

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

April 15, 1996

In Reply Refer To: 1800B3-JR

Mr. James Wilson III
805 N. Lena #13
Dothan, AL 36303

In re: WJJN(FM), Columbia, AL
File No. BLH-951213KB
Informal Objection

Dear Mr. Wilson:

This concerns (1) your captioned application for a covering license for new FM Station WJJN(FM) on Channel 221A at Columbia, Alabama (File No. BLH-951213KB) and (2) the informal objection to the application filed January 10, 1996 by Joe McClish ("McClish"). For the reasons set forth below, the informal objection is denied and the application granted.

McClish alleges that the permittee constructed its antenna tower prior to issuance of the underlying construction permit, that the transmitting tower will not support the new antenna, and that the permittee has violated Commission rules by simulcasting with co-owned Station WAGF-FM (formerly WJJN-FM), Dothan, Alabama. Although McClish indicates he would assist the Commission with "any additional documents you would need," the allegations are unsupported by documentation and completely speculative. Thus, McClish has failed to raise a substantial and material question of fact that grant of the captioned application would be contrary to the public interest.

Further, §309(c) of the Communications Act of 1934, as amended, 47 U.S.C. §309(c), places an applicant for a covering license in a protected position, different from and superior to that of a construction permit applicant. Thus, provided that the permittee constructed in accordance with the terms of its permit, the Commission is "enjoined to issue the license to cover the construction permit unless factors coming to our attention subsequent to the grant of the permit would, in our judgment, make a grant of the license...against the public interest." Chesapeake-Portsmouth Broadcasting Corp., 53 FCC 2d 60, 61 (1975). As noted, McClish has not made such a showing.

In light of the above and pursuant to 47 C.F.R. §0.283, the informal objection filed January 10, 1996 by Joe McClish IS DENIED, and the application for a license of James Wilson III (File No. BLH-951213KB) IS GRANTED.

Sincerely,

Linda B. Blair, Chief
Audio Services Division
Mass Media Bureau

cc: Joe McClish
Dan J. Alpert, Esquire