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Before the
Federal Communications Commission
Washington D.C. 20554

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In the Matter of

Amendment of Section 73. 202(b) Table of Allotments, FM Broadcast Stations.

Morristown, Indiana

Shelbyville, Indiana

MB Docket 06-77 RM 11324

Previously filed with MB Docket No. 04- 17 RM- 11113 RM- 11114

BLER 20000728AEF Morristown, Indiana

Attention : Secretary

Petition For Rulemaking Status Request and Reply Comments

Comes now Indiana Community Radio Corporation ("ICRC"), a *non profit* Corporation, non commercial radio station WJCF, and it's President Jennifer Cox-Hensley (a minority) in the above noted matter.

ICRC has not been provided service by all parties of activities within the proceeding or Public Notice that it's request filed in December of 2005 and amended in January 2006 would be superceded by another Rulemaking. In fact, the deletion of Channel 201 and substitution of CH 262 for station WJCF was still in the Commission database and ICRC believed in processing line until July 2006. *This filing by ICRC is timely.*

Commission Staff will always provide Public Notice if it dismisses a request for Rulemaking and sometimes will indicate why the Rulemaking was dismissed. This has not taken place with the ICRC request.

Prior to RM 11324 and not included in any Commission Public Notice or Docketed Proceeding is a Petition For Rulemaking filed originally in December of 2005 and then modified in January of 2006 by ICRC. The ICRC Petition was properly filed and in processing line prior to the Counterproposal filed in this proceeding but has not been properly docketed. ICRC has presented a need and an educational showing previous to the noted PRM and Staff should not allow a counterprospal without docketing the request by ICRC first.

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Indiana Community Radio Corporation has submitted a "Petition for Rulemaking" which was referenced in RM 11113 RM 11114 but never acted on by Staff. Staff *did* not include the Petition For Rulemaking in the captioned proceeding RM 11113 RM 11114 . Staff did not provide a cutoff notice or a seperate public comment period for consideration of the original or amended Petition by ICRC which were properly filed with the Secretary as required prior to MB Docket 06-77 RM 11324.

The ICRC Petition is the only Petition which is in the Public Interest as it is the only Petition in the proceeding RM 11113 RM 11114 which has received comments from the public which were favorable. There is no evaluation by Staff of the merits of the ICRC Petition and the ICRC Petition, which is in line to be processed prior to the filing of RM 11324. There is no discussion of the population or service to the community of Shelbyville versus Hope Indiana. Staff understands the ICRC allocation filed in December 2005 is available as requested. Previously Staff has allowed a transmitter site which is short spaced and allowed stations to use an allocation site that is clear as ICRC requested.

There are issues which the parties have failed to disclose.. A lawsuit between the parties has alleged licensee misconduct and these matters should be considered by Commission Staff prior to the a final outcome of RM 11324.

Any final action by Commission Staff on this matter is impossible at this time as the allocation of Channel 262 is *contingent* as the CH 262 allocation is not clear until CH 262 is constructed at Norwood Ohio and facilities are no longer in use at Connersville Indiana. ICRC believed Commission Staff had delayed processing the ICRC Petition until CH 262 had been constructed at Norwood Ohio.

Two other stations are available to provide first service to Hope Indiana.

The failure to include or notify ICRC of a Rulemaking Proceeeding which it initiated prior to the date of this proceeding is no doubt a simple oversight which Commission Staff will correct. ICRC has presented a need and an educational showing previous to RM 11324. As then ICRC request involves an educational channel and provides first educational service to an area not served this matter is not well settled.

Background

Allocation Issues

The ICRC request should be considered in order of request. The ICRC request was filed in 2005 prior to the current counterproposal. Staff is required to consider requests in order received. Clearly the ICRC request was filed previous to the current PRM.

ICRC has previously demonstrated by Engineering Showing that the allocation is available for use by ICRC at Shelbyville. This will provide first educational

service for more persons than Hope Indiana which has educational service. The need to provide first time educational service outweighs another commercial service in this area and has not been considered.

