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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-271
Table of Allotments,)	RM-9696
FM Broadcast Stations.)	
(Boulder City, Nevada, Bullhead City, Lake)	
Havasu City, and Kingman, Arizona, and)	
Ludlow, California))	

NOTICE OF PROPOSED RULE MAKING
AND
ORDERS TO SHOW CAUSE

Adopted: August 11, 1999

Released: August 20, 1999

Comment Date: October 12, 1999
Reply Comment Date: October 27, 1999

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Centennial Broadcasting Licensee, LLC ("petitioner"), licensee of Station KSTJ, Boulder City, Nevada, requesting the substitution of Channel 274C for Channel 288C2 at Boulder City and the modification of Station KSTJ's license to specify operation on the higher powered channel. To accommodate the allotment at Boulder City, petitioner requests the following channel substitutions and license modifications: (1) substitute Channel 289C for Channel 274C at Bullhead City and modify the license of Station KFLG; (2) substitute Channel 272C2 for Channel 224C2 at Lake Havasu City, Arizona, and modify the license of Station KJJJ; (3) substitute Channel 224C1 for Channel 290C1 at Kingman, Arizona, and modify the license of Station KRCY; and (4) substitute Channel 273A for Channel 289A at Ludlow, California, and modify the license of Station KDUQ.¹ Petitioner states that it will apply for Channel 288C2 at Boulder City, if allotted.

2. Petitioner states that Station KSTJ is the only FM station licensed to Boulder City and

¹ In MM Docket No. 93-279, the prior licensee (Rock "N" Roll, Inc.) of then Station KRRI (now KSTJ) filed a counterproposal in MM Docket 93-279 requesting the substitution of Channel 286C2 for Channel 288C2 at Boulder City and the concomitant substitution of Channel 289C2 for Channel 286C2 at Las Vegas, NV, instead of the allotment of Channel 285A to Cal-Nev-Ari, Nevada. By Report and Order, 10 FCC Rcd 7717 (1995), the Commission denied both proposals. That proceeding remains pending because that portion of MM Docket 93-279 which concerns the allotment of Channel 285A to Cal-Nev-Ari is the subject of a pending Application for Review. However, that portion concerning the allotments at Boulder City and Las Vegas are no longer pending since Rock "N" Roll did not seek reconsideration of the denial.

operating as a Class C rather than a Class C2 will enable the station to increase its service area by more than 250 percent. As to the channel substitutions which are necessary to effect the upgrading of Station KSTJ, petitioner states that its proposal comports with Commission policy concerning the modification of other stations to accommodate such upgrades because two of the four affected stations have agreed to the channel change.² Thus, only two of the proposed channel substitutions, at most, would be involuntary. See, Columbus, Nebraska, et al., 59 R.R. 2d 1184 (1986), Farmersville, Texas, 12 FCC Rcd 4099, 4109 (Allocations Branch 1997).

3. We believe petitioner's proposal warrants consideration since the substitution of Channel 274C for Channel 288C2 at Boulder City could provide the community with a higher class allotment and enable Station KSTJ to expand its coverage area. As requested, we also propose to modify petitioner's license for Station KSTJ to specify operation on the higher class channel. In accordance with Section 1.420 of the Commission's Rules, Station KSTJ's license may not be modified herein to specify non-adjacent Channel 274C if a competing expression of interest is received unless there is an additional equivalent class channel available for allotment. If such a competing expression of interest is received during the initial comment period specified herein, petitioner will be expected to provide such an alternate channel since it did not do so in its petition for rule making.

4. Whenever an existing licensee or permittee is ordered to change frequencies in order to accommodate a new channel allotment, Commission policy requires the benefitting party to reimburse the affected station for costs incurred. In this case, petitioner has stated its willingness to reimburse the licensees of the affected stations for the reasonable costs associated with their respective frequency changes.

