

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

RECEIVED
MAR 02 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. _____
Table of Allotments,) RM- _____
FM Broadcast Stations)
(Lowry City, Missouri))

Directed to: Chief, Allocations Branch

PETITION FOR RULE MAKING

Bott Communications, Inc. ("Bott"), by its attorneys, hereby proposes the allocation of Channel 285A to Lowry City, Missouri as that community's first aural service. In support whereof, the following is shown:

Procedural Background

In a related proceeding, Channel 285A was originally proposed as a substitute for Channel 222A in Osceola, Missouri. See RM-9687 in MM Docket No. 99-299 (Osceola and Sedalia, Missouri). However, that proposal was withdrawn in favor of substitution of Channel 262A for Channel 222A at Osceola. The Channel 262A proposal became a subject of the Commission's *Notice of Proposed Rule Making* ("Notice") (DA 99-2101) in MM Docket No. 99-299 (released October 8, 1999).

In response to the *Notice*, Bott counterproposed the assignment of Channel 262A at Wheatland, Missouri as that community's first aural service. In an opposition to Bott's counterproposal filed February 11, 2000, The Clair Group ("Clair") suggested that, if necessary,

No. of Copies rec'd 014
List ABOVE
MMB

Channel 285A, instead of Channel 262A, could be substituted for Channel 222A at Osceola as was originally proposed in RM-9687. However, Clair's alternate proposal for Channel 285A is not entitled to cut-off protection as a counterproposal in MM Docket 99-299 because it does not conflict with any of the proposals in that proceeding. Moreover, the deadline for counterproposals in MM Docket No. 99-299 was November 29, 1999. See Notice, p.3. Thus, Channel 285A is available for assignment to Lowry City as proposed herein.

Lowry City, Missouri¹

Lowry City needs and can support a new radio station. Lowry City's 1990 population was 723. It is an incorporated city with an elected mayor and four councilmen. It has a city clerk and a treasurer, a volunteer fire department, a police department with three officers, a water and sewer department, and provides K-12 schooling through the Lakeland School District. Also, the Lowry City Christian School serves children in grades K-12. The community has 59 licensed businesses and a Chamber of Commerce. Lowry City has four churches, a U.S. Post Office and is served by a monthly newspaper, The Missouri Chigger. The community also has a Boy Scout troop, two sororities, a 4-H Chapter, a Ladies Quilting Circle, a Masonic Lodge and a Community Betterment Association. Truman Lake, only three miles away, is a regional recreational center. Lowry City has no local radio service.

Technical Showing

As the attached engineering statement demonstrates, Channel 285A may be assigned to Lowry City, Missouri subject to a 13.4 kilometer site restriction. All distance separation

¹ The information in this section was obtained from U.S. Census materials and from the Lowry City clerk.

requirements would be satisfied from this location. The engineering statement confirms that city-grade coverage to Lowry City would be provided from the proposed reference coordinates. A total of 11,826 persons within 2,462 square kilometers would be served by the new station.

Bott's engineering statement also demonstrates that the 6 kW upgrades proposed in the *Notice* may be accomplished through a mutual upgrade agreement pursuant to Section 73.213(c)(2) of the Commission's rules. This resolution will be a far better and more efficient use of the spectrum than sacrificing Channel 285A, which could otherwise be used for a first aural service for Lowry City.

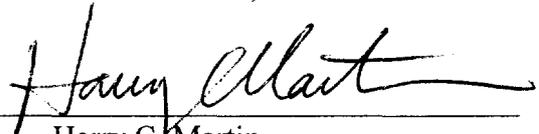
Should the Commission assign Channel 285A to Lowry City, Bott will apply for the new facility and, if its application is approved, will construct and operate a new station in that community.

WHEREFORE, it is respectfully requested that the Commission amend Section 73.202(b) of its rules to add Channel 285A to Lowry City, Missouri.

Respectfully submitted,

BOTT COMMUNICATIONS, INC.

By: _____


Harry C. Martin
Its Attorney

Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street, 11th Floor
Arlington, VA 22209
(703) 812-0400

March 2, 2000

Engineering Statement
Petition for Rulemaking
to Amend the FM Table of Allotments (§73.202(b))
Addition of Channel 285A at Lowry City, Missouri
prepared for
Bott Communications, Inc.

Introduction

Bott Communications, Inc. (“*Bott*”) respectfully requests that the Federal Communications Commission amend Section 73.202(b) of its rules to add FM Channel 285A at Lowry City, Missouri. The instant petition is in response to a suggestion filed by The Clair Group¹ to use Channel 285A as a replacement channel for KCVJ(FM) at Osceola, MO (Ch. 222A). *Bott* seeks to provide a first local aural service to Lowry City in St. Clair County, Missouri.

Ch. 285A at Lowry City, Missouri

Lowry City is a city with a population of 723 people occupying 2.8 square kilometers as of the 1990 U.S. Census. *Bott*'s proposed allotment reference point for Lowry City is: North Latitude 38° 02' 24" West Longitude 93° 38' 28" (NAD-27). The use of Channel 285A at *Bott*'s proposed allotment reference point requires a 13.4 km site restriction. The proposed allotment reference point meets all pertinent minimum distance separation requirements for Channel 285A toward domestic, United States stations except with respect to The Clair Group's suggestion to use Ch. 285A in place of Ch. 222A for KCVJ(FM) at Osceola, Missouri.² A 16 km arc from the proposed allotment reference point (nominal distance to the 3.16 mV/m contour with an ERP of 6.0 kW at 100m AAT) encompasses all of Lowry City. From the proposed reference point, within the Class A class contour distance of 28 kilometers, there are 2,462 square kilometers and 11,826 people as of the 1990 U.S. Census. There are no known aural broadcast allotments or stations for Lowry City, Missouri. Further, the allotment of Channel 15 as a DTV paired channel to KMOS at Sedalia, MO,

¹ Opposition to Counterproposal in MM Docket No. 99-299, filed February 11, 2000 by The Clair Group. (The Cutoff date for counterproposals in MM Docket No. 99-299 was November 29, 1999.)