The need of the proposed licensee to serve Hope Indiana is noted but the failure to include specific licensee station coverage of Hope Indiana is misrepresentation by failure to disclose.

Reising Radio Partners operates WKRY which is proposed to serve Versailles as it's only station. Evidence of the operation of the station from 58km distant from Versailles is provided herein. This operation is from Columbus Indiana. Reising Radio Partners operates WRZQ Greensburg which provides a 70dbu City Grade Contour over Hope Indiana. It is operated from Columbus Indiana. Reising Radio partners operates WYGS Columbus which is simulcast over WKRY from studios at Columbus Indiana. WYGS provides a 60dbu contour over Hope Indiana. There is no 60dbu contour over Columbus Indiana where the station is licensed.

Reising Radio Partners operates WYGB Edinburgh from studios at Columbus Indiana. WTRE Greensburg which allows WRZQ to be licensed to Hope Indiana. Other stations exist which allow WYGS to serve Hope Indiana.

There are two stations which can currently be licensed to Hope, one as a minor modification.

The tower site for the proposed WXCH Hope Indiana location is owned by Reising Radio Partners and the future sale of the station to Reising or financial disclosure and agreements are not provided.

NCE First and Second Service Showing

From the Allocation Coordinates provided in the ICRC Petition which was filed prior to the date RM 11324 the population and service are noted and are relevant. 128,689 persons are within the 60dbu of the ICRC Channel 262 allocation. In the 80 dbu there is no existing non commercial station that overlaps contours and there are 6,905 persons. Contours for WFYI, WRFT, and WICR are completely within WFYI Contours and in the contour overlap of WJCF and WFYI includes 26, 371 persons. Contour overlap between WFCI (which simulcasts WFYI programming) and WJCF includes 31, 837 persons. Contour overlap with WYGS and WAUZ (and noting stations WYGS and WAUZ overlap signals) includes 45, 169 persons. The total of persons who receive service from an NCE station are 103,377. **25, 312 persons receive first service as a result of the allocation.**

Second service would include those persons who are within the contour overlap with WYGS and WAUZ (as these stations simulcast programming) and this includes 45, 169 persons. Second service would include the persons within the WFCI contour overlap and this is 31,837 persons. 77,006 persons would receive

second service.

The methodology for performing an NCE evaluation is performed by Com Study. ComStudy 2.2 can count first and second service populations using the 2000 NAD 27 census as required by FCC.

City Of License Change and Commission Policy

Commission Staff routinely processes request in the order made and will consider all requests. The ICRC request has not been considered although filed first. If processed without first docketing the ICRC request ICRC notes it will appeal this decision.

The Commission allows a licensee to change City Of License based on representations by the licensee of it's intention to make such changes and based on licensee candor and representations.

It is clear the new "Hope Indiana" allocation will never be operated from Hope Indiana. It will be most likely be operated from Columbus Indiana as an additional Columbus Indiana station in a "cluster" of stations operated without an LMA filed with the Commission. Licensee candor and failure to disclose are noted as evidence the allocation is a sham for the licensee to have another Columbus Indiana station.

Speculation aside, Commission Staff's acceptance that the representations made by WXCH and WKRY licensees about "service" are not speculative as they are detailed as nonexistent.

Tuck Showing

Legal counsel has presented many reasons for the reasons a Tuck Showing should *not* be made. In fact, every station in the proposed allotment process with the exception of WXCH operates from Columbus Indiana and revenue of the stations will be dependent on Columbus Indiana. The workers for the station will travel daily to Columbus Indiana and are dependent on Columbus Indiana.

Hope Indiana meets several criteria but residents of Hope are dependent on Columbus Indiana for vital services. Transportation Services are based in Columbus Indiana. Hope does not have a grocery store although a convenience store does exist. Groceries must be purchased in Columbus. The Hope library is a sub library of the Columbus library. County government is in Columbus.

