

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

In the Matter of )  
)  
Promoting Diversification of ) MB Docket No. 07-294  
Ownership In the Broadcasting )  
Services )  
)  
2006 Quadrennial Regulatory ) MB Docket No. 06-121  
Review - Review of the )  
Commission's Broadcast )  
Ownership Rules and Other Rules )  
Adopted Pursuant to Section 202 )  
of the Telecommunications Act )  
of 1996 )  
)  
2002 Biennial Regulatory Review ) MB Docket No. 02-277  
- Review of the Commission's )  
Broadcast Ownership Rules and )  
Other Rules Adopted Pursuant to )  
Section 202 of the )  
Telecommunications Act of 1996 )  
)  
Cross-Ownership of Broadcast ) MM Docket No. 01-235  
Stations and Newspapers )  
)  
Rules and Policies Concerning ) MM Docket No. 01-317  
Multiple Ownership of Radio )  
Broadcast Stations in Local )  
Markets )  
)  
Definition of Radio Markets ) MM Docket No. 00-244  
)  
)  
Ways to Further Section 257 ) MB Docket No. 04-228  
Mandate and To Build on Earlier )  
Studies )

TO: Honorable Marlene H. Dortch  
Secretary of the Commission

**COMMENTS OF WITHERS BROADCASTING OF SOUTHERN ILLINOIS, LLC**

Withers Broadcasting of Southern Illinois, LLC ("Withers"), the proposed assignee of AM Broadcast Station WDDD, Johnston City, Illinois ("Station WDDD"), by its attorney, hereby respectfully submits its Comments in the above-captioned proceeding. In support whereof, the following is shown:

1. Withers limits its comments to the issues relative to so-called "paired stations" related to expanded band AM stations, dealt with in the **Report and Order and Third Further Notice of Proposed Rulemaking**, FCC 07-217, released March 5, 2008 (the "NPRM"), at paragraphs 88-92.

2. Withers and CC Licenses, LLC ("CC") have filed an FCC Form 314 application seeking Commission consent for the assignment by CC to Withers of Station WDDD, File No. BAL-20080619AHY. Station WDDD, which operates on 810 kHz and provides full-time broadcast service to Johnston City and neighboring communities in Williamson, Franklin and Jackson Counties in far southern Illinois, is "paired" with expanded band AM Broadcast Station WVON, 1690 kHz, Berwyn, Illinois, licensed to CC but operated by prominent African-American broadcaster Pervis Spann pursuant to a "Time Brokerage Agreement". Withers provides programming to Station WDDD pursuant to a separate "Time Brokerage Agreement" with CC.

3. Should the Commission deny Withers' application to purchase and permanently operate Station WDDD, the local community will lose one of only two Class B AM stations in the Arbitron-defined Marion-Carbondale radio metro market (the other station is WINI(AM), 1420 kHz, Murphysboro, Illinois).

6. Withers supports the proposals of ¶88-92 of the NPRM. Withers would also request the Commission to make it clear that, in addition to "small business entities", parties eligible to acquire "paired" stations in the existing AM band include those stations where the expanded band station has relocated to a community more than 250 miles away from the originally allocated community.

7. A review of the FCC documents in Docket 87-268 which created the expanded band indicates that the Commission requested interested AM licensees to file letters requesting the allocation of an expanded band frequency to a community in place of the existing AM station. In our specific case, the Commission allocated the frequency 1690 to Johnston City, Illinois. They did this in a Public Notice, **Mass Media Bureau Announces Revised Expanded AM Broadcast Band Improvement Factors and Allotment Plan**, DA 96-408, 11 FCC Rcd 11419, March 22, 1996. The reason why the Bureau allocated this channel to Johnston City, as opposed to somewhere else, was because of the score received

by the former licensee of WDDD under an FCC scoring system called "the improvement factor (IF)". According to DA 96-408, the IF

is defined in 47 CFR §73.35 as the ratio of increase in service area of other stations when the subject station is removed to the subject station's interference free service area. Not included in this list are AM daytime stations whose calculated improvement factor is zero.

8. Therefore, it was the Bureau's intent that an improvement in AM service to Johnston City and surrounding Williamson County and what is now known as the Marion-Carbondale radio metro market take place. The Bureau could have allocated 1690 kHz to the Chicago metropolitan area as opposed to rural southern Illinois some 280 miles to the south. DA 96-408 reflects that the requests of at least five stations in "Chicagoland" to migrate to the expanded band were on information and belief not honored: WSCR, 820 kHz, Chicago; WRMN, 1410 kHz, Elgin; WKGA, 1500 kHz, Zion; WBEE, 1570 kHz, Harvey; and WCGO, 1600 kHz, Chicago Heights (all Illinois).

