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

MAIL 50

JUL 31 2006

FCC MAIL ROOM

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-282
Table of Allotments,)	RM-11229
FM Broadcast Stations.)	RM-11333
(Rockmart, Aragon, and Ellijay, Georgia,)	RM-11337
Lynchburg, Chattanooga, Decatur, Harrison, and)	
Wartrace, Tennessee, and Anderson, South)	
Carolina) ¹)	
)	

ORDER TO SHOW CAUSE

Adopted: July 26, 2006

Released: July 28, 2006

Comment Date: August 31, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a counterproposal filed by J. L. Brewer Broadcasting of Cleveland, LLC, licensee of Station WAYA(FM), Spring City, Tennessee, and J. L. Brewer Broadcasting, LLC, licensee of Station WMPZ(FM), Ringgold, Georgia (together, "Brewer") in response to the *Notice of Proposed Rule Making* in this proceeding.² The counterproposal requires the issuance of this *Order to Show Cause* directed at Tri-State Communications, Inc. ("Tri-State"), licensee of Station WLJA-FM, Channel 228A, Ellijay, Georgia.

2. Brewer filed a timely counterproposal in response to the allotment changes proposed in the *Notice*. Specifically, Brewer requests a change of community for Station WAYA(FM), Channel 230C3, Spring City, Tennessee, deleting Channel 230C3 at Spring City and allotting Channel 230C3 at Decatur, Tennessee, as that community's first local service. In order to accommodate that change of community, Brewer requests a change of community for Station WMPZ(FM), Channel 229A, Ringold, Georgia, deleting Channel 229A at Ringold and allotting Channel 228A at Harrison, Tennessee, as that community's first local service. In order to accommodate that change of community, Brewer requests that Station WLJA-FM, Ellijay, Georgia, be required to change from Channel 228A to Channel 266A, and requests that the Commission require Tri-State to show cause why its channel should not be changed at its current site.³ Consistent with the *Circleville* policy, Brewer states that it will reimburse Tri-State for the reasonable costs incurred in connection with the proposed channel change for FM Station WLJA.⁴

¹ Ellijay, Georgia, Anderson, South Carolina and Decatur, Harrison, and Wartrace, Tennessee have been added to the caption to reflect the two counterproposals submitted in this proceeding. See *Public Notice*, Report No. 2773, released June 16, 2006, and *Public Notice*, Report No. 2781, released July 20, 2006.

² See *Rockmart and Aragon, Georgia, and Lynchburg and Chattanooga, Tennessee*, Notice of Proposed Rule Making, 20 FCC Rcd 16,259 (MB 2005) ("*Notice*").

³ As a final element of its counterproposal, Brewer represents that it has secured the consent of Entercom Greenville License, LLC, the licensee of WROQ(FM), Channel 266C0, Anderson, South Carolina, for the downgrade of that station to Channel 266C1.

⁴ See *Circleville, Ohio*, Second Report and Order, 8 FCC 2d 159 (1967).

3. Section 316(a) of the Communications Act of 1934, as amended,⁵ permits us to modify a station's license or construction permit if such action is in the public interest. The Act requires that we notify the affected station of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.⁶ We find that Brewer's counterproposal, which would provide a first local service to two communities, has sufficient public interest benefits to justify the issuance of a show cause order. Therefore, we are issuing this *Order to Show Cause* directed to Tri-State Communications, Inc., requiring Tri-State to show cause why the license of Station WLJA-FM should not be modified to specify operation of Channel 266A, in lieu of Channel 228A, at Ellijay, Georgia.

4. Accordingly, IT IS ORDERED, That pursuant to the Act, Tri-State Communications, Inc., licensee of Station WLJA-FM, Ellijay, Georgia, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 266A in lieu of Channel 228A.

5. Pursuant to Section 1.87 of the Communications Rules, Tri-State Communications, Inc. may, no later than August 31, 2006, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the affected licensees herein to furnish additional information. If Tri-State raises any substantial and material questions of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the respective licensee(s) will be deemed to have consented to the respective modification(s) as proposed in this *Order to Show Cause* and a final Order will be issued if the modification(s) is found to be in the public interest.

6. IT IS FURTHER ORDERED, that a copy of this *Order to Show Cause* shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Tri-State Communications, Inc.
141 Tabor Street
Post Office Box 545
Ellijay, Georgia 30540

Dennis J. Kelly, Esq.
Law Office of Dennis J. Kelly
Post Office Box 41177
Washington, DC 20018
(Counsel for Tri-State Communications, Inc.)

7. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁵ 47 U.S.C. § 316(a) (the "Act").

⁶ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, Order, 2 FCC Rcd 3327 (1987).