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Federal Communications Commission  
Office of the Secretary

Before the

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Federal Communication Commission  
Bureau / Office

In re Matter of:

Amendment of Section 73.202 (b)  
Table of Allotments,  
FM Broadcast Stations,  
Glenville, Weaverville, and  
Clyde, North Carolina;  
Tazewell, Tennessee

)  
)  
)  
) MB Docket No. 02-352  
) RM-10602  
) RM-10776  
) RM-10777

Amendment of Section 73.202 (b)  
Table of Allotments,  
FM Broadcast Stations,  
Elberton and Union Point,  
Georgia

)  
) MB Docket No. 05-191  
) RM-11243  
)  
)

To: Chief, Media Bureau

COMMENTS ON JOINT REQUEST

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

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October 11, 2005

## COMMENTS ON JOINT REQUEST

Willsyr Communications, Limited Partnership ("Willsyr"), by its counsel, pursuant to 47 CFR 1.4 (h) and 1.45 (b), hereby submits its "Comments on Joint Request." This is in response to a "Joint Request for Approval of Universal Settlement Agreement," filed September 19, 2005, purportedly by Glenville Radio Broadcasters ("GRB"); the Stair Company, Inc. ("Stair"); Georgia Carolina Radiocasting Company, L.L.C. ("GCRC"); and Franck McCoy ("McCoy"). On September 29, 2005, a "Request for Leave to Supplement and Supplement to Joint Request for Approval of Universal Settlement" was filed by these parties.

### Background Facts

The "Joint Request" and universal settlement agreement propose a resolution of rulemakings in MB Dockets Nos. 02-352 and 05-191. These rulemakings concern FM allocations in Glenville, Weaverville, and Clyde, North Carolina; Tazewell, Tennessee; Elberton and Union Point, Georgia.

Under the universal settlement agreement, the proposal of Stair to re-allocate Channel 290 C2 to Weaverville would be granted. This community is adjacent to Asheville, North Carolina. GCRC would be paid by Stair the amount of Two Hundred Thousand Dollars (\$200,000) to dismiss its counter-proposal.

This universal settlement agreement is tied to a settlement agreement concerning Station WOXL-FM, Biltmore Forest, North Carolina (which is also adjacent to Asheville). Therein, GCRC is to be paid One Hundred Thousand Dollars (\$100,000) for the dismissal of the objections of a related company to the grant of

construction permit, grant of license, and grant of assignment of license of Station WOXL-FM.

Under the Weaverville settlement agreement, at Section 4, the obligations of the parties are conditioned upon the performance of the obligations of the parties in the Biltmore Forest settlement agreement. GCRC is one of the parties. Another party is Asheville Radio Partners, L.L.C. ("ARP").

The law firm of Fletcher, Heald & Hildreth ("FH&H") represents Stair in the Weaverville settlement agreement. It represents ARP in the Biltmore Forest settlement agreement. FH&H prepared and filed both settlement agreements.

Willsyr has an interest as to the approval of the Biltmore Forest settlement agreement. It has pending objections in that proceeding and is contesting the grant of the construction permit to Station WOXL-FM and the assignment of its license.

Because of its interest in the Biltmore Forest proceeding and because the Biltmore Forest settlement agreement is tied to the Weaverville settlement agreement, and as a member of the public, Willsyr presents these comments for consideration by the Bureau.

The Weaverville Settlement Agreement Does Not Comply with  
Commission Rules

The "Supplement to the Joint Request," filed on September 19, 2005, re-submitted a copy of the Weaverville settlement agreement to provide a signature for Stair, one of the four purported parties to the agreement.

However, two of the purported parties to the Weaverville settlement agreement, GRB and McCoy, have not met all of the requirements of 47 CFR 73.3525.

GRB did not submit an affidavit as to consideration, as required by 47 CFR 73.3525 (a). Such an affidavit was not contained in either the September 19<sup>th</sup> or 29<sup>th</sup> filings.

Although there is a signature for GRB on the Weaverville settlement agreement, it appears to be the same signature as the one for counsel of GRB on the "Joint Request." Neither signature is legible. Thus, the principal of GRB should submit a declaration that the settlement agreement was signed by a duly authorized representative. Under the settlement agreement, GRB is to receive nothing for the dismissal of its rulemaking proposal.

McCoy did not sign the Weaverville settlement agreement. Rather, his name was affixed by a person with the initials "FRJ." This appears to be Frank R. Jazzo, who is an attorney with FH&H and who is counsel to Stair, the prime beneficiary of the settlement agreement. McCoy is to receive nothing under the settlement agreement for dismissal of his rulemaking proposal.

The counsel of record for McCoy, Lauren Colby, did not sign either the "Joint Request" or the "Supplement to Joint Request." Rather, Colby's name was affixed by a person with the initials "FRJ." This appears to be Frank R. Jazzo.

Accordingly, in view of the fact that GRB did not submit an

affidavit as to consideration and the fact that McCoy did not sign the Weaverville settlement agreement, the "Joint Request" for approval of the settlement agreement is not grantable. Because the deadline of October 3, 2005, has passed for submission of all required information and documents for a universal settlement, the Weaverville "Joint Request" can not now be supplemented.

In view of the omissions of required signatures and documents from two of the purported parties to a universal settlement agreement, the Bureau is requested to conduct a "public interest" review of the Weaverville settlement agreement and the circumstances surrounding its execution and submission. Willsyr's comments should be considered as an objection for purposes of the Commission's ex parte rules.

Conclusions

WHEREFORE, in view of the foregoing, the "Joint Request" and the Weaverville settlement agreement are not in compliance with Commission Rules, under 47 CFR 1.52 and 73.3525, and thus can not be granted.

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

By:

  
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October 11, 2005

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney licensed to practice in the District of Columbia, do hereby certify that on this 11th day of October, 2005, I have caused to be hand-delivered or mailed; U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Comments on Joint Request" to the following:

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