

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 88-579

In re Applications of

WAYNE PRICE D/B/A/
PRICE BROADCASTING
COMPANY
(hereafter Price)

File No. BPH-871123MB

BOONE
COMMUNICATIONS
COMPANY
(hereafter Boone)

File No. BPH-871124MY

For a Construction Permit
For a New FM Station in
Danville, West Virginia on Channel 233A

HEARING DESIGNATION ORDER

Adopted: December 9, 1988; Released: January 19, 1989

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new FM station.

2. Boone petitioned for leave to amend its application on July 28, 1988. The amendment was filed after February 14, 1988, the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendment will be accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendment will be disallowed.

3. Boone's principals, Mr. Callaway and Mr. Blake, are each 50% owners of station WWBB, Madison, West Virginia. They have indicated their intent to terminate their relationship with WWBB if Boone's application for construction permit is designated for comparative hearing. Accordingly, an appropriate condition will be specified.

4. Section II, Item 4 of FCC Form 301 (October 1986) requires that an applicant specify its address (number, street, city, state) as well as the home address of each of its principals. Price has not completed Item 4 correctly. Price's application gives a post office box number as the residence address of its principal, A. Wayne Price. Accordingly, Price must submit an amendment which gives all the information required by Section II, Item 4 to the presiding Administrative Law Judge within 30 days of the release of this Order.

5. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, which of the proposals would, on a comparative basis, best serve the public interest.
2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications, if any, should be granted.

7. IT IS FURTHER ORDERED, That the petition for leave to amend filed by Boone IS GRANTED, and the corresponding amendment IS ACCEPTED to the extent indicated herein.

8. IT IS FURTHER ORDERED, That, in the event of a grant of its application, Boone's principals Callaway and Blake shall divest themselves of all interests in and sever all connections with Station WWBB(FM), Madison, West Virginia, prior to the commencement of program test authority.

9. IT IS FURTHER ORDERED, That Price shall submit information in accordance with Paragraph 4 above within 30 days of the release of this Order.

10. IT IS FURTHER ORDERED, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Branch, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, N.W., Washington, D.C. 20554.

11. IT IS FURTHER ORDERED, That to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

12. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau