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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 18 2006

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.202(b),)
FM Table of Allotments,)
For FM Broadcast Stations.)
)
(High Point and Liberty, North Carolina))

MB Docket No. 05-115
RM-11202

To: Office of the Secretary, to forward to Assistant Chief (Allocations), Audio Division

REQUEST FOR APPROVAL OF WITHDRAWAL OF INTEREST

Capstar TX Limited Partnership ("Capstar"), the licensee of WVBZ(FM), Channel 262C, High Point, North Carolina (Facility ID No. 74204), by its attorneys and pursuant to Section 1.420(j) of the Commission's Rules, 1/ hereby requests approval of the withdrawal by Capstar of its interest in the reallocation of WVBZ(FM) from Channel 262C at High Point, North Carolina, to Channel 262CO allotment at Liberty, North Carolina.

This proceeding was initiated by Capstar's Petition for Rulemaking filed August 6, 2004 (the "Petition") for the modification of the Commission's Table of Allotments for FM Broadcast Stations (Section 73.202 of the Commission's Rules) to: (a) delete Channel 262C from High Point, North Carolina; (b) add Channel 262CO to Liberty, North Carolina; and (c) modify the license of WVBZ(FM) to specify operation on Channel 262CO at Liberty, North Carolina, in lieu of operation on Channel 262C at High Point, North Carolina

1/ 47 C.F.R. § 1.420(j).

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(collectively, the "Proposal"). In response to Capstar's Petition, the Assistant Chief, Audio Division, Media Bureau issued a *Notice of Proposed Rule Making* in the above-captioned proceeding, 20 FCC Rcd 6024 (rel. March 18, 2005) (the "*NPRM*").

Capitol Broadcasting Company, Inc. ("Capitol"), the licensee of WCMC-FM, Creedmoor, North Carolina (formerly WFXQ(FM), Chase City, Virginia) (Facility ID No. 51760) ("WCMC-FM"), submitted Comments on May 9, 2005, in this proceeding (the "Capitol Comments") and a Surreply dated June 27, 2005 (the "Capitol Surreply").^{2/} Capitol had no objection to the Proposal to reallocate WVBZ(FM) to Channel 262CO at Liberty; however, Capitol urged the Commission to adopt modified reference coordinates for WVBZ(FM) at the Liberty allotment in order to accommodate the modification of construction permit application filed by Capitol on May 9, 2005, for WCMC-FM, File No. BMPH-20050509ACV (the "WCMC-FM Modification Application"). Without such a change in reference coordinates, the WCMC-FM Modification Application is mutually exclusive with the Proposal.

Capitol and Capstar Radio Operating Company ("Capstar Radio"), an affiliate of Capstar, entered into a Modification and Option Agreement on February 27, 2006 (the "Capitol-Capstar Agreement"), which modified the terms of an existing tower lease between the parties (Capitol as landlord and Capstar Radio as tenant) and granted Capstar Radio options and rights of first refusal to lease additional tower space from Capitol. Capstar Radio agreed in the Capitol-

^{2/} Since Capitol filed its Comments, it implemented a construction permit for WCMC-FM, File No. BPH-20040809AAJ, specifying service to Creedmoor, North Carolina, as set forth in the community of license change and modification of license adopted in *Chase City, Virginia, and Creedmoor, Ahoskie Gatesville, and Nashville, North Carolina*, 19 FCC Rcd 8483 (Ass't Chief, Audio Division 2004).

Capstar Agreement to amend the proposed transmitter site for WVBZ(FM) at Liberty in this proceeding to a site west of an 87 kilometer radius from 36° 02' 01" N and 78° 41' 27" W, and not to seek any site inconsistent with such parameters for a period of five years. Capstar Radio also agreed in the Capitol-Capstar Agreement not to interpose any objection to any modifications to WCMC-FM's facilities to include any relocation of WCMC-FM's transmitter site and/or any modifications not inconsistent with the FCC's rules. Capitol agreed in the Capitol-Capstar Agreement that it will not raise any objection to a change in community of license for WVBZ(FM) from High Point to Liberty, North Carolina, as proposed in this docket.

Following the execution of the Capitol-Capstar Agreement, and upon consideration of the technical constraints, Capstar made the unilateral decision not to pursue the reallocation of WVBZ(FM) from High Point to Liberty, North Carolina. Consequently, rather than seeking new reference coordinates for Liberty in this docket as provided for in the Capitol-Capstar Agreement, Capstar is withdrawing its interest in the reallocation. As provided for in Section 1.420(j), Capstar hereby is submitting this request for approval by the Commission of its withdrawal of interest. Upon such approval, Capstar requests that this docket be terminated and that WVBZ(FM) continue to be licensed to High Point, North Carolina.

Attached are certifications of the parties as specified in Section 1.420(j). Capstar notes that the agreement between Capitol and Capstar did not call for the withdrawal of Capstar's interest, but in an abundance of caution, Capstar hereby requests, to the extent required, that the Commission approve the terms of the agreement between Capitol and Capstar. 3/ Such approval

3/ Capitol has authorized Capstar to file the Capitol certification in this docket and Capitol concurs with this request. Capitol states in its certification that it has no objection to the termination of this proceeding.

will promote the public interest, by fostering the prompt final resolution of this proceeding, and the mutually-exclusive WCMC-FM Modification Application.

For the foregoing reasons, the Commission should grant Capstar's request to withdraw its interest in the reallocation of WVBZ(FM), High Point, North Carolina, should terminate MB Docket No. 05-115, and proceed to promptly process the no-longer mutually exclusive WCMC-FM Modification Application.

Respectfully submitted,

CAPSTAR TX LIMITED PARTNERHIP

By: 

Marissa G. Repp
Tarah Grant

HOGAN & HARTSON L.L.P.
555 Thirteenth Street, N.W.
Washington, DC 20004-1109
(202) 637-5600

Its Attorneys

April 18, 2006

CERTIFICATION

I, Stephen G. Davis, do hereby certify, under penalty of perjury, as follows:

1. I am Senior Vice President-Engineering & Capital Management of Capstar TX Limited Partnership (“Capstar”), the licensee of WVBZ(FM), Channel 262C, High Point, North Carolina (Facility ID No. 74204).

2. Capstar filed a Petition for Rulemaking on August 6, 2004 (the “Petition”) for the modification of the Commission’s Table of Allotments for FM Broadcast Stations to: (a) delete Channel 262C from High Point, North Carolina; (b) add Channel 262CO to Liberty, North Carolina; and (c) modify the license of WVBZ(FM) to specify operation on Channel 262CO at Liberty, North Carolina, which is the subject of a *Notice of Proposed Rule Making* in MB Docket No. 05-115, 20 FCC Rcd 6024 (rel. March 18, 2005).

3. Capitol Broadcasting Company, Inc. (“Capitol”), the licensee of WCMC-FM, Creedmoor, North Carolina (Facility ID No. 51760), submitted Comments and a Surreply in MB Docket No. 05-115 asking the Commission to adopt modified reference coordinates for WVBZ(FM) on Channel 262CO at Liberty in order to accommodate the modification of construction permit application filed by Capitol on May 9, 2005, for WCMC-FM, File No. BMPH-20050509ACV (the “WCMC-FM Modification Application”).

4. Capitol and Capstar Radio Operating Company (“Capstar Radio”), an affiliate of Capstar, entered into a Modification and Option Agreement on February 27, 2006 (the “Capitol-Capstar Agreement”), which modified the terms of an existing tower lease between the parties (Capitol as landlord and Capstar Radio as tenant) and granted Capstar Radio options and rights of first refusal to lease additional tower space from Capitol. The terms of the Capitol-Capstar Agreement as it relates to FCC matters are as follows: Capstar Radio agreed to amend the

proposed transmitter site for WVBZ(FM) at Liberty in MB Docket No. 05-115 to a site west of an 87 kilometer radius from 36° 02' 01" N and 78° 41' 27" W; Capstar Radio agreed not to seek any site inconsistent with such parameters for a period of five years; Capstar Radio agreed not to interpose any objection to any modifications to WCMC-FM's facilities to include any relocation of WCMC-FM's transmitter site and/or any modifications not inconsistent with the FCC's rules; and Capitol agreed that it will not raise any objection to a change in community of license for WVBZ(FM) from High Point to Liberty, North Carolina, as proposed in MB Docket No. 05-115.

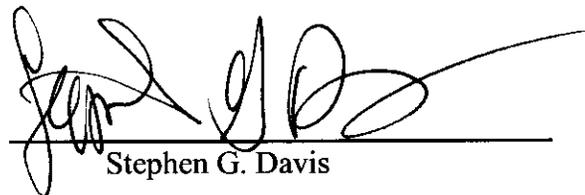
5. While the Capitol-Capstar Agreement provides that Capstar may pursue the Liberty allotment with allotment reference coordinates that would not be mutually exclusive with the WCMC-FM Modification Application, upon consideration of the technical constraints, Capstar has made the unilateral decision not to pursue the reallocation of WVBZ(FM) from High Point to Liberty, North Carolina, as proposed in MB Docket No. 05-115. Consequently, with Commission approval, Capstar is withdrawing its interest in the reallocation, and desires to maintain High Point as WVBZ(FM)'s community of license, with operation continuing on Channel 262C.

6. The Capitol-Capstar Agreement, the material terms of which are described above, constitutes the entire understanding between Capstar, Capitol, their respective principals and their respective affiliates on this matter. The only consideration that Capstar, its principals or its affiliates will receive is as specified in the Capitol-Capstar Agreement; such consideration consists of the extension by Capitol of an existing tower lease between Capitol and Capstar Radio, the grant by Capitol to Capstar Radio of options and rights of first refusal to lease additional tower space from Capitol and the agreement of Capitol not to raise any objection to a change in community of license for WVBZ(FM) from High Point to Liberty, North Carolina, as

proposed in MB Docket No. 05-115. The only consideration Capitol, its principals or its affiliates will receive is as specified in the Capitol-Capstar Agreement; in addition to the extension by Capstar Radio of the existing tower lease, such consideration is the agreement by Capstar to amend the proposed transmitter site for WVBZ(FM) at Liberty in MB Docket No. 05-115 to a site west of an 87 kilometer radius from 36° 02' 01" N and 78° 41' 27" W, to not seek any site inconsistent with such parameters for a period of five years, and to not interpose any objection to any modifications to WCMC-FM's facilities to include any relocation of WCMC-FM's transmitter site and/or any modifications not inconsistent with the FCC's rules. Consequently, there is no monetary compensation between Capstar and Capitol, or their principals or affiliates, relating to MB Docket No. 05-115 or the WCMC-FM Modification Application.

7. No expenses of either Capstar or Capitol, or their principals or affiliates, are being reimbursed. Capstar's withdrawal of its expression of interest in the Liberty allotment was made unilaterally by Capstar. There is no written or oral agreement between Capstar and Capitol, or their principals or affiliates, related to the dismissal or withdrawal of Capstar's expression of interest in the Liberty allotment. Neither Capstar nor its principals or affiliates has received or will receive or has paid or will pay any money or other consideration in exchange for the dismissal or withdrawal of an expression of interest.

8. Capstar has not prosecuted the reallocation of WVBZ(FM) at Liberty proposed in MB Docket No. 05-115 for the purpose of reaching or carrying out a settlement.



Stephen G. Davis

Executed: April 12, 2006

CERTIFICATION

I, James F. Goodmon, do hereby certify, under penalty of perjury, as follows:

1. I am President and Chief Executive Officer of Capitol Broadcasting Company, Inc. ("Capitol"), the licensee of WCMC-FM, Creedmoor, North Carolina (Facility ID No. 51760).

2. Capstar TX Limited Partnership ("Capstar"), the licensee of WVBZ(FM), Channel 262C, High Point, North Carolina (Facility ID No. 74204), filed a Petition for Rulemaking on August 6, 2004 (the "Petition") for the modification of the Commission's Table of Allotments for FM Broadcast Stations to: (a) delete Channel 262C from High Point, North Carolina; (b) add Channel 262CO to Liberty, North Carolina; and (c) modify the license of WVBZ(FM) to specify operation on Channel 262CO at Liberty, North Carolina, which is the subject of a *Notice of Proposed Rule Making* in MB Docket No. 05-115, 20 FCC Rcd 6024 (rel. March 18, 2005).

3. Capitol submitted Comments and a Surreply in MB Docket No. 05-115 asking the Commission to adopt modified reference coordinates for WVBZ(FM) on Channel 262CO at Liberty in order to accommodate the modification of construction permit application filed by Capitol on May 9, 2005, for WCMC-FM, File No. BMPH-20050509ACV (the "WCMC-FM Modification Application").

