

AUG 6 10 51 AM '96

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 95-82
Table of Allotments,	)	RM-8630
FM Broadcast Stations.	)	RM-8743
(Apalachicola, Monticello, Perry,	)	
Quincy, Springfield, Trenton,	)	
& Woodville, Florida) <sup>1</sup>	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: July 26, 1996**

**Released: August 2, 1996**

**By the Chief, Allocations Branch:**

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 10 FCC Rcd 6595 (1995), issued in response to a petition filed by Great South Broadcasting, Inc. ("Great South"). Great South, licensee of Station WXHR(FM), Channel 268C2, Quincy, Florida, requests the reallocation of Channel 268C2 from Quincy, Florida, to Woodville, Florida, and the modification of its license for Station WXHR(FM) to specify Woodville as its community of license. In order to accomplish the reallocation from Quincy to Woodville, Great South also requests the substitution of Channel 289C3 for Channel 270C3 at Monticello, Florida, and modification of Station WJPH(FM)'s license to specify operation on Channel 289C3 and the substitution of Channel 221A for Channel 288A at Perry, Florida, and the modification of Station WNFK(FM)'s license to specify operation on Channel 221A. Great South filed comments and a counterproposal.<sup>2</sup> Florida Radio Partners ("Florida Radio") filed reply comments. Great South filed supplemental comments to its counterproposal and requests to accept the supplemental comments. Reply comments were filed by Great South.

2. The counterproposal filed by Great South provided two options.

---

<sup>1</sup> The communities of Apalachicola, Springfield and Trenton have been added to the caption.

<sup>2</sup> Public notice of the counterproposal was given on January 26, 1996, Report No. 2118 (RM-8743).

Option I

Community	Channel	
	Present	Proposed
Quincy, Florida	268C2	268C1
Monticello, Florida	270C3	289C3
Perry, Florida	288A	221A
Springfield, Florida	267A	266A
Apalachicola, Florida	265A	263C3 or 263A
Trenton, Florida	269C2	269A or 269C3

Option II

Woodville, Florida	None	268C1
Quincy, Florida	268C2	None
Monticello, Florida	270C3	289C3
Perry, Florida	288A	221A
Springfield, Florida	267A	266A
Apalachicola, Florida	265A	263C3 or 263A
Trenton, Florida	269C2	269A or 269C3

According to Great South, adoption of Option I would permit Station WXSR(FM), Quincy, Florida, to expand its service area in Quincy by substituting Channel 268C1 for Channel 268C2. Great South also believes adoption of Option I or II in its counterproposal would be a more efficient use of the spectrum than allowing the licensee of Station WDJY, Channel 269C2, Trenton, Florida, to continue to warehouse spectrum.<sup>3</sup> Great South believes that Florida Radio has been busy selling the station rather than making technological improvements and searching for a suitable site. While Channel 269C2 impedes the allotment of Channel 268C1 for use by Station WXSR(FM), Great South points out that an alternate upgrade is available for Trenton. Channel 269C3 can be allotted to Trenton providing service to 41,564 persons, which is an approximate increase of 27 percent over the number served by their current class A facility. As a comparison, Great South points out that Channel 269C2 at Trenton could have provided service to 45,424 persons or a gain of approximately 33 percent over the class A facilities. Option II would change the community of license for Station WXSR(FM) and upgrade its facilities, bringing a first local service to Woodville. Further, both Option I and II would permit Station WYOO, Springfield, Florida, to operate with maximum facilities on Channel 266A, serving additional areas and populations.

<sup>3</sup> Station WDJY, Trenton, Florida, received an upgrade in MM Docket No. 93-118 to operate on Channel 269C2. The channel change became effective October 7, 1993. See 8 FCC Rcd 6159 (1993).

3. Florida Radio, licensee of Station WDJY, Trenton, Florida, filed reply comments in opposition to the comments and counterproposal filed by Great South. Florida Radio argues that Great South's proposal should be rejected because its comments now present two different proposals from the proposal on which comment was originally sought in the Notice. Great South now offers two proposals that involve downgrading Florida Radio's allotment from a Class C2 to a Class A facility or alternatively to a Class C3 facility. In response to Great South's argument concerning warehousing of spectrum, Florida Radio contends that this argument has no merit. Florida Radio states that it has regularly filed timely letters requesting an extension of its construction permit while searching for a transmitter site. Further, according to Florida Radio, Great South has shown no meaningful public interest benefits that would result from involuntarily downgrading Station WDJY's frequency. Finally, Florida Radio argues that the fact that an assignment application has been granted under which Florida Radio would sell Station WDJY is no reason to accept Great South's proposal to downgrade the station.<sup>4</sup> The right to upgrade a channel is not lost when a license is assigned.

4. Great South responded to the Commission's Public Notice released January 26, 1996, which gave notice of its counterproposal. Therein, Great South proposed the adoption of either of two options which would permit the substitution of Channel 268C1 for Channel 268C2 for use by Station WXS(FM). Great South points out that in order to accommodate the use of Channel 268C1 by Station WXS(FM), channel changes are necessary for FM stations at Monticello, Perry, Springfield, Apalachicola and Trenton, Florida. Great South had entered into agreements with the stations at Monticello, Florida, and Perry, Florida, to reimburse them for the costs associated with their channel changes prior to filing its petition for rule making. Following the release of the Commission's Notice in this proceeding, Great South was able to reach similar agreements with the licensees of Station WDJY, Channel 269C2, Trenton, Florida, and Station WYOO, Channel 267A, Springfield, Florida. Further, on January 19, 1996, the licensee of Station WJPH, Monticello, filed an application (File No. BPH-960119IC) for minor changes and on January 22, 1996, the licensee of Station WDJY, Trenton, filed a one-step application (File No. BPH-960122IA) to go from Channel 269C2 to Channel 269C3 which will remove the conflict with Great South's counterproposal. Great South further provides that Station WOYS, Apalachicola, Florida, filed a one-step application (File No. BPH-940617IZ) for Station WOYS to operate on Channel 263C3 which removes the conflict with Station WXS(FM), Quincy. Great South notes that Station WOYS has also filed an application for a license to cover this change (BLH-960122KC). Great South states its preference that the Commission adopt Option I of its counterproposal which substitutes Channel 268C1 for Channel 268C2 at Quincy, Florida, and modifies the license for Station WXS(FM) accordingly. Great South restates its intention to reimburse those stations affected by the proposed change for the costs associated with their channel changes as set forth in its agreements with those affected stations.

---

<sup>4</sup> The application was filed on April 18, 1995 and granted on July 28, 1995 (BALH-950418GO).

5. Based on the above information, we believe the public interest would be served by the substitution of Channel 268C1 for Channel 268C2 at Quincy, Florida, and modification of the license for Station WXHR(FM) to specify operation on Channel 268C1 as requested by Great South in its counterproposal (Option I). A staff engineering analysis has determined that Channel 268C1 can be allotted to Quincy, Florida, in compliance with the Commission's spacing requirements at Great South's specified site.<sup>5</sup> To accommodate the upgrade at Quincy, we shall substitute Channel 289C3 for Channel 270C3 at Monticello, Florida, and modify the license for Station WJPH to specify operation on Channel 289C3, substitute Channel 221A for Channel 288A at Perry, Florida, and modify the construction permit for Station WNFK to specify operation on Channel 221A, and substitute Channel 266A for Channel 267A at Springfield, Florida, and modify the license for Station WYOO to specify operation on Channel 267A.<sup>6</sup> Station WDJY at Trenton, Florida, has filed a one-step application to modify its license to specify operation on Channel 269C3 in lieu of Channel 269C2, which removes the conflict with Channel 268C1, Quincy, Florida.<sup>7</sup> Station WOYS at Apalachicola, Florida, has filed a one-step application to specify operation on Channel 263C3 in lieu of Channel 265A.<sup>8</sup> The substitution at Apalachicola removes the short spacing to Channel 268C1 at Quincy.

6. Commission policy requires reimbursement to affected stations for the reasonable costs associated with changing frequencies. See Circleville and Columbus, Ohio, 8 FCC 2d 159 (1967). Great South has stated its intention to reimburse those stations affected by the proposed change for the costs associated with their channel changes as set forth in its agreements with those affected stations. Further, since these stations have consented to the proposed changes in transmitter site and channel substitutions, there was no need to issue an Order to Show Cause in this proceeding.

7. 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 September 16, 1996, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, to read as follows:

---

<sup>5</sup> The coordinates for Channel 268C1 at Quincy are 30-10-22 and 84-26-52.

<sup>6</sup> The coordinates for Channel 289C3 at Monticello are 30-25-05 and 83-50-18; the coordinates for Channel 221A at Perry are 30-06-27 and 83-34-00; and the coordinates for Channel 266A at Springfield are 30-12-12 and 85-36-57.

<sup>7</sup> The coordinates for Channel 269C3 at Trenton are 29-36-47 and 82-56-43. Station WDJY holds a construction permit for Channel 269C3 which expires October 18, 1997.

<sup>8</sup> The coordinates for Channel 263C3 at Apalachicola, Florida, are 29-43-57 and 84-53-24. Station WOYS holds a construction permit for Channel 263C3 which expires on February 10, 1997 (BPH-9406171Z).

Community	Channel No.
Quincy, Florida	264A, 268C1
Monticello, Florida	289C3
Perry, Florida	221A
Springfield, Florida	266A

8. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this Order to:

Rebus, Inc.  
Station WJPH  
1820 East Park Avenue  
Tallahassee, Florida 32301

Florida Radio Partners, Inc.  
Station WDJY  
P. O. Box 442  
Clarksburg, Maryland 20871

Richard L. Plessinger, Sr.  
Station WOYS  
Island Drive, P. O. Box 527  
Eastpoint, Florida 32328

Tideline Broadcasting, Inc.  
Station WYOO  
2126 Fox Run  
Lynn Haven, Florida 32444

Rahu Broadcasting, Inc.  
Station WNFK  
P. O. Box 779  
Perry, Florida 32347

9. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station WXSR(FM), Quincy, Florida, IS MODIFIED to specify operation on Channel 268C1, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility.

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

(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.

10. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, that the License of Station WJPH(FM), Monticello, Florida, IS MODIFIED, to specify operation on Channel 289C3, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in License No. BMLH-910319KE except for the channel as specified above. Any changes, except those specified 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 No. BMLH-910319KE, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

11. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, that the construction permit for Station WNFK, Perry, Florida, IS MODIFIED, to specify operation on Channel 221A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Permit BPH-940930IZ except for the channel as specified above. Any changes, except those specified 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 Permit BPH-940930IZ, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

12. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, that the License of Station WYOO, Springfield, Florida, IS MODIFIED, to specify operation on Channel 266A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in License BLH-930308KD except for the channel as specified above. Any changes, except

those specified 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-930308KD, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

13. 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, Great South Broadcasting, Inc., licensee of Station WXSJ(FM), Quincy, Florida, is required to submit a rule making fee in addition to the fee required for the applications to effect the respective upgrade.

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

15. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202)418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

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