

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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JUN 27 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In Re Matter of)
)
AMENDMENT OF SECTION 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Edenton, Columbia and Pine)
Knoll Shores, North Carolina))

MM Docket No. 95-46
RM-8594

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To: The Chief
Allocations Branch
Mass Media Bureau

**REPLY COMMENTS OF
LAWRENCE F. AND MARGARET A. LOESCH**

Lawrence F. and Margaret A. Loesch ("Loeschs"), by and through their undersigned counsel, hereby offer the following reply comments in response to a Notice of Proposed Rule Making, DA 95-767 (Released April 18, 1995), in the above-captioned docket.

The Loeschs are Petitioners in the above-referenced rule making proceeding. The Loeschs have requested the upgrade of station WERX-FM from channel 273C2 to Channel 273C1, the allotment of the improved channel from Edenton, North Carolina, to Columbia, North Carolina, and the modification of Station WERX-FM's license to specify Columbia as the station's community of license. In order to accommodate this request, the Loeschs also request the substitution of Channel 290A for unoccupied by applied for Channel 272A at Pine Knoll Shores, North Carolina.

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On June 12, 1995, the Loeschs filed Comments in this proceeding in response to a request by the Commission in its Notice of Proposed Rule Making that the Petitioners submit additional information concerning the areas that would be served by the new service and the areas which would lose service as a result of the re-allotment of Channel 273 from Edenton to Columbia. In their Comments the Loeschs stated that they intended to upgrade Channel 273 from its present licensed location 8.8 kilometers northwest of Columbia and that this upgrade would result in no loss of service to any of the 91,878 persons presently receiving service from WERX and would result in a gain of 30,640 persons in 2,802.2 square kilometers over the licensed operation of the station.

DISCUSSION

Comments were filed by Atlantic Ridge Telecasters, Inc. ("Atlantic Ridge"), by its attorneys, during the comment period. Atlantic Ridge is the licensee of WTKF(FM), Atlantic, North Carolina. Atlantic Ridge does not oppose Petitioners' request to upgrade the Edenton, North Carolina station, or the request to reallocate this station to Columbia, North Carolina. Instead, Atlantic Ridge states in its Comments that Pine Knoll Shores allotment should be deleted rather than substituted to accommodate the reallocation of Station WERX-FM to Columbia. Atlantic Ridge states that deletion of the Pine Knoll Shores is necessary because the area within the boundaries of Pine Knoll Shores cannot receive a city-grade signal from the proposed transmitter site coordinates.

As demonstrated by the Petitioners' original comments and the absence of opposition in this proceeding, the Loeschs' petition is in the public interest. The grant of the petition is also

consistent with Commission precedent. In Elizabeth City, North Carolina and Chesapeake, Virginia ("Elizabeth City"), 9 FCC Rcd 3586 (1994), the Commission approved the modification of a station's community of license and broadcast channel where no change in transmitter site was involved. Although that decision involved a transfer to a substantially larger community, whereas the population of Edenton and Columbia are both so low as to be functionally indistinct, the fact that no loss in service would result from the Elizabeth City request was crucial to the Commission's decision in that case. Likewise, because the Loeschs intend to upgrade Station WERX-FM from the existing transmitter site, the loss of local transmission service from Edenton will not be significant because Edenton will continue to receive the same service from WERX-FM as well as local transmission service from Station WBXB(FM), Channel 271C2 and daytime-only AM Station WZBO.

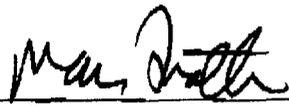
CONCLUSION

Because the requested upgrade of Channel 273 will result in higher quality broadcast services to more people without any loss in service to the existing community of license, the Petitioner's request is in the public interest. For the foregoing reasons, it is in the public interest to allow the Petitioners' request for the upgrade of station WERX-FM from channel 273C2 to Channel 273C1, the re-allotment of the improved channel from Edenton, North Carolina, to Columbia, North Carolina, and the modification of Station WERX-FM's license to specify Columbia as the station's community of license. The Loeschs will apply for and construct the necessary new facilities should the allotment be made.

This the 27th day of June, 1995.

Respectfully Submitted,

LAWRENCE F. AND
MARGARET A. LOESCH

By: 

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CERTIFICATE OF SERVICE

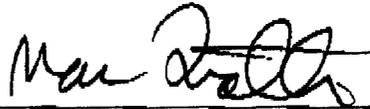
I, Marcus W. Trathen, hereby certify that a copy of the foregoing Comments of Lawrence F. and Margaret A. Loesch was served on the following parties by depositing a copy thereof in the United States Mail, postage prepaid, addressed as follows:

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This the 27th day of June, 1995.



Marcus W. Trathen