

Federal Communications Commission

OK 96-677

FCC MAIL SECTION

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

MM Docket No. 95-126

In the Matter of

Amendment of Section 73.202(b), RM-8671
Table of Allotments,
FM Broadcast Stations.
(Denison-Sherman, Paris, Jacksboro,
Texas, and Madill, Oklahoma)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 29, 1996;

Released: May 7, 1996

By the Chief, Allocations Branch:

1. At the request of Hunt Broadcasting, Inc. ("petitioner"), licensee of Station KDVE(FM), Channel 269C3, Denison-Sherman, Texas, the Commission has before it the *Notice of Proposed Rule Making and Order to Show Cause*, 10 FCC Rcd 8303 (1995), proposing the substitution of Channel 269C1 for Channel 269C3 at Denison-Sherman, Texas, and the modification of Station KDVE(FM)'s license to specify the higher powered channel; and the substitution of Channel 252A for Channel 269A at Jacksboro, Texas, and the modification of Station KAIH(FM)'s construction permit.¹ In order to accommodate petitioner's proposal, an *Order to Show Cause* was issued to Webster Broadcasting, Inc. ("Webster"), licensee of Station KBUS(FM), Paris, Texas, and to Radio Station KMAD ("KMAD"), Madill, Oklahoma, proposing the substitution of Channel 282C2 for Channel 270C2 at Paris; the substitution of Channel 273A for Channel 272A at Madill; and the modification of KBUS(FM)'s and KMAD(FM)'s authorizations to specify operation on the alternate frequencies. Petitioner filed comments reiterating its intention to apply for Channel 269C1, if allotted to Denison-Sherman, Texas. No other comments were received.

2. We believe the public interest will be served by adopting petitioner's proposal since it could enable Station KDVE(FM) to expand its coverage area. Channel 269C1, Channel 282C2, Channel 252A, and Channel 273A can be allotted to Denison-Sherman, Paris, Jacksboro, Texas, and Madill, Oklahoma, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 269C1 can be allotted to Denison-Sherman without the imposition of a site restriction.² As proposed, we

will also modify Station KDVE(FM)'s license to specify operation on Channel 269C1 in accordance with Section 1.420(g) of the Commission's Rules. Channel 252A can be allotted to Jacksboro, Texas, with a site restriction of 3.4 kilometers (2.1 miles) northwest to accommodate petitioner's upgrade.³ Channel 282C2 and Channel 273A can be allotted to Paris, Texas, and Madill, Oklahoma, respectively, at the transmitter sites specified in Stations KBUS(FM) and KMAD(FM)'s authorizations.⁴

3. Webster and KMAD filed no responses to the *Order to Show Cause* as to why their licenses should not be modified to specify operation on Channel 282C2 and Channel 273A as proposed in lieu of Channel 270C2 and Channel 272A. Accordingly, pursuant to Section 1.87 of the Commission's Rules, Webster Broadcasting, Inc. and Radio Station KMAD are deemed to have consented to the proposed modifications. In addition, pursuant to Commission policy, petitioner has stated its intention to reimburse Webster and KMAD for all reasonable expenses they would incur in changing channels. See *Circleville and Columbus, Ohio*, 8 FCC Rcd 159 (1967).

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 **June 21, 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 No.
Denison-Sherman Texas	269C1
Paris, Texas	230C2, 282C2, 299C2
Jacksboro, Texas	252A
Madill, Oklahoma	273A

5. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license Station KDVE(FM), Denison-Sherman, Texas, IS MODIFIED to specify operation on Channel 269C1, in lieu of Channel 269C3, subject to the following conditions:

- (a) 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).
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

¹ Hunt Broadcasting ("petitioner"), became the permittee of Station KAIH(FM), Jacksboro, Texas, pursuant to the Commission's July 14, 1995, grant of the application (File No. BAPH-950502GF) for assignment of construction permit from Albert L. Crain to Hunt Broadcasting, Inc., which was consummated on September 6, 1995.

² The coordinates for Channel 269C1 at Denison-Sherman are

North Latitude 33-41-39 and West Longitude 96-34-38.

³ The coordinates for Channel 252A at Jacksboro are North Latitude 33-14-26 and West Longitude 98-11-16.

⁴ The coordinates for Channel 282C2 at Paris, Texas, are North Latitude 33-45-04 and West Longitude 95-24-51. The coordinates Channel 273A at Madill, Oklahoma, are North Latitude 34-06-24 and West Longitude 96-46-30.

(c) 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.

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license for Station KBUS(FM), Paris, Texas, IS MODIFIED to specify operation on Channel 282C2 in lieu of Channel 270C2, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station KBUS(FM)'s license, BLH-881116KB, except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-881116KB, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license for Station KAIH(FM), Jacksboro, Texas, IS MODIFIED to specify operation on Channel 252A in lieu of Channel 269A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station KAIH(FM)'s construction permit, BPH-900524MA, except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BPH-900524MA, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license for Station KMAD(FM), IS MODIFIED to specify operation on Channel 273A in lieu of Channel 272A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station KMAD(FM)'s license, BLH-850523KA, except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301)

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-850523KA, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

9. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to the licensees, as follows:

Radio Station KMAD
P.O. Box 576
Madill, Oklahoma 73446
Licensee of Station KMAD(FM)|

Webster Broadcasting, Inc.
231 S. LaSalle Street
Chicago, Illinois 60603
Licensee of Station KBUS(FM)|

10. 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, Hunt Broadcasting, Inc., licensee of Station KDVE(FM), is required to submit a rule making fee in addition to the fee required for the applications to effect the upgrade.

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

12. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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