The failure to disclose the operation of WKRY or WXCH and present each as an independent local station evidences the scope of the misrepresentation. This representation is similar to Commission vs. Pathfinder Communications Fort Wayne Indiana.

CBC, Cumulus, and CXI utilize Charles Anderson who has been deficient

previously on representations concerning Tuck showings. Commission Staff approved a license move from Morganfiled KY to Corydon Ky as Anderson falsely indicated the move did not involve an urbanized area. The licensee, Union County broadcasting also misrepresented the move however. The move for WMSK FM was to a county within the Evansville Arbitron metro which was not disclosed. Commission Staff has routinely relied on the Public to notify it of such misrepresentations.

Reising Radio partners operates at least 5 stations from Columbus Indiana and only one of the stations is licensed to Columbus. If Columbus were irrelevant to the matter these relevant Commission matters would have been disclosed in this proceeding.

WKRY, WXCH, Versailles and local service

Failure to disclose is the paramount in considering local service to Versailles. WKRY and WXCH are neither located in or near Versailles but simulcast other stations. Local service for Versailles does not exist now and will not exist in the future.

The WKRY studios at Columbus Indiana are 58 km distant from Versailles Indiana. The station was constructed as a translator of WAUZ/WYGS which operate from the Reising Radio Partners building at Columbus Indiana. No Main Studio Waiver has been requested.

There is no road which makes travel convenient between Versailles and Columbus. The Columbus phone number for WKRY listed on the WYGS website is 812 373 WYGS. This is not a local Versailles number.

There is currently no Versailles studios for WXCH. The station simulcasts WSCH. The station is operated from the WSCH studios in Aurora Indiana. No Main Studio Waiver has been requested. Aurora Indiana is 32 km from Versailles Indiana at a location outside of the WXCH 60dbu signal contour.

No local service exists currently in Versailles. Neither licensee has provided the name of the staff that performs daily functions in Versailles or what those functions might be. At minimal there is no management personnel or no office or no Main Studio for any station in Versailles.

WXCH Move Agreement

Marty Pieratt has indicated he has an agreement with a third party for some time. This is an under the table agreement which has not been filed with the Commission. Pieratt has been paid for some time prior to the filing of the PRM. The proponents of another station move have allegedly paid these fees in a funding agreement that can be cancelled at any time. This way the money and the transaction are not disclosed to the Commission. This is relevant to this proceeding.

With the Rulemaking proceeding none of the parties have filed financials related to payments already made to Pieratt or others. The financial agreement is not within the Public Inspection File. ICRC would request copies of all communications between the parties and payments already made to any party in the transfer. It is clear there are agreements which have been made that affect the way this PRM is handled by each station.

By failing to disclose these agreements related to the move the whole matter is kept out of Commission records and is not within the view of the Public who will be most affected by these proposed changes. In station transfers contracts and agreements are considered, why not in a Rulemaking Proceeding?

Financial Considerations

None of the proponents in 11324 have been honest with the Commission. Is Pieratt going to sell WXCH to Reising, whose tower the WXCH transmitter will be located on? As each of the transactions and payments to licensees should be recorded as a contractual agreement in a Public File and none exist this matter should be thoroughly investigated and the financial considerations to each stations disclosed in this proceeding.

The outcome of the Pieratt Reising lawsuit should be fully disclosed in this matter.

Licensee Lawsuit

The Licensee of WXCH Versailles has been involved in a lawsuit with the licensee of WYGB Edinburgh and WXCH Versailles in Jennings County Court. Both licensees share common ownership/oversight of noncommercial stations which overlap the proposed allocation.

The crux of the lawsuit was the sale of noncommercial station WJLR to Educational Media Foundation. The lawsuit between principals Keith Reising Jr. and Marty Pieratt revolved around these issues : 1) The Commission was provided one set of financials related to WJLR when this was not the entire agreement. The settlement of the lawsuit and court filings in the matter should be properly disclosed. Failure to disclose material facts is evident. Candor in this matter has not been provided. ; 2) Pieratt has been incited by the construction of WYGB using a directional antenna which interferes with WXCH. The modification of the WYBG directional antenna has not been filed with the Commission which is one of the concerns Pieratt has related. ; 3) The makeup of the educational organizations used by Keith Reising Jr and Sr to allocate stations. Pieratt was on the board, then off. Pieratt alleged the board makeup was never properly disclosed. ; and others.

Ownership of other stations

The licensee has failed to disclose station ownership and control. he failure is a misrepresentation to improve the case for the allocation. There is misrepresentation with relation to other stations owned or controlled by the licensees and the overlap and control of these stations.

Reising Radio Partners operates stations WRZQ Greensburg, WYGB Edinburgh, WKRY Versailles, WAUZ Greensburg, and WYGS Columbus from their studios in Columbus Indiana. The main studio for each station is in Columbus Indiana. The stations are operated by Reising Radio Partners Staff using Reising Radio Partners facilities. Ad and underwriting sales are by a single staff paid by Reising Radio Partners. The whole system operates as one unit. (Commission Reference to this activity is evident in Commission Vs. Pathfinder Communications Fort Wayne Indiana)

KEITH REISING JR HAS THE FOLLOWING BROADCAST INTERESTS:
100% OF REISING RADIO PARTNERS, WRZQ (FM) WTRE (AM)
GREENSBURG, IN., ALSO OWNS 50% OF EDINBURGH RADIO, INC., WYGB
(FM) EDINBURGH, IN

MARTY PIERATT HAS THE FOLLOWING BROADCAST INTERESTS: 84% VOTING SHAREHOLDER AND PRESIDENT OF STAR MEDIA, INC., LICENSEE OF STATION WIKI(FM), CARROLLTON, KY (FACILITY NO. 73288); 100% VOTING SHAREHOLDER AND PRESIDENT OF PIERATT COMMUNICATIONS, INC., LICENSEE OF STATION WJCP(FM), AUSTIN, IN (FACILITY NO. 3347); AND, 84% OWNER OF COLUMBUS RADIO, INC., LICENSEE OF STATIONS WNVI(AM), NORTH VERNON, IN, FACILITY NO. 61196, STATION WSCH, AURORA, IN (FCC FACILITY NO. 16256), AND STATION WXCH, VERSAILLES, IN (FCC FACILITY NO. 16255).

Good Samaritan Educational Radio Inc formerly owned WJLR and the board makeup of this corporation is unclear. Specifically related to the Pieratt lawsuit there are many questions.

WKRY (Facility ID 91416) is owned by by Good Shepard Radio Inc which lists stations WYGS Columbus, Indiana, WAUZ Greensburg, Indiana, and others. Each of these signals overlaps the proposed allocation. Keith Reising Jr. is listed as a board member of WKRY.

ICRC WJCF PRM

WJCF has experienced many difficulties due to the expenses incurred when legal challenges have been made by McGraw Hill, licensee of WRTV. WRTV has hampered the ability of WJCF to make technical changes and has opposed WJCF in many arenas, and also before the Commission.

Commission precedent in this area is specific. Another local noncommercial

station, WFIU Bloomington, Indiana, was originally allocated in the reserved band and due to Channel 6 interference the Commission changed the WFIU allocation to Channel 279B in the nonreserved band.

Previous Commission actions concerning an allocation at Wilmore, Kentucky are also a clear indication that a one step move from a reserved channel to a non reserved channel would be appropriate without public comment. In this case Public Comment during the period has been favorable.

WJCF is interested in digitally broadcasting it's signal. At 88.1 the digital interference on 87.9 will remove Channel 6 from most televisions in the area surrounding the WJCF tower. An allocation change from Channel 201A to Channel 262A is in the Public Interest.

WJCF currently covers 863 square kilometers and has 23,790 persons in it's current 60dbu coverage area. WJCF coverage would increase to 2321.8 square Kilometers and add population to it's 60dbu coverage area to 128,689 persons. **Over 100,000 persons would gain additional coverage from WJCF.** This would be in the Public interest.

WJCF provides an engineering report on CH 262A that provides coordinates. The Commission has deleted CH 262 at Connorsville and has terminated the proceeding. There is no other shortspacing.

Upon approval of the PRM WJCF would apply to modify it's current Construction Permit, or, alternatively, file a new Construction Permit for the new facilities. ICRC requests the ability to use contour protection in the siting of the Construction Permit. This is in the Public Interest.

ICRC Hardship

The current operation of WJCF involving volunteers has been difficult to maintain with the interference issues which have faced the station because of poor consumer equipment and line of sight issues related to coverage both in the Community Of License and elsewhere. The instant proposal is in the Public Interest.

City Of License

WJCF is licensed to Morristown which is in Shelby County Indiana. WJCF proposes to simultaneously with the facilities change, change City Of License to Shelbyville, Indiana which is a minor change. Shelbyville is within the same County and is the County seat.

Counterproposal to RM 11324

A counterproposal to moving WXCH to Hope Indiana is to allcoate WRZQ or

WYGS to Hope Indiana. Both provide coverage and the same tower site proposed for WXCH as a Hope station is utilized.

Deleting the WXCH allocation with Cumulus Media providing financial consideration is another option as this is routinely allowed. The financials between the parties have not been disclosed and such an arrangement may already be in place. Deletion of the Versailles allotment will have no affect as there is no Versailles studio or service now.

The ICRC WJCF PRM can then be processed within this proceeding, and granted as it was overlooked and not docketed when filed. This mistake can be remedied by granting the Rulemaking previously submitted within this proceeding.

Conclusion

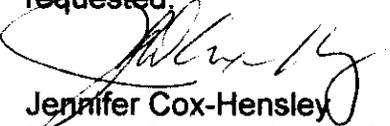
ICRC filed a PRM which the Commission has not acted on prior to the current Counterproposal in RM 11324. Commission Staff should properly process the ICRC request in the order filed. At very least the ICRC PRM should have it's own docket as it was submitted prior to the PRM being considered.

Indiana Community Radio Corporation is one of a very few broadcast operations in the United States operated and headed by a female minority broadcaster. The Commission has long indicated it's support for strenghtening and supporting minority ownership. This move would assist in the resolution of long time problems for the station and allow for the potential for station growth.

The principals involved have not fully disclosed the financial arrangements or agreements between WXCH, Reising Radio partners and others to allow the Commission and the Public to know the players and the financial considerations being offered each of the related players in this proceeding. As there is a current financial history between Keith Resing Sr. , Keith Resisng Jr., and Marty Pieratt this financial agreement should be disclosed.

Failure to disclose material facts related to local service to Versailles and the Tuck showing for Columbus Indiana make this proceeding and the Counterproposal by CXI and Cumulus Media related to RM 11324 deficient. The key component of RM 11324 is local service to Versailles which does not exist from a Main Studio 58 Km distant.

The Counterproposal submitted in RM 11324 by CXI and Cumulus is deficient as material facts have been misrepresented. Sufficient Public Notice has not been sufficient to allow local residents (The Public) to comment on the changes requested.

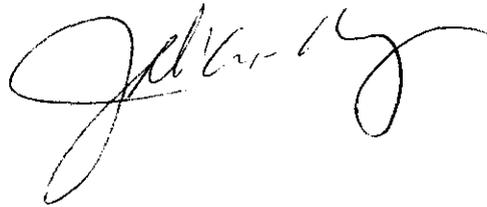

Jennifer Cox-Hensley
Indiana Community Radio Corporation

7/31/06

15 Wood St
Greenfield IN 46140
317 467-1062

Declaration Of Jennifer Cox-Hensley

I am Jennifer Cox-Hensley. I have submitted a Counterproposal on behalf of Indiana Community Radio Corporation. I affirm under penalty of perjury that the statements herein to be true and correct.

A handwritten signature in black ink, appearing to read "Jennifer Cox-Hensley". The signature is fluid and cursive, with the first name "Jennifer" being the most prominent part.