

FCC MAIL SECTION

DISPATCH INFORMATION

Federal Communications Commission

DA 96-1997

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 96-15
Table of Allotments,	)	RM-8748
FM Broadcast Stations.	)	RM-8798
(Barron and Rice Lake,	)	
Wisconsin) <sup>1</sup>	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: November 29, 1996**

**Released: December 6, 1996**

By the Chief, Allocations Branch:

1. In response to a petition filed by Barron Broadcasting Corporation ("Barron Broadcasting"), the Commission has before it for consideration the Notice of Proposed Rule Making, 11 FCC Rcd 2415 (1996), seeking the allotment of Channel 256A at Barron, Wisconsin, as that community's first local service. Barron Broadcasting filed comments supporting the allotment of Channel 256A at Barron.<sup>2</sup> NW Wisconsin Broadcasters ("NW") provided comments expressing its intent to file an application for Channel 256A at Barron. Red Cedar Broadcasters, Inc. ("Red Cedar") filed a counterproposal.<sup>3</sup> Barron Broadcasting and Red Cedar filed reply comments. No other comments were received.

2. Red Cedar's counterproposal requests the substitution of Channel 256C2 for Channel 249C3 at Rice Lake, Wisconsin. Red Cedar also requests modification of the license for Station WAQE-FM to specify operation on Channel 256C2.<sup>4</sup> Red Cedar proposes the allotment of Channel 249A, the channel currently utilized by Station WAQE-FM, be allotted to Barron. Red Cedar believes its counterproposal will better serve the public interest than the proposal submitted by the original proponent as it will allow Station WAQE-FM to expand its

<sup>1</sup> The community of Rice Lake has been added to the caption.

<sup>2</sup> As stated in the Notice, although petitioner's request was signed and its address given, it did not verify the statements contained in the petition as required by Section 1.52 of the Commission's Rules. Petitioner was requested to correct the noted deficiency in its responsive comments, and has complied accordingly.

<sup>3</sup> Public Notice of the counterproposal was given on May 9, 1996, Report No. 2130 (RM-8798). The Public Notice solicited competing expressions of interest in the use of Channel 256C2 at Rice Lake, Wisconsin.

<sup>4</sup> Red Cedar is also the licensee of AM broadcast station WAQE, Rice Lake, Wisconsin.

listening area, while still providing a first local service for Barron.

3. Barron Broadcasting, in reply comments continues to support the allotment of Channel 256A at Barron, Wisconsin. Barron Broadcasting argues that Barron, although a small community, is deserving of a local radio service. Barron Broadcasting states that Barron is the seat of Barron County, has experienced a 15% increase in population between 1980 and 1990, and is home to Jerome Foods, the largest manufacturing employer in the county. Barron Broadcasting objects to the allotment of Channel 249A rather than Channel 256A at Barron, indicating the Channel 249A is limited in site selection which may impact on an applicant's ability to provide quality service to Barron.

4. After consideration of the information filed in this proceeding, we believe the public interest would be served by the substitution of Channel 256C2 for Channel 249C3 at Rice Lake, Wisconsin, as proposed by Red Cedar. Channel 256C2 can be allotted to Rice Lake in compliance with the Commission's spacing requirements at Red Cedar's specified site.<sup>5</sup> We shall also modify the license for Station WAQE-FM, to specify operation on Channel 256C2 as requested by Red Cedar. In response to the proposal filed by Barron Broadcasting, we shall allot Channel 249A to Barron, Wisconsin, as that community's first local service. Channel 249A can be allotted to Barron in compliance with the Commission's spacing requirements provided there is site restriction 9.5 kilometers (5.9 miles) north of the community.<sup>6</sup> The site restriction will prevent a conflict with Station KNXR, Channel 248C, Rochester, Minnesota. It should be noted that grant of a final license for Channel 249A at Barron, Wisconsin, may be withheld until Station WAQE-FM, Rice Lake, is licensed on Channel 256C2. Although Barron Broadcasting has expressed concern over Channel 249A being equivalent to Channel 256A, the Commission considers channels of the same class to be equivalent unless showings have been made that a station cannot be constructed for reasons such as environmental consequences or air hazards. See Vero Beach, Florida, 3 FCC Rcd 1049 (1988); recon. denied, 4 FCC Rcd 2184, 2185 (1989). No such showings were made in this proceeding. Since the communities of Barron and Rice Lake, Wisconsin, are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained for the allotment of Channel 256C2 at Rice Lake and Channel 249A at Barron.

5. 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 21, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

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<sup>5</sup> The coordinates for Channel 256C2 at Rice Lake are 45-23-00 and 91-51-00.

<sup>6</sup> The coordinates for Channel 249A at Barron are 45-29-00 and 91-49-30.

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<u>Community</u>	<u>Channel No.</u>
Barron, Wisconsin	249A
Rice Lake, Wisconsin	242C1, 256C2

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Station WAQE-FM, Rice Lake, Wisconsin, IS MODIFIED to specify operation on Channel 256C2 in lieu of Channel 249C3, 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), specifying the new facility;

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

(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.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in 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, Red Cedar Broadcasters, Inc., licensee of Station WAQE-FM, is required to submit a rule making fee in addition to the fee required for the applications to effect the upgrade at Rice Lake, Wisconsin.

8. The window period for filing applications for Channel 249A at Barron, Wisconsin, will open on January 21, 1997, and close on February 21, 1997.

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

10. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 249A at Barron, Wisconsin, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

**FEDERAL COMMUNICATIONS COMMISSION**

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