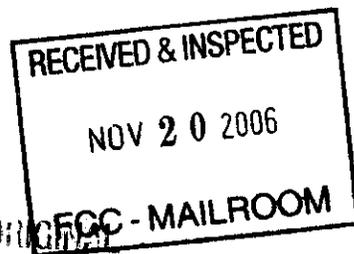


Before the
Federal Communications Commission
Washington D.C. 20554

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th St SW
Washington, D.C. 20554



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In the matter of Docket 06-77
FM Table Of Allotments

Petition For Reconsideration

Comes now Indiana Community Radio Corporation (ICRC), who has previously petitioned for use of CH 262A at Morristown, IN. (Docket 05-17)

ICRC claims first request for usage of the channel which has been assigned to Edinburgh, Indiana. (Docket 06-77)

Commission Staff has made reference to a decision made outside of a Rulemaking Proceeding which it provides first Public Notice of in this proceeding and ICRC is properly allowed to Reply and Petition Reconsideration of the Decision.

Staff makes a gross error in this proceeding by providing Cumulus Broadcasting with a greater control of the Nashville, TN market which Cumulus controls in excess of Commission ownership limits currently. Cumulus controls over 25% of nashville as it operates it's own stations and WSM which it operates and has a purchase agreement. Other stations in the market have alleged violations fo Anti-Trust. These proceedings are in Federal Court. Cumulus and ABC used anti trust manipulation to steal the network from WNSR and have attempted to force WNSR off the air. Staff is proposing to upgrade Cumulus Tennessee station which it operates from downtown Nashville on Music Row by proposing a "smaller community." The Decision seems to indicate this is good because Millersville will receive a "local station." There has been no intent to make this anything other than a more powerful Nashville station. Commission Staff is "unwittingly" assisting Cumulus in dominating Nashville. Rather than force Cumulus to divest excessive control Commission Staff has made a Decision whcih will possibly increase Cumulus market share in excess of 30%.

Staff should properly restart this proceeding to consider the market control of Cumulus in excess of the 25% limit set by Congress.

Commission Staff is improperly upgrading WRKA serving Lousiville, KY. WRKA has received an inappropriate License renewal that is in error. Staff did not consider that the person who renewed the license of WRKA "Mindy Riddle" is a "assistant secretary" who is not lited on ownership reports associated with WRKA as a director or officer of WRKA. Prior to upgrading WRKA the License should be reviewed and a Hearing held on the renewal which was granted in error.

The Hope allocation is short spaced to a Construction Permit for WRZX Indianapolis by 14km. Further, the allocation point is shortspaced to WRZX Licensed site. No note is made of the shortspacing to WRZX. The allocation is defective.

ICRC requested usage in the Connersville, IN proceeding which first made the channel available. (Docket 05-17) Multiple requests from the Public have demonstrated this is in the public interest but have not been properly considered. Commission Staff has yet to comment on Channel 6 television interference or the desire of the public to resolve same. Staff has refused to acknowledge public comment or the public interest.

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Commission engineering staff determined the allocation was suitable for use at Morristown, IN with a site restriction of 5.1 km to protect WWKI Kokomo, IN. The allocation was properly placed in the Commission engineering database. Staff regularly allows a site to be chosen which is shortspaced so long as an allocation point exists which allows an allocation to take place. Staff has indicated in Docket 05-17 that *no allocation point exists* for the Morristown allotment. Staff was clear the allocation did not work. Staff has now allocated the same frequency in the same geographical area. Former allocation Staff Chief Mark Lipp had reserved CH 262 for use at Edinburg, IN and use by another broadcaster would impede the former allocation Chief's client.

Since this was a noncommercial allotment the 60dbu coverage of the City Of License allowed the allocation to work but this channel had been reserved for Lipp.

