

satellites licensed to the provider during the previous year. 47 CFR section 100.5(c)(6) also sets forth public file and recordkeeping obligations in this regard.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 02-10997 Filed 5-2-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 02-38; FCC 02-53]

### Air Virginia Inc. and Clear Channel Radio Licenses, Inc.

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the FCC designates the application to assign radio station WUMX(FM), Charlottesville, Virginia from Air Virginia, Inc. ("Air Virginia") to Clear Channel Radio Licenses, Inc. ("Clear Channel") for hearing. The Commission cannot find, based on the record, that grant of this application is consistent with the public interest, convenience and necessity. Accordingly, pursuant to 47 U.S.C. 309(e), the Commission designates the application for hearing to determine whether the public interest, convenience and necessity will be served by the grant of the application.

**DATES:** See Supplementary Information section for document filing dates.

**ADDRESSES:** Please file documents with the Investigations and Hearing Division, Enforcement Bureau, Federal Communications Commission, Room 3-B431, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Charles W. Kelley, Chief, Investigations and Hearing Division of the Enforcement Bureau, at (202) 418-1420.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's Hearing Designation Order, MM Docket No. 02-38, adopted on February 14, 2002 and released on March 19, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, W.W., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov). Alternative formats are

available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

1. In March 1996, the Commission relaxed the numerical station limits in its local radio ownership rule in accordance with Congress's directive in section 202(b) of the Telecommunications Act of 1996. Since then, the Commission has received applications proposing transactions that would comply with the new limits, but that nevertheless could produce concentration levels that raised significant concerns about the potential impact on the public interest. In response to these concerns, the Commission concluded that it has an independent obligation to consider whether a proposed pattern of radio ownership that complies with the local radio ownership limits would otherwise have an adverse competitive effect in a particular local radio market and thus, would be inconsistent with the public interest. In August 1998, the Commission also began flagging public notices of radio station transactions that would result in one entity controlling 50 percent or more of the advertising revenues in the relevant Arbitron radio market or two entities controlling 70 percent or more of the advertising revenues in that market. On November 8, 2001, we adopted the Notice of Proposed Rulemaking in MM Docket No. 01-317 ("*Local Radio Ownership NPRM*"). We expressed concern that our current policies on local radio ownership did not adequately reflect current industry conditions and had led to unfortunate delays in the processing of assignment and transfer applications. Accordingly, we adopted the *Local Radio Ownership NPRM* to undertake a comprehensive examination of our rules and policies concerning local radio ownership and to develop a new framework that will be more responsive to current marketplace realities while continuing to address our core public interest concerns of promoting diversity and competition. In the *Local Radio Ownership NPRM*, we also set forth an interim policy to guide our actions on radio assignment and transfer of control applications pending a decision in this proceeding. Under our interim policy, we presume that an application that falls below the 50/70 screen will not raise competition concerns unless a petition to deny raising competitive issues is filed. For applications identified by the 50/70 screen, the interim policy directs the Commission's staff to conduct a public interest analysis, including an independent preliminary competitive analysis, and

sets forth generic areas of inquiry for this purpose. The interim policy also sets forth timetables for staff recommendations to the Commission for the disposition of cases that may raise competitive concerns.

2. On April 30, 2000, Clear Channel and Air Virginia filed an application proposing to assign the license of station WUMX(FM) from Air Virginia, Inc. to Clear Channel. Eure Communications ("Eure") filed a petition to deny on May 26, 2000, alleging that the transaction would have anti-competitive effects on local advertisers in the local radio market. Clear Channel and Air Virginia filed oppositions to the petition to deny and Eure replied. Clear Channel currently owns five stations in the Charlottesville metro: WVAO-FM, Crozet, Virginia; WCYK-FM, Staunton, Virginia; WVSF(FM), Ruckersville, Virginia; WKAV(AM), and WCHV(AM), Charlottesville, Virginia. In its Petition to Deny, Eure alleges that the proposed transaction would have anti-competitive effects on local advertisers in the Charlottesville metro. Specifically, Eure claims that based on BIA's 1999 revenue data, Clear Channel's local advertising revenue share, as a result of the acquisition, would increase from 30.8% to 53.6%, and Clear Channel's post-merger share combined with Eure's own share in the market, would be 94.2%. In addition, Eure argues that the proposed transaction would eliminate a competitor in the market, reducing the voices in the market from seven to six. Other than the stations owned by Eure and Clear Channel, Eure claims that there is only one other station in the market, WUVA(FM), that generates any revenue share. Clear Channel's dominance is also clear, according to Eure, when audience demographic shares are examined. Eure claims that Clear Channel's average local commercial audience share for fall 1999 would increase from 35.7 to 45.7, constituting excessive market concentration. Finally, Eure argues that the proposed level of increase in concentration is inconsistent with antitrust principles and is unacceptable under what it asserts is the Department of Justice's ("DOJ") primary indicator of market concentration. In opposition, Clear Channel argues that Eure has offered no concrete allegations as to how the proposed transaction would harm competition or how it would impose a barrier to Eure's ability to compete in the market. On November 15, 2001, the staff sent a letter requesting additional information from the parties to facilitate the competition analysis. Clear Channel responded to

the letter on December 5, 2001, and Eure filed comments on December 19, 2001. We designate the application for hearing based on this record.

3. Section 310(d) of the Communications Act of 1934, as amended, (the "Communications Act"), 47 U.S.C. 310(d), requires the Commission to find that the public interest, convenience and necessity would be served by the assignment of Air Virginia's radio broadcast license to Clear Channel before that assignment may occur. Under the interim policy set forth in our *Local Radio Ownership NPRM*, we conduct a public interest analysis, including but not limited to an independent preliminary competition analysis of the proposed transaction based on publicly available information and information in the Commission's records. Under the interim policy, to decide whether a proposed assignment serves the public interest, we first determine whether it complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules, including our local radio ownership rules. If it does, we then consider any potential public interest harms of the proposed transaction as well as any potential public interest benefits to determine whether, on balance, the assignment serves the public interest. The Commission's analysis of public interest benefits and harms includes an analysis of the potential competitive effects of the transaction, as informed by traditional antitrust principles. However, the Commission's public interest evaluation is not limited to competition concerns but necessarily encompasses the broad aims of the Communications Act. These broad aims include, among other things, ensuring the existence of an efficient, nationwide radio communications service, available to everyone and promoting locally oriented service and diversity in media voices. Our public interest analysis therefore includes assessing whether the transfer will affect the quality of radio services or responsiveness to the local needs of the community, and whether it will result in the provision of new or additional services to listeners. Thus, under our interim policy, where a proposed transaction raises concerns about economic concentration, we will consider evidence that the particular circumstances of a case may mitigate any adverse impact to radio listeners that might otherwise result, as well as any evidence of benefits to radio listeners that might result from the proposed transaction. Ultimately, it is the potential impact of the transaction

on listeners that will determine whether we can find that, on balance, grant of a particular radio station assignment or transfer of control application serves the public interest.

4. Having concluded that the proposed transaction is consistent with the numerical limits set forth in our ownership rules, our interim guidelines instruct us now to turn to our competition analysis. Here, we find that the proposed transaction would create a market in which the combined market share of the top two group owners in the market would be 94.2%. Unlike other transactions we have considered, we find that Clear Channel has failed to demonstrate particular circumstances in this market sufficient to overcome a concern that this level of economic concentration in this market will harm the public interest. Rather, Clear Channel has presented only generic arguments challenging the parameters of our current competition analysis. On the basis of the information before us, we are unable to make the required finding that the public interest, convenience and necessity will be served by granting the captioned application in light of the question(s) raised in the context of our competition analysis. Accordingly, we will designate the assignment application for hearing to determine, pursuant to 47 U.S.C. 309(e), and based on the evidence to be adduced at hearing, whether the public interest, convenience and necessity will be served by the grant of the application.

5. We direct the Administrative Law Judge ("ALJ") to examine in an evidentiary hearing the particular circumstances of the Charlottesville market to determine whether the factual assumptions in paragraphs 18 through 28 of the *Local Radio Ownership NPRM* are correct. We further direct the ALJ to determine, in light of his conclusions, whether the transaction is likely to cause any anticompetitive harms, and to determine what, if any, public benefits would accrue from this transaction. Finally, we direct the ALJ to apply these findings to determine whether, on balance, grant of the application would serve the public interest.

6. To defer further consideration of the application to assign the license of Station WUMX(FM), Charlottesville, Virginia from Air Virginia to Clear Channel in accordance with the interim policy, Air Virginia and Clear Channel must file a joint election to defer consideration of the application. Such election must be filed by April 23, 2002.

7. In the event the parties do not timely file the joint election set forth in the paragraph above, pursuant to 47 U.S.C. 309(e), the application to assign

the license of station WUMX(FM), Charlottesville, Virginia from Air Virginia Inc. to Clear Channel Radio Licenses, Inc. is being designated for hearing at a time and place to be specified in a subsequent Order, to determine, in light of the evidence to be presented in the hearing, whether the public interest, convenience and necessity would be served by the grant of the above-captioned assignment application (File No. BALH-20000403/ABI).

8. Pursuant to 47 U.S.C. 309(e), the burden of proof with the introduction of evidence and the burden of proof with respect to the issue specified in this Order will be upon Air Virginia and Clear Channel, the applicant parties in this proceeding.

