

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Revision of Procedures Governing Amendments) MB Docket No. 05-210
To FM Table of Allotments and Changes) RM-10960
Of Community of License in the Radio Broadcast)
Services)

To: The Commission

REPLY COMMENTS

Good News Radio, Inc. (“Good News”), licensee of noncommercial educational FM broadcast stations WGNN, 102.5 MHz, Fisher, Illinois,¹ and WGNJ, 89.3 MHz, St. Joseph, Illinois, through counsel and pursuant to Section 1.415 of the FCC’s Rules, hereby offers these brief Reply Comments concerning the FCC’s *Notice of Proposed Rule Making* in the above-captioned proceeding, FCC 05-120, released June 14, 2005 (the “*NPRM*”).

In this proceeding, the FCC proposes to allow FM stations to change their communities of license by filing minor change applications, rather than through the initiation of lengthy, cumbersome and unpredictable rule making proceedings. In addition, it has suggested in the *NPRM* (§ 40) that the FCC should no longer hold, as a matter of policy, that Section 307(b) of the Communications Act bars the removal of a community’s only licensed radio station to another community that currently has no local transmission service.

¹ WGNN operates under a noncommercial educational license, notwithstanding that its frequency is in the unreserved portion of the FM band.

While most commenters support permitting community of license changes via minor change applications, many urge the FCC to not act in a way that would permit licensees to relocate from smaller rural or exurban communities for the purpose of serving larger population centers. Good News joins those who agree that minor change applications will permit much more expeditious implementation of service improvements and utilize licensee and FCC resources much more efficiently than the current rule making process. In contrast to a number of commenters, however, Good News believes that inflexible adherence to existing interpretations of Section 307(b) and the public interest are anachronistic, ignore changes in the broadcasting industry, and unfairly deny thousands if not millions of people the benefit of additional radio services from a greater variety of voices.

Good News Radio's interest in the outcome of this proceeding is this: WGNN is Class A FM station licensed to a community northwest of Champaign and Urbana in East Central Illinois. By moving to a transmitter location north and east of its present site – *further* from those two population centers – WGNN could operate as a Class B1 station and increase the number of people within its 60 dBu contour from somewhat less than 93,000 people to nearly 112,000, a gain of nearly 20,000 people. Of at least equal importance, the area within the 60 dBu contour would increase by almost 100 percent, and almost certainly, for some of the people within that gain area, the improved WGNN would be a first or second NCE-FM service and, thus, an important contribution to increased diversity of services to the listening public. The relocation would be a “*move out*”, *not* a “*move in*.”

Current FCC rules and policy prevent the implementation of this potential improvement in service in two respects. First, at the site necessary (under the mileage separation requirements) to implement the upgrade, WGNN could not provide a 70 dBu or better signal to all of its present community of license (because WGNN, although licensed as a noncommercial educational station, operates on an unreserved channel, it is subject to Section 73.315 of the FCC's rules requiring the same minimum signal over the community of license as a commercial station). Second, FCC policy holds that removal of a community's only local service is, generally, contrary to the public interest and there is no larger community of license within the Class B1 station's potential 70 dBu contour that might even arguably constitute a "preferential" order of FM allotments. Thus, unless and until the FCC revises its policies, WGNN will be prevented from reaching an additional 20,000 persons, *most of whom reside in rural areas or small cities and towns.*

In concluding this rule making proceeding, the FCC should recognize that the proliferation of FM allotments, and more than a decade of move-ins and upgrades, has assured that most of the potential migration of FM stations to large urban areas has already taken place. For the most part, the minimum mileage separation requirements serve as an effective restraint on the ability of stations to abandon small towns and rural areas for urban centers. WGNN certainly cannot move closer to Champaign and Urbana. But, *by moving out*, further from the urbanized areas, it can provide valuable new service to a large number of people. Many other licensees are in the same position – they can maximize their service only by moving out, not in. By inflexibly adhering to a policy of not

allowing the removal of a community's only local transmission service, the FCC is, in many cases, discriminating against residents of rural areas and other small communities.

Even if FCC should decide not to modify its presumption against removal of existing service, the agency could resolve WGNN's problem by another mechanism: it could revise its rules to permit noncommercial educational stations operating in the unreserved portion of the band – just as it permits new NCE stations in the reserved portion of the band – to operate from transmitter locations that provide a minimum 60 dBu signal over the community of license.² That would permit WGNN to file a one-step (minor change) application to upgrade from Class A to Class B1 without changing its community of license. In its *Second Report and Order* in MM Docket No. 98-93, 1998 Biennial Regulatory Review -Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, FCC 00-368, released November 1, 2000, the FCC adopted a requirement (Section 73.515 of the Rules) for NCE stations (on Channels 201-220) to provide 60 dBu or better coverage to at least fifty percent of the area or population of the community of license. In so doing, the FCC acknowledged that

many NCE FM stations operate at lower power levels and may not be able to comply with the 70 dBu commercial FM station principal community coverage requirement. . . . [T]his 60 dBu coverage standard should ensure sufficient flexibility in siting facilities and reaching target audiences. We believe this modification balances the Commission's mandate under Section 307(b) of the Act with the service, technical, and financial realities of operating NCE FM stations.

² A possible change in the principal city signal requirement has already been raised in this proceeding (see, e.g., *NPRM*, ¶ 43), so a change to exempt NCE stations in the unreserved band from the requirements of Section 73.315 would be well within the scope of the *NPRM*.

Second Report and Order, supra, ¶ 42.³ NCE stations in the unreserved portion of the band operate under the same constraints as stations in the reserved portion, and the FCC should strive to strike the same balance between Section 307(b) and “operating realities.” The FCC thus has a means available by which it could provide important relief to WGNN and other similarly situated NCE stations in the unreserved band – and facilitate more service to the public – without altering its policy with respect to the removal of local transmission services.⁴

Respectfully submitted,

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³ In the *Second Report and Order*, the FCC deleted a Note to Section 73.315 of the Rules that stated: “The requirements of paragraph (a) of this section do not apply to noncommercial educational FM broadcast stations operating on reserved channels. (Channels 200 through 220).” By removing the Note, and its reference to stations on reserved channels, the *Second Report and Order*, although speaking generally about NCE stations, left noncommercial educational stations in the unreserved portion of the band subject to Section 73.315 and the 70 dBu principal community signal requirement.

⁴ If the FCC were concerned that an NCE station on an unreserved channel could at some time be converted to commercial operation, it could simply provide that a commercial entity would not be a qualified assignee of an NCE station with a transmitter site that did not conform to Section 73.315.