Staff has indicated in Docket 05-17 that it did not allow the Morristown allocation as this was not proper as it required a change to an existing station. This matter is well settled and Staff was incorrect. Docket 03-192 noted that creation of an MX in a Rulemaking was possible. More to the point, Staff has allowed the same type of proposals to be considered in Docket 06-77. Also notable is the possibility that Morristown would be an alternative to the Norwood Ohio proceeding. Staff allowed the only FM serving Fayette County to relocate and due to terrain issues has created an FM free zone in Fayette County as it is not well served due to terrain issues. Staff was presented other FM frequencies to provide local service to Connsville, Indiana and declined to note them in the report and order and has yet to assign any of the requests in this proceeding a docket number.

Staff first notes in this Decision that it accepted for filing the ICRC amendment to change City Of License of WJCF to Shelbyville but has refused to act on it. Since the amendment was filed in January of 2006 and Staff waits until October 2006 to note this in any printed form, the delay is curious. It is clear that Mark Lipp is still running the allocations branch of the FCC but now he makes more money than when he was on the government payroll. Since Sarnoff and RCA moved Armstrong's FM band there has been undue influence at the Commission which does not serve the Public Interest. This is a clear case of same.

The WJCF allotment at Morristown is a non-commercial allotment which precedes the Edinburg allocation but has not yet received a Docket number. Morristown to Shelbyville is a minor change and this can be made at any time. Staff has been in constant contact with Mark Lipp about the Edinburg, IN allocation but can't even consider an allocation they won't get consideration for. It is after all a non-commercial allotment. The industry is aware that Lipp has excessive input in allocation matters despite his change in title. He is still "connected" and able to get his clients allocations because Staff still listens to him. He is their buddy, their pal, and his entrance into private practice allows him unparalleled influence at the Commission. This is the true meaning of influence and power. Broadcasters will continue to use Lipp because of his connections as long as Congress and Staff allow money to win over Public Interest. If we had a list of "connected" lawyers with real influence we all could have gotten what we wanted.

There has been no local studio or local staff or local service in Versailles, IN. Commission Staff does not reference this matter. As no local service exists the issue of Versailles having a local studio or station should be noted but is overlooked. No Public Notice on the proposed changes has been filed.

The allocation at Edinburg, IN provides no new service as it duplicates the existing service. It displaces WIUX Bloomington and multiple translator applications which ICRC has tendered. The Licensees have met filing windows and competed with other applicants for the ability to stand in line for a frequency. Commission Staff has allowed Commission friend Mark Lipp to use the frequency for one of his clients. No special consideration is given to the existing applicants already in line. Lipp and connected clients are allowed to the front of the line. Commission Staff could allow displaced allocations the ability to file for a major move. This proceeding is not in the Public Interest.

ICRC presented a Motion To Correct Errors to all legal counsel. Staff indicates otherwise. ICRC

was not provided communication concerning displacement of it's translators or proposed Petition For Rulemaking. All of the communications to date have excluded ICRC.

The financials on this matter have not been disclosed. CXR and Cumulus have agreements with stations that none of the parties have placed in public files and are not disclosed in this proceeding. As this impacts other broadcasters the failure to disclose financials is not in the public interest.

Conclusion

Staff is allowing Cumulus to improve it's market share in Nashville in opposition to the Communications Act. All of the communities affected have not been allowed any Public Notice. The Commission operates as a "Court System" but in this proceeding the judges and attorneys are buddies and confidants. Not only is this clear but the broadcast community knows it. Knowing the innerworkings and people allows well connected lawyers to be "creative" and win for their clients and the Public loses. The Commission should operate in the public interest and not as a millionaire club.

What works for Cumulus doesn't work for small broadcasters. FM was nearly destroyed by Sarnoff and RCA because money was allowed to control proceedings at this very same FCC. The mysterious destruction of localism reports are clear indicators the FCC Court isn't working and needs overhaul. This proceeding is a shining example of today's FCC.

Respectfully submitted



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Certificate Of Service

I, Jennifer Cox-Hensley, certify I have on this 10th day of November 2006 mailed by first class mail, postage paid, copies to the following:

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