Technical Summary

5. Channel 274C can be allotted to Boulder City in compliance with the Commission's minimum distance separation requirements at Station KSTJ's presently licensed transmitter site. Channel 289C can be allotted to Bullhead City at Station KFLG's licensed transmitter site.³ Channel 272C2 can be allotted to Lake Havasu City at Station KJJJ's licensed transmitter site. Channel 224C1 can be allotted to Kingman at Station KRCY's licensed transmitter site. Channel 273A can be allotted to Ludlow at Station KDUQ's licensed transmitter site.⁴

² Petitioner provides affidavits from Station KJJJ, Lake Havasu City and Station KRCY, Kingman, stating their agreement. Therefore, an Order to Show Cause will not be issued to these two licensees.

³ Station KFLG has pending before the Commission an application to correct its transmitter site coordinates to specify 35-15-08 North Latitude; 114-44-58 West Longitude (BPH-980527IA).

⁴ The coordinates for Channel 274C at Boulder City are 35-59-45 North Latitude; 114-51-51 West Longitude. The coordinates for Channel 289C at Bullhead City are 35-14-56 NL; 114-44-37 WL. The coordinates for Channel 272C2 at Lake Havasu City are 34-33-06 NL; 114-11-37 WL. The coordinates for Channel 224C1 at Kingman are 35-01-58 NL; 114-21-57 WL. The coordinates for Channel 273A at Ludlow are 34-43-21 NL; 116-10-04 WL.

6. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Bullhead City, Arizona	274C	289C
Kingman, Arizona	234C, 260C2, 290C1	224C1, 234C,
260C2		
Lake Havasu City, Arizona	224C2, 244C2, 266C1, 283C2, 286C2 ⁵	244C2, 266C1, 272C2, 283C2
Ludlow, California	289A	273A
Boulder City, Nevada	288C2	274C

7. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Regent Licensee of Kingman, Inc., licensee of Station KFLG, Bullhead City, Arizona, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 289C as proposed herein instead of the present Channel 274C. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Tele-Media Company of Southern California, licensee of Station KDUQ, Ludlow, California, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 273A as proposed herein instead of the present Channel 289A.

8. Pursuant to Section 1.87 of the Commission's Rules, Regent Licensee of Kingman, Inc. and/or Tele-Media Company of Southern California may, not later than October 12, 1999, file a written statement showing with particularity why their individual license should not be modified as proposed in the Order to Show Cause. The Commission may call on Regent Licensee of Kingman, Inc. and/or Tele-Media Company of Southern California to furnish additional information. If Regent Licensee of Kingman, Inc. and/or Tele-Media Company of Southern California raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Regent Licensee of Kingman, Inc. and/or Tele-Media Company of Southern California

⁵ Pursuant to the Report and Order in MM Docket 90-468 (6 FCC Rcd 5140 (1991), Station KZUL's license was modified from Channel 286C2 to Channel 283C2 at Lake Havasu City, in order to accommodate the allotment of Channel 287C at Wickenburg, Arizona, for use by Station KRDS-FM. Subsequently, by Memorandum Opinion and Order in 90-468, 10 FCC Rcd 13637 (1995), Station KRDS from downgraded from Class C to C2 at the station's request but the Memorandum Opinion and Order did not rescind the frequency change for Station KZUL in the Table of Allotments. We note that Section 73.202(b) erroneously shows the allotment of 286C2 at Lake Havasu City. Therefore, we will editorially amend the Table to reflect its removal pursuant to 90-468. Station KZUL is licensed on 283C2.

will be deemed to have consented to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

9. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this Notice of Proposed Rule Making and Order to Show Cause to the licensees of Stations KFLG and KDUQ, as follows: Station KFLG, Regent Licensee of Kingman, Inc., 50 E. Rivercenter Blvd., Suite 180, Covington, KY 41011; Station KDUQ, Tele-Media Company of Southern California, 320 West College Avenue, Pleasant Gap, PA 16823.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

11. Interested parties may file comments on or before October 12, 1999, and reply comments on or before October 27, 1999, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

John S. Logan
M. Anne Swanson
Dow, Lohnes & Alberton, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(Counsel to petitioner)

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

13. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary

of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

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

Attachment: Appendix

APPENDIX

1. Pursuant to authority found 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 PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.