4. Capitol and Capstar Radio Operating Company ("Capstar Radio") entered into a Modification and Option Agreement on February 27, 2006 (the "Capitol-Capstar Agreement"), which modified the terms of an existing tower lease between the parties (Capitol as landlord and Capstar Radio as tenant) and granted Capstar Radio options and rights of first refusal to lease additional tower space from Capitol. The terms of the Capitol-Capstar Agreement as it relates to FCC matters are as follows: Capstar Radio agreed to amend the proposed transmitter site for WVBZ(FM) at Liberty in MB Docket No. 05-115 to a site west of an 87 kilometer radius from 36° 02' 01" N and 78° 41' 27" W; Capstar Radio agreed not to seek any site inconsistent with

such parameters for a period of five years; Capstar Radio agreed not to interpose any objection to any modifications to WCMC-FM's facilities to include any relocation of WCMC-FM's transmitter site and/or any modifications not inconsistent with the FCC's rules; and Capitol agreed that it will not raise any objection to a change in community of license for WVBZ(FM) from High Point to Liberty, North Carolina, as proposed in MB Docket No. 05-115.

5. Capitol understands that, notwithstanding that the Capitol-Capstar Agreement provides that Capstar may pursue the Liberty allotment with allotment reference coordinates that would not be mutually exclusive with the WCMC-FM Modification Application, Capstar has made the unilateral decision not to pursue the reallocation of WVBZ(FM) from High Point to Liberty, North Carolina. Consequently, Capitol understands that Capstar is withdrawing its interest in the reallocation, and that this Certification will be filed along with a request for Commission approval of such withdrawal and termination of MB Docket No. 05-115. Termination of that docket will permit the Commission to process promptly the WCMC-FM Modification Application.

6. The Capitol-Capstar Agreement, the material terms of which are described above, constitutes the entire understanding between Capitol, Capstar, their respective principals and their respective affiliates on this matter. The only consideration that Capstar, its principals or its affiliates will receive is as specified in the Capitol-Capstar Agreement; such consideration consists of the extension by Capitol of an existing tower lease between Capitol and Capstar Radio, the grant by Capitol to Capstar Radio of options and rights of first refusal to lease additional tower space from Capitol and the agreement of Capitol not to raise any objection to a change in community of license for WVBZ(FM) from High Point to Liberty, North Carolina, as proposed in MB Docket No. 05-115. The only consideration Capitol, its principals or its affiliates will receive is as specified in the Capitol-Capstar Agreement; in addition to the extension by Capstar Radio of the existing tower lease, such consideration is the agreement by Capstar to amend the proposed transmitter site for WVBZ(FM) at Liberty in MB Docket No. 05-115 to a site

west of an 87 kilometer radius from 36° 02' 01" N and 78° 41' 27" W, to not seek any site inconsistent with such parameters for a period of five years, and to not interpose any objection to any modifications to WCMC-FM's facilities to include any relocation of WCMC-FM's transmitter site and/or any modifications not inconsistent with the FCC's rules. Consequently, there is no monetary compensation between Capitol and Capstar, or their principals or affiliates, relating to MB Docket No. 05-115 or the WCMC-FM Modification Application.

7. No expenses of either Capitol or Capstar, or their principals or affiliates, are being reimbursed. There is no written or oral agreement between Capitol and Capstar, or their principals or affiliates, related to the dismissal or withdrawal of Capstar's expression of interest in the Liberty allotment. Neither Capitol nor its principals or affiliates has received or will receive or has paid or will pay any money or other consideration in exchange for the dismissal or withdrawal of an expression of interest.

8. Capitol has not prosecuted the WCMC-FM Modification Application for the purpose of reaching or carrying out a settlement.


James F. Goodman

Executed: April 12, 2006

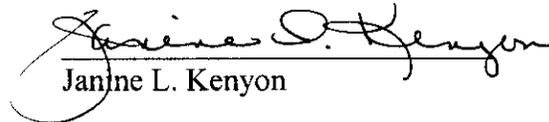
CERTIFICATE OF SERVICE

I, Janine L. Kenyon, hereby certify that on this 18th day of April, 2006, a copy of the foregoing **Request for Approval of Withdrawal of Interest** were sent by first-class mail, postage prepaid, to:

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Janine L. Kenyon

*By Hand Delivery