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WRITER'S DIRECT

April 6, 2005

**By Electronic Comment Filing System**

Marlene H. Dortch, Esquire  
Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, D.C. 20554

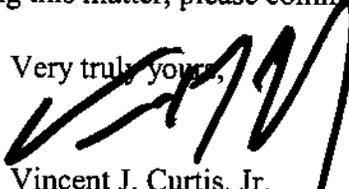
Re: MB Docket 03-15  
File No. BFRECT-20050210AUC

Dear Ms. Dortch:

Attached hereto on behalf of Caroline K. Powley are Comments with regard to the above-referenced Digital Channel Election Form - First Round Election.

Should any questions arise concerning this matter, please communicate with this office.

Very truly yours,

  
Vincent J. Curtis, Jr.  
Counsel for Caroline K. Powley

VJC/clg  
Enclosure

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

In the Matter of ) MB Docket 03-15  
Application of )  
Paxson Des Moines License, Inc. )  
KFPX(TV), Newton IA )  
Negotiated Channel Arrangement for ) File No. BFRECT-20050210AUC  
First Round Digital Channel Election )  
To: The Secretary  
Attn:: Chief, Media Bureau

**COMMENTS**

COMES NOW Caroline K. Powley ("Powley"), permittee of station KDMI-DT, Facility Identification Number 78915, Des Moines, Iowa, by her attorneys, and respectfully submits her Comments directed to the "Motion to Dismiss Response"<sup>1/</sup> or, in the alternative, For Leave to Accept Reply to Response" and "Reply to Response," filed by Paxson Des Moines License, Inc. ("Paxson") in connection with the above-captioned proceeding.

The *sine qua non* of the negotiated channel arrangement procedure is that the proponent must have "evidence of a signed negotiated channel allocation arrangement . . ." (Emphasis added.)<sup>2/</sup> Paxson simply does not possess such a document. Its contention that "an NCA did

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<sup>1/</sup> Paxson totally ignores the "Motion for Leave to Accept Response" filed by Ms. Powely. It is almost laughable that Paxson, who has ignored the Commission's established procedure, seeks to deny objections on procedural grounds.

<sup>2/</sup> Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 19 FCC Rcd 18279, 18297-8 (2004).

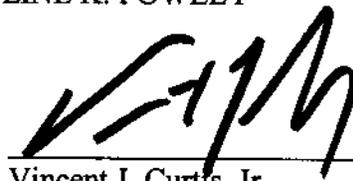
exist,"<sup>3/</sup> is breathtaking in its arrogance. It is as if its continued mantra that such a document exists will make it so. It is no wonder that parties in other markets have accused Paxson of bad faith and the filing of false statements with the Commission.<sup>4/</sup>

Accordingly, it is submitted that the failure of Paxson to follow proper procedures renders its proposal unacceptable.

Respectfully submitted,

CAROLINE K. POWLEY

By:



Vincent J. Curtis, Jr.  
Anne Goodwin Crump

Her Attorneys

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April 6, 2005

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<sup>3/</sup> Paxson "Reply to Response" p. 2.

<sup>4/</sup> See, "Response to Reply Comments of Spokane License, Inc." filed March 28, 2005 (MB Docket No. 03-15), FCC File No. BFRECT-20050201AWF [Facility Id No. 81694].

**CERTIFICATE OF SERVICE**

I, Cheryl L. Gunnells, a Secretary with the law firm of Fletcher, Heald & Hildreth PLC, certify that I have this 6<sup>th</sup> day of April, 2005, caused to be sent a copy of the foregoing Response to be served by Federal Express on the following:

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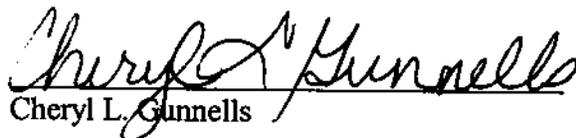
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