Sisk requests that the Commission expand First Broadcasting's proposal in which the Commission will presume that, "under certain defined circumstances, relocation of an FM station providing a community's sole local transmission service to a new community of license without a first local service is in the public interest."[2] Sisk believes this same rubric should be applied to an AM station that similarly provides a community's sole local service. In today's media landscape, AM is no longer a discrete

---

[2] Petition at 14.

"standard band." People listen to AM and FM interchangeably – often with digitally-tuned receivers incorporating preset buttons that make no distinction between the bands. Whether for AM or FM stations, the community service criteria to qualify for this presumption should be that the current community will still be served by at least two aural services, AM or FM, that provide a sufficiently strong signal over the current community of license.

Second, while First Broadcasting defines a signal as sufficiently strong when its provides a 70 dBu signal over the current community of license, Sisk believes that in smaller communities – those with fewer than 2500 inhabitants – a 60 dBu signal is sufficient to ensure coverage of the community. This is true because in these smaller communities, the signal strength necessary to overcome interference and signal attenuation due to density of development is less than in more populous areas with a greater number of spectrum users.

Sisk also believes Section 73.315(a) of the FCC's Rules should be amended to recognize this technical reality. An FM station placing a 60 dBu signal over a community of license with a population of less than 2,500 would be deemed to have met its principal community coverage requirements. The 60 dBu standard would also allow greater tower siting flexibility, thus enhancing the number of diverse broadcast stations actually available to listeners in these more isolated small communities.

In the final analysis, the Commission will effectively make better use of available spectrum by bringing service to more listeners, and give listeners in communities, both large and small, more choices by proposing and adopting the streamlined and

rationalized rules described in First Broadcasting's Petition incorporating the modifications proposed in these comments.

Respectfully submitted,

Frank R Jazzo
Michael W. Richards
Counsel for Olvie E. Sisk

FLETCHER, HEALD & HILDRETH, P.L.C.
1700 North 17th Street
11th Floor
Arlington, VA 22209
(703) 812-0400

May 24, 2004

CERTIFICATE OF SERVICE

I, Carla M. Whitlock, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C. do hereby certify that a true copy of Comments of Olvie E. Sisk was sent on this 24th day of May 2004, via first class U.S. mail, postage prepaid to the following:

Ronald A. Unkefer
First Broadcasting Investment
Partners, LLC
North Saint Paul St
10th Floor
Dallas, Texas 75201

Tom Davidson, Esq.
Akin Gump Strauss Hauer & Feld, LLP
1676 International Drive
Penthouse
McLean Virginia 22102

Carla M. Whitlock

Carla M. Whitlock

May 24, 2004