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

MAY 25 3 11 PM '94

MM Docket No. 94-30

DISPATCHED BY

In the Matter of

Amendment of Section 73.606(b), RM-8457
Table of Allotments,
TV Broadcast Stations.
(Kaneohe, Hawaii)

NOTICE OF PROPOSED RULE MAKING

Adopted: April 14, 1994; Released: April 29, 1994

By the Acting Chief, Allocations Branch:

Comment Date: June 20, 1994
Reply Comment Date: July 5, 1994

1. Before the Commission for consideration is a petition for rule making filed by Collins/West Broadcasting ("petitioner"), requesting the allotment of UHF Television Channel 66 to Kaneohe, Hawaii, as that community's first local television service. Petitioner provides information in support of the proposal and states its intention to apply for the channel, if allotted.

2. In support of its request, petitioner notes that Kaneohe is a census designated place ("CDP") with a 1990 population of 35,448, in Honolulu County (population 836,231) located on the north shore of Oahu approximately 12.5 kilometers (8 miles) northeast of Honolulu.[1] Petitioner submits that Kaneohe has its own post office, courthouse, primary and secondary schools, police and fire stations, shopping malls, approximately 12 churches, banks, restaurants and other community facilities.

3. A staff engineering analysis of the proposal indicates that UHF Television Channel 66 can be allotted to Kaneohe, Hawaii, consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules.[2] Although the Commission has imposed a temporary freeze on new television allotments in certain metropolitan areas, the proposed allotment at Kaneohe is not affected thereby. *See Notice of Inquiry*, 2 FCC Rcd 2125 (1987) and *Order*, 52 FR 28346, July 29, 1987.

4. The Commission believes it would be in the public interest to seek comments on the proposal to amend the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, with respect to the following community:

City	Channel No. Present	Proposed
Kaneohe, Hawaii	-	66

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before June 20, 1994, and reply comments on or before July 5, 1994, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Jeffrey C. Hill, President
Collins/West Broadcasting
45-934 Kamehameha Highway, #C-127
Kaneohe, Hawaii 96744
(Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

[1] Population figures are taken from the 1990 U.S. Census.
[2] The coordinates for Channel 66 at Kaneohe are North Latitude 21-25-18 and West Longitude 157-48-06.

FEDERAL COMMUNICATIONS COMMISSION

Victoria M. McCauley
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found 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 PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. *(See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding. and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. *(See* Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.