9. A copy of each document filed in this proceeding subsequent to the date of adoption of this Order must be served on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations and Hearing Division of the Enforcement Bureau at (202) 418-1420. Such service must be addressed to the named counsel of record, Investigations and Hearing Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, Room 3-B431, Washington, DC 20554.

10. The effectiveness of this Order is stayed until April 8, 2002. From March 19, 2002, until March 29, 2002, the parties may amend their application or file such other information with the Media Bureau as they deem relevant to ameliorate the competitive concerns identified in this Order.

11. To avail themselves of the opportunity to be heard, Air Virginia and Clear Channel, pursuant to 47 CFR 1.221(c) and 1.221(e), in person or by their respective attorneys, must file in triplicate, a written appearance, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order. Such written appearance shall be filed by April 28, 2002. Pursuant to 47 CFR 1.221(c), if the parties fail to file an appearance within the specified time period, the assignment application will be dismissed with prejudice for failure to prosecute.

12. Eure Communications, Inc. is being made a party to the proceeding pursuant to 47 CFR 1.221(d). To avail itself of the opportunity to be heard, Eure Communications, Inc., pursuant to 47 CFR 1.221(e), in person or by its attorneys, must file in triplicate, a written appearance, stating its intention to appear on the date fixed for the

hearing and present evidence on the issues specified in this Order. Such written appearance shall be filed by April 28, 2002. If Eure Communications, Inc., fails to file an appearance within the time specified, it shall, unless good cause for such failure is shown, forfeit its hearing rights.

13. The applicant, pursuant to 47 U.S.C. 311(a)(2), and 47 CFR 73.3594, must give notice of the hearing within the time and in the manner prescribed, and must advise the Commission of the publication of such notice as required by 47 CFR 73.3594(g).

14. The application to assign the licenses for station WUMX(FM), Charlottesville, VA from Air Virginia, Inc. to Clear Channel Radio Licenses, Inc. will be held in abeyance pending the outcome of this proceeding.

15. The Commission's Consumer Information Bureau, Reference Information Center, will send copies of this Order to all parties by certified mail, return receipt requested.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

[FR Doc. 02-10996 Filed 5-2-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collections of information titled: (1) Uniform Application/Uniform Termination for Municipal Securities Principal or Representative; (2) Request for Deregistration For Registered Transfer Agents; and (3) Summary of Deposits.

**DATES:** Comments must be submitted on or before July 2, 2002.

**ADDRESSES:** Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898-7453,

Office of the Executive Secretary, Room F-4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. All comments should refer to the OMB control number. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898-3838; Internet address: [comments@fdic.gov](mailto:comments@fdic.gov)].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**  
Tamara R. Manly, at the address identified above.

### SUPPLEMENTARY INFORMATION:

#### Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Uniform Application/Uniform Termination for Municipal Securities Principal or Representative.

*OMB Number:* 3064-0022.

*Form Number:* MSD-4; MSD-5

*Frequency of Response:* On occasion.

*Affected Public:* Business or other financial institutions.

*Estimated Number of Respondents:* 75.

*Estimated Time per Response:* 1 hour.

*Total Annual Burden:* 75 hours.

*General Description of Collection:* An insured state nonmember bank which serves as a municipal securities dealer must file Form MSD-4 or MSD-5, as applicable, to permit an employee to become associated or to terminate the association with the municipal securities dealer. FDIC uses the form to ensure compliance with the professional requirements for municipal securities dealers in accordance with the rules of the Municipal Securities Rulemaking Board.

2. *Title:* Request for Deregistration for Registered Transfer Agents.

*OMB Number:* 3064-0027.

*Frequency of Response:* On occasion.

*Affected Public:* Business or other financial institutions.

*Estimated Number of Respondents:* 18.

*Estimated Time per Response:* .42 hours.

*Total Annual Burden:* 7.56 hours.

*General Description of Collection:* An insured nonmember bank or a subsidiary of such a bank that functions as a transfer agent may withdraw from registration as a transfer agent by filing

a written notice of withdrawal with the FDIC as provided by 12 CFR 341.5.

3. *Title:* Summary of Deposits.

*OMB Number:* 3064-0061.

*Frequency of Response:* Annually.

*Affected Public:* All financial institutions.

*Estimated Number of Respondents:* 6,000.

*Estimated Time per Response:* 3 hours.

*Total Annual Burden:* 18,000 hours.

*General Description of Collection:* The Summary of Deposits annual survey obtains data about the amount of deposits held at each office of all banks with branches in the United States. The survey data provides a basis for measuring the competitive impact of bank mergers and has additional use in banking research.

### Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC, this 30th day of April, 2002.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
Executive Secretary.

[FR Doc. 02-11006 Filed 5-2-02; 8:45 am]

BILLING CODE 6714-01-P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance