

Boley Herman at 202-418-0214 or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060-0972.

*Title:* Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.

*Form No.:* FCC Forms 508 and 509.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit; non-profit.

*Number of Respondents:* 1,300.

*Estimated Time Per Response:* .50-15 hours.

*Frequency of Response:* Annual reporting requirement.

*Total Annual Burden:* 3,500 hours.

*Total Annual Cost:* N/A.

*Needs and Uses:* Pursuant to the Commission's *MAG Order*, the Universal Service Administrative Company (USAC) requires certain data necessary for the administration of the Interstate Common Line Support (ICLS) mechanism for rate-of-return carriers. This data will be used to calculate ICLS for incumbent rate-of-return carriers and competitive eligible telecommunications carriers pursuant to section 54.901 of the Commission's rules. Specifically, USAC requires from rate-of-return carriers projected cost and revenue data, which may be collected on proposed FCC Form 508, when developed. USAC also requires actual cost and revenue data, including demand data, which may be collected on proposed FCC Form 509, when developed. Proposed FCC Form 509 may also require additional supporting cost and revenue data. These forms may also request data related to the transferred ownership of lines for which carriers have received or may receive ICLS. Any carrier may elect to have an agent, including the National Exchange Carrier Association, Inc., perform these filings on its behalf, and the Commission anticipates that many carriers will do so. The carriers and their agents will be encouraged to file proposed FCC Forms 508 and 509 electronically. Additionally, USAC may request, in connection with the verification of data included in proposed FCC Form 509, that certain carriers provide to USAC additional documentation of cost and revenue data in the form of records currently maintained pursuant to existing Commission rules and OMB controls. This additional data is required consistent with USAC's obligation to prevent waste, fraud, and abuse of universal service support and section

54.707 of the Commission's rules. There are no fees associated with any of these information collections.

Federal Communications Commission.

**William F. Caton,**  
*Secretary.*

[FR Doc. 02-25768 Filed 10-9-02; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**[MM Docket No. 02-236; FCC 02-236]**

**Hilco Communications, Inc. and Cumulus Licensing Corp.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the FCC designates the application to assign the license of radio station KAYD(FM), Silsbee, Texas, from Hilco Communications, Inc. ("Hilco") to Cumulus Licensing Corp. ("Cumulus"). 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 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 12th Street, SW., Washington, DC 20554.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's Hearing Designation Order, MM Docket No. 02-236, adopted on August 15, 2002, and released on September 5, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The full text may also be purchased from the Commission's copy contractor, Qualex International, Room CY-B402, 445 12th Street, SW., Washington, DC 20554, telephone (202) 863-2983, facsimile (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com), or may be viewed

via the internet at: [http://www.fcc.gov/Document\\_Indexes/Media/2002\\_index\\_MB\\_Order.html](http://www.fcc.gov/Document_Indexes/Media/2002_index_MB_Order.html). Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

**Synopsis of the Order**

1. In March 1996, the Commission relaxed the numerical station limits in its local radio ownership rules 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, 16 FCC Rcd 19861, 66 FR 63986, December 11, 2001 ("*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 that 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 competition 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 competition 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 competition concerns.

2. On July 31, 2001, Hilco and Cumulus filed an application proposing to assign the license of station KAYD-FM (formerly KLOI(FM)) from Hilco to Cumulus. The application was unopposed. Cumulus currently is the licensee of four stations in the Beaumont-Port Arthur, Texas Arbitron metro: KIKR(AM), Beaumont, Texas, KQHN(AM), Nederland, Texas; KQXY-FM, Beaumont, Texas; and KTCX(FM), Beaumont, Texas.

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 Hilco's radio broadcast license to Cumulus before the 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 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, we 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 94.5%. We find that Cumulus 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. To the extent Cumulus presents generic arguments challenging the parameters of our current competition analysis, we will address such concerns in the context of the *Local Radio Ownership NPRM* and need not consider them here. Rather, we look only to the record of this case to determine whether there are unique facts that persuade us that grant of this assignment application would serve the public interest despite the apparent economic concentration it will create. 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 subject application. 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 Beaumont-Port Arthur, Texas metro to determine whether the factual assumptions in

Section III.C. of the Hearing Designation Order are correct. We further direct the ALJ to determine, in light of his or her 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. Pursuant to 47 U.S.C. 309(e), the application to assign the license of station KAYD-FM, Silsbee, Texas, from Hilco to Cumulus is designated for hearing. Unless the parties timely file the joint election to defer as set forth below, the Hearing shall be 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-20010731ACB).

7. Pursuant to 47 U.S.C. 309(e), the burden of proof with respect to the introduction of evidence and the burden of proof with respect to the issue specified in this Order shall be upon Hilco and Cumulus, the applicant parties in this proceeding.

8. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send copies of this Order to all parties by Certified Mail—Return Receipt Requested.

9. To defer further consideration of the application to assign the license of station KAYD-FM, Silsbee, Texas, from Hilco to Cumulus in accordance with the interim policy, Hilco and Cumulus must file a joint election to defer consideration of the application. Such election must be filed within 20 days of the mailing of this Order pursuant to Paragraph 8 above.

10. 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 Hearings Division of the Enforcement Bureau at (202) 418-1420. Such service must be addressed to the named counsel of record, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 3-B431, Washington, DC 20554.

11. No less than 15 days of the mailing of the Order pursuant to Paragraph 8 above, the parties may amend their application or file such

other information with the Media Bureau as they deem relevant to ameliorate the competition concerns identified in this Order.

12. To avail themselves of the opportunity to be heard, Hilco and Cumulus, 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 within 20 days of the mailing of this Order pursuant to Paragraph 8 above. Pursuant to 47 CFR 1.221(c) of the Commission's rules, 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.

13. The applicants, 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 of station KAYD-FM, Silsbee, Texas, from Hilco to Cumulus will be held in abeyance pending the outcome of this proceeding.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

[FR Doc. 02-25763 Filed 10-9-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 02-272; FCC 02-246]

### Voice in the Wilderness Broadcasting, Inc., and Clear Channel Broadcasting License, Inc.

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the FCC designates the application to assign the license of radio station KCOL-FM, Groves, Texas, from Voice in the Wilderness Broadcasting, Inc. ("Voice in the Wilderness") to Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"). 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 grant of the application.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for document filing dates.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's Hearing Designation Order, MM Docket No. 02-272, adopted on September 4, 2002, and released on September 5, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The full text may also be purchased from the Commission's copy contractor, Qualex International, Room CY-B402, 445 12th Street, SW., Washington, DC 20554, telephone (202) 863-2983, facsimile (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com), or may be viewed via the Internet at: [http://www.fcc.gov/Document\\_Indexes/Media/2002\\_index\\_MB\\_Order.html](http://www.fcc.gov/Document_Indexes/Media/2002_index_MB_Order.html). Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

### Synopsis of the Order

1. In March 1996, the Commission relaxed the numerical station limits in its local radio ownership rules 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, 16 FCC Rcd 19861, 66 FR 63986, December 11, 2001 ("*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 that 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 competition 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 competition 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 competition concerns.

2. On August 14, 2001, Clear Channel and Voice in the Wilderness filed an application proposing to assign the license of station KCOL-FM (formerly KTFA(FM)) from Voice in the Wilderness to Clear Channel. The application was unopposed. Clear Channel currently is the licensee of four stations in the Beaumont-Port Arthur, Texas Arbitron metro: KIOC(FM), Orange, Texas; KKMV(FM), Orange, Texas; KLVI(AM), Beaumont, Texas; and KYKR(FM), Beaumont, Texas.

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 Voice in the Wilderness's radio broadcast license to Clear Channel before the assignment may occur. Under the interim policy set forth in our *Local*