

BEFORE THE

JUL - 8 2004

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Federal Communications Commission

Federal Communications Commission
Office of the Secretary

WASHINGTON, D. C. 20554

ORIGINAL

In the Matter of)
)
 Amendment of Section 73.202(b),)
 Table of Allotments,)
 FM Broadcast Stations)
 (Arlington, The Dalles, Moro, Fossil, Astoria,)
 Gladstone, Tillamook, Springfield-Eugene,)
 Coos Bay, Manzanita and Hermiston, Oregon)
 and Covington, Trout Lake, Shoreline, Bellingham,)
 Forks, Hoquiam, Aberdeen, Walla Walla, Kent,)
 College Place, Long Beach and Ilwaco, Washington))

MB Docket No. 02-136

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To: Chief, Allocations Branch

REPLY TO OPPOSITION

Triple Bogey, LLC; MCC Radio, LLC, and KDUX Acquisition, LLC (collectively "Triple Bogey") herein reply to the "Opposition to Motion to Dismiss" filed June 23, 2004, by Mid-Columbia Broadcasting, Inc. and First Broadcasting Investment Partners, LLC (together "First Broadcasting"). In reply, the following is stated:

Triple Bogey, through its "Motion to Dismiss," seeks the dismissal of First Broadcasting's re-instituted proposal to relocate Station KMCQ from The Dalles, Oregon, to Covington, Washington, on the grounds that First Broadcasting abandoned that proposal as of the deadline for comments and counterproposals in this proceeding. On that date, First Broadcasting presented its counterproposal to move KMCQ to Kent, Washington, instead of Covington.

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In its opposition, First Broadcasting attempts to defend its tactics by claiming that Triple Bogey is not prejudiced by First Broadcasting's flip-flop. Obviously, that is not the case.

Triple Bogey and all other parties to this proceedings are indeed prejudiced when a party such as First Broadcasting fails to observe Commission procedural requirements. For example, opposing parties would be prejudiced if the Commission were now to entertain First Broadcasting's Covington proposal notwithstanding that to do so would contravene the Commission's policy not to consider alternative proposals advanced by the same party. *E.g., Quanah, Texas*, 18 FCC Rcd 9495, 9497 (Chief, Audio Div., 2003). Furthermore, other parties would be prejudiced if the Covington proposal were to be considered notwithstanding First Broadcasting's failure to satisfy the important procedural requirement that it file a timely expression of interest regarding that proposal.

The Commission takes seriously the requirement that such an expression of interest be filed. *E.g., Butler, Georgia*, 17 FCC Rcd 1653 (Chief, Allocations Branch 2002). To allow a party to prosecute a contested allotment proposal for which it failed to file a timely expression of interest undermines the integrity of the Commission's processes. *Amor Family Broadcasting Group v. FCC*, 918 F.2d 960, 963 (D.C. Cir. 1990) (*affirming Santa Isabel, Puerto Rico*, 3 FCC Rcd 2336 (1988), *recon. denied*, 4 FCC Rcd 3412 (1989)).

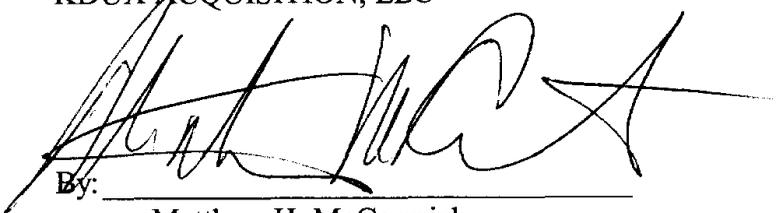
First Broadcasting attempts to brush aside its failure to file a timely expression of interest. Contrary to First Broadcasting's assertions, the filing of such a confirmation is essential. The Commission routinely dismisses rulemaking proposals for the failure to file such an expression of interest. *E.g., Milford, Utah*, DA 04-1651, ¶ 11 (Assistant Chief, Audio Div., released June 10, 2004); *Rising Star, Texas*, 18 FCC Rcd 24700 (Assistant Chief, Audio Div. 2003); *Fort Stockton, Texas*, 18 FCC Rcd 11759 (Assistant Chief, Audio Div. 2003); *Clarendon, Texas*, 18 FCC Rcd

12701 (Assistant Chief, Audio Div. 2003); *Elkhart, Kansas*, 18 FCC Rcd 1599, ¶ 1 & n. 2 (Assistant Chief, Audio Div. 2003).

First Broadcasting, having first abandoned its Covington proposal and then having abandoned its Kent proposal, must stand aside until the Commission acts upon the timely proposals before it in MB Docket 02-136, including Triple Bogey's.

WHEREFORE, in light of all circumstances present, Triple Bogey's Motion to Dismiss should be GRANTED and First Broadcasting's proposal to relocate Station KMCQ to Covington, Washington, should be DISMISSED.

TRIPLE BOGEY, LLC
MCC RADIO, LLC and
KDUX ACQUISITION, LLC

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July 6, 2004

CERTIFICATE OF SERVICE

I, Janice M. Rosnick, do hereby certify that I have on this 6th day of July, 2004, caused to be hand delivered or mailed via First Class Mail, postage prepaid, copies of the foregoing REPLY TO OPPOSITION to the following:

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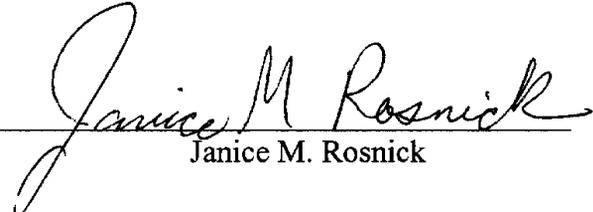
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