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

FEDERAL MAIL SECTION

JAN 14 7 25 AM '96

MM Docket No. 95-113

In the Matter of

Amendment of Section 73.202(b) RM-8664  
Table of Allotments, RM-8697  
FM Broadcast Stations.  
(Salem and New Martinsville,  
West Virginia)<sup>1</sup>

**REPORT AND ORDER  
(Proceeding Terminated)**

Adopted: November 27, 1995; Released: December 15, 1995

By the Chief, Allocations Branch:

1. At the request of Salem-Teikyo University ("petitioner"), the Commission has before it the *Notice of Proposed Rule Making*, 10 FCC Rcd 8094 (1995), proposing the allotment of Channel 258A at Salem, West Virginia, as the community's second local FM transmission service (RM-8664). Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted. A counterproposal was filed by Seven Ranges Radio Company, Inc. ("Seven Ranges"), proposing the allotment of Channel 258A at New Martinsville, West Virginia, as the community's second local FM transmission service (RM-8697).<sup>2</sup> Petitioner filed reply comments.

2. In an effort to resolve the conflict, Seven Ranges' counterproposal recommends the allotment of alternate Channel 277A in lieu of Channel 258A at Salem, West Virginia, and the allotment of Channel 258A at New Martinsville, West Virginia. In its reply comments, petitioner states its support of the counterproposal since it would accommodate the request for Class A allotments at both communities. Seven Ranges states its intention to apply for Channel 258A at New Martinsville, if allotted.

3. After careful consideration of the information before us, we believe that each of the communities is deserving of an additional local FM transmission service. Conflicting proposals are comparatively considered under the guidelines set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1982).<sup>3</sup> However, because an alternate Class A channel has been found to resolve the conflict, and petitioner has agreed to the allotment of

Channel 277A in lieu of Channel 258A at Salem, such a comparison is no longer necessary. Therefore, we believe the public interest would be served by allotting Channel 277A<sup>4</sup> at Salem, West Virginia, and Channel 258A at New Martinsville, West Virginia, since it would provide each community with its second local FM transmission service. An engineering analysis has determined that Channel 277A can be allotted to Salem in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.<sup>5</sup> Additionally, Channel 258A can be allotted to New Martinsville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.<sup>6</sup> Since Salem and New Martinsville are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained.

4. 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 **January 29, 1996**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

City	Channel
Salem, West Virginia	277A, 289A
New Martinsville, West Virginia	258A, 280A

5. The window period for filing applications for Channel 277A at Salem, West Virginia, and for Channel 258A at New Martinsville, West Virginia, will open on **January 29, 1996**, and close on **February 29, 1996**.

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

7. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

<sup>1</sup> The community of New Martinsville, West Virginia, has been added to caption.

<sup>2</sup> Public Notice was given to the counterproposal on September 13, 1995, Report No. 2098.

<sup>3</sup> The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) Other public interest matters. [Co-equal weight given to priorities (2) and (3).]

<sup>4</sup> We note that the Commission may allot an alternate channel in order to resolve conflicts between proposals. See *Notice, Appendix 3(c)*; see also *Pinewood, South Carolina*, 5 FCC Rcd 7609 (1990).

<sup>5</sup> The coordinates for Channel 277A at Salem are North Latitude 39-17-00 and West Longitude 80-34-00.

<sup>6</sup> The coordinates for Channel 258A at New Martinsville are North Latitude 39-38-36 and West Longitude 80-51-36.