9. CC cannot be faulted for doing any lawful act to maximize the people served by the 1690 kHz frequency, which they did by convincing the Bureau to relocate 1690 kHz to Berwyn in the western suburbs of Chicago. However, the fact remains that the Bureau's Public Notice of March 22, 1996 was an allocation of improved AM service to southern Illinois, and in particular, Johnston City and the

surrounding market. Therefore, were the Commission to require WDDD(AM) to stop broadcasting on August 2, 2011, the Commission would be in effect standing its expanded band program on its head, by allowing a licensee to withdraw service from the intended market to move that service to a totally different market over 280 miles north, and then to withdraw service altogether from the market which was preferred in the 1996 order.

10. According to the research performed by the undersigned using the FCC website's CDBS search page, there are only 30 sets of "paired" expanded band and standard band stations remaining where both stations are shown to be operating as of today's date. Seven of these combinations involve stations licensed to different communities; in addition to WDDD and WVON, they are (expanded band station listed first):

- KSMH, West Sacramento, CA/KAHI, Auburn, CA
- WMLB, Avondale Estates, GA/WCFO, East Point, GA
- WVVM, Dry Branch, GA/WIBB, Macon, GA
- WWRU, Jersey City, NJ/WJDM, Elizabeth, NJ
- WTTM, Lindenwold, NJ/WHWH, Princeton, NJ
- KRND, Fox Farm, WY/KJUA, Cheyenne, WY

11. Of these six combinations, the furthest distance that one community is away from the other is Lindenwold and Princeton, New Jersey, which are 40.403 miles apart (USGS National Atlas reference coordinates). West Sacramento is 32.78 miles southwest of Auburn, California; Avondale

Estates is 11.782 miles northeast of East Point, Georgia; Jersey City is 8.259 miles northeast of Elizabeth, New Jersey; Dry Branch is 8.235 miles southeast of Macon, Georgia; and Fox Farm is 2.229 miles southeast of Cheyenne, Wyoming. All of these paired communities are located in the same television market.

12. Only in the case of WVON, Berwyn, Illinois and WDDD, Johnston City, Illinois do we have a situation where the expanded band station was moved outside of the local market. Berwyn, located in the Chicago market, is 284.81 miles north of Johnston City, which is located in the Marion-Carbondale radio market and Paducah-Cape Girardeau-Harrisburg television market.

13. There are 22 expanded band stations in operation where the "paired" standard band station license has been turned in. So far as can be determined, only one of those stations has been moved from its original media market to another media market (Sherman-Denison, Texas, where the station originally assigned there is now KKLF, 1700 kHz, Richardson, Texas, in the Dallas-Fort Worth market; Sherman is approximately 50 miles northeast of Richardson, and KKLF still can be heard there during the day). Three others have been moved to different communities in the same media market: WNRP, 1620 kHz, to Gulf Breeze, Florida from Atmore, Alabama, a distance of roughly 50 miles; WDSS, 1680

kHz, to Ada, Michigan from Muskegon, Michigan, a distance of roughly 43 miles; and KFOX, 1650 kHz, Torrance, California, from Costa Mesa, California, a distance of roughly 28 miles.

14. This is why the WDDD/WVON case is so different from any other case. In every other case, the expanded band station either serves the same media market or the much of the same land area as the standard band station, in what appears in each case to be an attempt to maximize coverage of the media market. In the WDDD/WVON situation, service would be totally withdrawn from the Marion-Carbondale market, as the new station on 1690 kHz in the Chicago area can't be heard in the market during the day, and only rarely and inconsistently in sporadic areas (at best) at night due to skywave.

15. Therefore, to force WDDD to permanently leave the air at August 2, 2011 would be to stand the whole reason for the "expanded band" on its head. Instead of improving service to southern Illinois, the FCC would be destroying one of the region's two Class B AM stations.

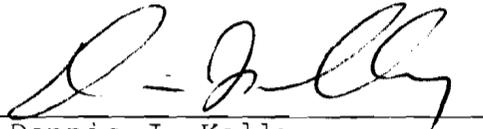
**WHEREFORE**, Withers Broadcasting of Southern Illinois, LLC urges that: (1) the Commission **ADOPT THE RULES** contemplated by ¶¶88-92 of the NPRM, with a clarification that the existing band station of any expanded band station that has moved to a new community of license more than 250 miles from the original community of license shall be spared

license renewal cycle, with full rights for renewal of license after that; and (2) the Commission unconditionally grant the pending assignment of license application for Station WDDD, Johnston City, Illinois, File No. BAL-20080619AHY, from CC to Withers.

Respectfully submitted,

**WITHERS BROADCASTING OF  
SOUTHERN ILLINOIS, LLC**

By



Dennis J. Kelly  
Its Attorney

LAW OFFICE OF DENNIS J. KELLY  
Post Office Box 41177  
Washington, DC 20018  
Telephone: 888-322-5291

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