

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Waldport, Oregon))

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MM Docket No. 95-25
RM-8588

To: Chief, Allocations Branch

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS

Ginna Jones, by her attorneys and pursuant to Sections 1.415 and 1.420 of the Rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. §§ 1.415, 1.420 (1994) and the Public Notice released on April 27, 1995, respectfully submits these Reply Comments in response to the reply comments filed by Jarvis Communications, Inc. ("Jarvis") on April 28, 1995, in the above-referenced proceeding.

On February 21, 1995, the Federal Communications Commission ("Commission") released its Notice of Proposed Rule Making ("NPRM") in the above-referenced proceeding, in which the Commission proposed to allocate Channel 288A to Waldport, Oregon, as that community's first local FM service, pursuant to a petition for rulemaking filed by Jarvis Communications, Inc., requesting such allocation.^{1/} Pursuant to the Commission's NPRM, Ms. Jones submitted a Counterproposal to allocate Channel 288A to Depoe Bay, Oregon, rather than to Waldport, Oregon. In her Counterproposal, Ms. Jones emphasized that the

^{1/} See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Waldport, Oregon), 10 FCC Rcd 2099 (1995).

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allocation of Channel 288A to Depoe Bay would serve the public interest and the Commission's allocation priorities because it would bring a first local transmission service to Depoe Bay, whereas Waldport already has a local radio station licensed to it and receives more than two aural services. In addition, Ms. Jones noted that allocation of Channel 288A to Depoe Bay would not require a site restriction, whereas the proposed allocation to Waldport is subject to a site restriction of 12.4 kilometers to avoid short-spacing to Channel 288A at Cottage Grove, Oregon.

In response to Ms. Jones' Counterproposal, Jarvis filed reply comments on April 28, 1995, in which it contends that Depoe Bay's programming needs are adequately served because it currently receives seven aural services.^{2/} Jarvis also provides a letter of support from Jim Hawley, Lincoln County Director of Emergency Services, attesting to Waldport's need for a full-time radio broadcast service. In that letter, Mr. Hawley states that in the event of a local emergency, "[o]nly the local emergency personal [sic], through a local station can give quick, needed, [sic] information." He then suggests that Waldport's locally licensed Station KORC(AM), at its current nighttime operating power, would be unable to reach all the residents of South Lincoln County to provide them with important information in the event of a local emergency.

^{2/} Although the Commission in its NPRM expressly required Jarvis, as the proponent of the proposed allotment of Channel 288A to Waldport, to file comments restating its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly, the Commission's records indicate that Jarvis failed to file such comments by April 14, 1995, the deadline set for the filing of initial comments. The Commission has stated that a proponent's failure to file may lead to a denial of the requested allotment. See NPRM, 10 FCC Rcd at 2099 app. Jarvis restated its intention in its reply comments only after Ms. Jones filed her Counterproposal.

Jarvis, however, fails to address the fact that Depoe Bay presently has no locally licensed transmission service, while Waldport already has licensed to it Station KORC(AM), operating at 820 kHz, and receives more than two full-time aural services. Under the Commission's allocation priorities set forth in Revision of FM Assignment Policies and Procedures, 90 FCC2d 88, 91-93 (1982), Channel 288A should be allocated to Depoe Bay because it would bring a first local transmission service to the community, while allocation to Waldport would bring neither a first local transmission service nor a second full-time aural service to that community.

Moreover, Mr. Hawley's concern for providing local residents with important local emergency information applies with even greater force to Depoe Bay. Because Depoe Bay presently lacks a locally licensed transmission service to provide its residents with important local emergency information, the need for allocating Channel 288A to Depoe Bay is greater than the need for allocating the channel to Waldport, which already has locally licensed Station KORC(AM) to serve the community's local programming needs. Furthermore, under Section 73.1250(f) of the Commission's Rules, 47 C.F.R. §73.1250(f) (1994), Station KORC(AM) is authorized to use its full daytime facilities during nighttime hours to broadcast information in the event of an emergency. Thus, Mr. Hawley's concern that Station KORC(AM) will be unable to provide local emergency information to the residents of South Lincoln County during nighttime emergencies is unwarranted.

For the foregoing reasons, the Commission should allocate Channel 288A to Depoe Bay rather than to Waldport. In the event that Channel 288A is allocated to Depoe Bay,

Ms. Jones will promptly file an application for a construction permit for a new commercial FM broadcast station on Channel 288A, Depoe Bay, Oregon.

Respectfully submitted,

Ginna Jones

By: Margaret L. Tobey, P.C.
Margaret L. Tobey, P.C.
AKIN, GUMP, STRAUSS,
HAUER & FELD, L.L.P.
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 887-4377

Her Attorneys

May 12, 1995

CERTIFICATE OF SERVICE

I, Elizabeth Sawyer, certify that on this 12th day of May 1995, copies of the foregoing "Reply Comments" were delivered or mailed, postage prepaid, to the following:

John A. Karousos*
Chief, Allocations Branch
Mass Media Bureau
Policy and Rules Division
Federal Communications Commission
2000 M Street, N.W.
Room 554
Washington, D.C. 20554

Leslie K. Shapiro*
Mass Media Bureau
Policy and Rules Division
Federal Communications Commission
2000 M Street, N.W.
Room 564
Washington, D.C. 20554

Matt Jarvis
Jarvis Communications, Inc.
Radio Station KORC(AM)
P.O. Box 1419
Waldport, Oregon 97394


Elizabeth Sawyer

*Hand Delivered