² A Construction Permit was granted to KGAR (BMPH-19990816IC - Facility ID No. 87565) on January 7, 2000. Thus the protection of the vacant reference point for Garden City, MO on Ch. 286C1 is replaced by the requirement to protect the CP for KGAR(FM).

Engineering Statement
Petition for Rulemaking
(Page 2 of 3)

78 kilometers distant, will displace the single unused television allotment (Channel 15) assigned to Lowry City, Missouri.

KCVJ(FM) Ch. 222A at Osceola, Missouri

The Clair Group seeks to use Ch. 285A for KCVJ(FM) at Osceola as part of a plan to allow several Class A FM stations to increase their respective ERPs from 3.0 to 6.0 kW. The Clair Group asserts that, if their proposal is granted, KMFC(FM), Ch. 221A, Centralia, MO; and KSDL(FM), Ch. 221A, Sedalia, MO would be entitled to operate with ERPs of 6.0 kW. However, it does not appear to be necessary for KCVJ(FM) to move off of its currently assigned frequency (Channel 222A) to Channel 262A or Channel 285A in order to accomplish a mutual upgrade of these three facilities. If KCVJ, KMFC, KSDL, and KMOE were to all enter into a mutual upgrade agreement pursuant to §73.213(c)(2) of the FCC Rules, there would be no conflict with *Bott's* instantly proposed use of Ch. 285A for Lowry City, Missouri as a first local aural service.

KCVJ(FM) operates on Channel 222A as allotted to Osceola, Missouri. The KCVJ(FM) transmitter site meets pertinent Class A (6.0 kW/100m) minimum distance separation requirements toward all other facilities and allotments except KMOE(FM).

KMOE(FM) operates on Channel 221A as allotted to Butler, Missouri. The KMOE(FM) transmitter site meets pertinent Class A (6.0 kW/100m) minimum distance separation requirements toward all other facilities and allotments except KCVJ(FM), KSDL(FM), and a pending NCE application for Lake Lotawana (BPED-990104MM). The Lake Lotawana Application requests authorization pursuant to §73.215 toward KMOE(FM) and provides contour protection assuming a maximum 6.0 kW Class A facility for KMOE(FM).

KSDL(FM) operates on Channel 221A as allotted to Sedalia, Missouri. The KSDL(FM) transmitter site meets pertinent Class A (6.0 kW/100m) minimum distance separation requirements toward all other facilities and allotments except KMOE(FM) and KMFC(FM).

Engineering Statement
Petition for Rulemaking
(Page 3 of 3)

KMFC(FM) operates on Ch. 221A as allotted to Centralia, Missouri. The KMFC(FM) transmitter site meets pertinent Class A (6.0 kW/100m) minimum distance separation requirements toward all other facilities and allotments except KSDL(FM).

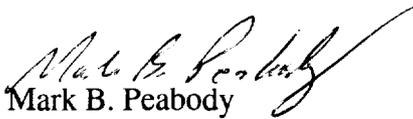
Thus, if KCVJ(FM), KMOE(FM), KSDL(FM) and KMFC(FM) were to enter into a mutual upgrade agreement (as three of the four have expressed interest so far with the KCVJ filings in MM Docket No. 99-299), KCVJ would not need to move to Channel 285A. Lowry City and 11,826 people in the area would also then benefit from an additional FM aural service in the area.

Conclusion

Bott respectfully requests that the Commission amend Section 73.202(b) to allot Channel 285A to Lowry City, Missouri with the allotment reference point North Latitude 38° 02' 24" West Longitude 93° 38' 28" with a 13.4 km site restriction. Allotment of Channel 285A to Lowry City will provide a first local aural service to the city and provide an additional FM service to over 11,000 people in a rural area. This is a more efficient use of the FM spectrum than what is proposed by The Clair Group. With the instant proposal, Clair Group's KMFC(FM) as well as KCVJ(FM), KSDL(FM), KMOE(FM), and *Bott Communications* all benefit.

Certification

I, Mark B. Peabody, hereby certify that the foregoing statement was prepared by me or under my direction on behalf of *Bott Communications, Inc.*, that it is true and correct to the best of my knowledge and belief, and that my qualifications are a matter of record with the Federal Communications Commission.

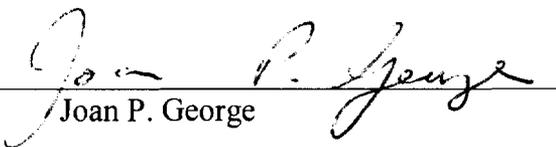

Mark B. Peabody
March 1, 2000

CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the foregoing *Petition for Rule Making* was sent this 2nd day of March, 2000, by hand where indicated and via United States First Class Mail, postage prepaid, on the following:

Ms. Kathleen Scheuerle*
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, SW, Room 3-A247
Washington, DC 20554

Lauren Lynch Flick, Esq.
Fisher Wayland Cooper Leader & Zaragoza, L.L.P.
2001 Pennsylvania Avenue, NW
Suite 400
Washington, DC 20006-1851



Joan P. George

* By hand