

ORIGINAL

FCC MAIL SECTION

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

RECEIVED BY
FCC Docket No. 92-22

In the Matter of

Amendment of Section 73.202(b), RM-7898
Table of Allotments,
FM Broadcast Stations.
(Dumas and Marianna, Arkansas)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 14, 1992; Released: May 22, 1992

By the Acting Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making*, 7 FCC Rcd 1366 (1992), issued in response to a petition filed on behalf of Alan W. Eastham and Craig Eastham, d/b/a KXFE-FM ("petitioners"), licensee of Station KXFE(FM), Channel 296A, Dumas, Arkansas, proposing the substitution of Channel 295C3 for Channel 296A and modification of the license to specify operation on the higher-powered channel. The *Notice* also proposed the substitution of Channel 287A for vacant Channel 295A at Marianna, Arkansas,¹ to accommodate the requested substitution at Dumas. Petitioners filed supporting comments reaffirming their intention to apply for Channel 295C3, if allotted to Dumas. No other comments were received.

2. We believe the public interest would be served by granting the modification request at Dumas since it will enable Station KXFE(FM) to provide an expanded coverage FM service to the community. Therefore, in accordance with the provisions of Section 1.420(g) of the Commission's Rules, we will substitute Channel 295C3 for Channel 296A at Dumas, and modify the license for Station KXFE(FM) accordingly. In order to accommodate the Dumas modification, we will substitute Channel 287A for Channel 295A at Marianna, Arkansas, as requested. Channel 295C3 can be allotted to Dumas at the petitioner's specified site located 13.9 kilometers (8.6 miles) west of the community,² consistent with the minimum distance

separation requirements of Section 73.207(b) of the Commission's Rules.³ Channel 287A can be allotted to Marianna with a site restriction 1.2 kilometers (0.7 miles) north of the community⁴ to avoid a short spacing to Station KCLT(FM), Channel 285A, West Helena, Arkansas.⁵

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective July 6, 1992, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

City	Channel No.
Dumas, Arkansas	295C3
Marianna, Arkansas	287A

4. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Alan W. Eastham and Craig Eastham, d/b/a KXFE-FM, for Station KXFE(FM), IS MODIFIED to specify operation on Channel 295C3 in lieu of Channel 296A, subject to the following conditions:

- Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

5. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Alan W. Eastham and Craig Eastham, d/b/a KXFE-FM, licensee of Station KXFE(FM), are required to submit a rule making fee in addition to the fee required for the applications to effect the upgrade.

¹ The *Notice* announced that the construction permit issued to Ramblin Communications for Channel 295A at Marianna, Arkansas (File No. BPH-910617JZ), was cancelled by letter on October 15, 1991, and therefore a new filing window would be opened for the channel at the conclusion of this proceeding.

² Coordinates used for Channel 295C3 at Dumas are 33-55-34 and 91-38-04.

³ As stated in the *Notice*, the site restriction at Dumas is required to negate a short spacing to Channel 294C2 at Benton, Arkansas, at reference coordinates 34-42-05 and 92-30-00. We recognize that the allotment of Channel 295C3 at Dumas conflicts with the construction permit issued for Station

WMJW(FM), Channel 295A, Cleveland, Mississippi. However, Station WMJW(FM) has been modified to specify operation on Channel 298C3 and to change its community of license to Rosedale, Mississippi. See 6 FCC Rcd 5583 (1991). Station WMJW(FM) has filed a modification application (File No. BMPH-920326IG) at Rosedale specifying coordinates 33-56-48 and 90-50-58. A copy of this *Order* will be served on the permittee of Station WMJW(FM).

⁴ Coordinates used for Channel 287A at Marianna are 34-47-01 and 90-45-59.

⁵ Coordinates at the licensed site of Station KCLT(FM) are 34-30-56 and 90-40-13.

6. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to the permittee of Station WMJW(FM), as follows: Carol B. Ingram, P.O. Box 73, Batesville, MS 38606.

7. IT IS FURTHER ORDERED, That the window period for filing applications for Channel 287A at Marianna, Arkansas, will open on **July 7, 1992**, and close on **August 6, 1992**.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process for Channel 287A at Marianna, Arkansas, should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau