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DISTRICT OF COLUMBIA

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

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| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | MM Docket No. 99-357 |
| Table of Allotments, |) | RM-9780 |
| FM Broadcast Stations. |) | |
| (Eldorado, Beeville, Colorado City, Cotulla, |) | |
| Cuero, Kerrville, Mason, McQueeney and |) | |
| San Angelo, Texas) |) | |

REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 24, 2000

Released: May 26, 2000

By the Chief, Allocations Branch:

1. The Allocations Branch has before it the Notice of Proposed Rule Making in this proceeding, 14 FCC Rcd 21405 (1999). Schleicer County Radio filed Comments. Rawhide Radio, L.L.C. ("Rawhide Radio") filed a Counterproposal and Reply Comments. For the reasons discussed below, we are allotting Channel 285A to Eldorado, Texas, as a first local service. We are also substituting Channel 249C1 for Channel 249C3 at Cuero, Texas, reallocating Channel 249C1 from Cuero to McQueeney, Texas, and modifying the license of Station KVCQ to specify operation on Channel 249C1 at McQueeney, Texas. We are substituting Channel 291C2 for Channel 289C3 at San Angelo, Texas, and modifying the license of Station KMDX to specify operation on Channel 291C2. We are also substituting Channel 296A for Channel 250C2 at Beeville, Texas, and modifying the license of Station KYTX to specify operation on Channel 296A. In addition, we are substituting Channel 296A for Channel 291A at Colorado City, Texas, and modifying the license of Station KAUM to specify operation on Channel 296A. To accommodate these license modifications, we are substituting vacant channels at Mason and Cotulla, Texas, and changing the reference coordinates of vacant Channel 291A at Kerrville, Texas.

2. At the request of Schleicer County Radio, the Notice of Proposed Rule Making in this proceeding proposed the allotment of Channel 293A to Eldorado, Texas, as a first local service. In response to the Notice, Rawhide Radio, licensee of Station KVCQ, Channel 249C3, Cuero, Texas, filed a Counterproposal. In its Counterproposal, Rawhide Radio proposed the substitution of Channel 249C1 for Channel 249C3 at Cuero, reallocation of Channel 249C1 to McQueeney, Texas, and modification of its Station KVCQ license to specify operation on Channel 249C1 at McQueeney. In order to accommodate this proposal, Rawhide Radio proposed the substitution of Channel 296A for

Channel 250C2 at Beeville, Texas, and modification of the Station KYTX license at Beeville to specify operation on Channel 296A. Shaffer Communications Group, Inc., licensee of Station KYTX, has agreed to the channel substitution and transmitter site relocation. Rawhide Radio also proposed the substitution of Channel 289C2 or Channel 281C2 for vacant Channel 249C2 at Mason, Texas, and the substitution of Channel 242A for vacant Channel 249A at Cotulla, Texas.¹ In order to substitute Channel 289C2 at Mason, Rawhide Radio proposed the substitution of Channel 291C2 for Channel 289C3 at San Angelo, Texas, and modification of the Station KMDX license at San Angelo to specify operation on Channel 291C2.² Regency Broadcasting, Inc., licensee of Station KMDX has agreed to the channel substitution and transmitter site relocation. To accommodate Channel 291C2 at San Angelo, Rawhide Radio proposed the substitution of Channel 296A for Channel 291A at Colorado City, Texas, and modification of the Station KAUM license at Colorado City to specify operation on Channel 296A. James G. Brown, licensee of Station KAUM has agreed to this channel substitution. Finally, Rawhide Radio proposed a change in the reference coordinates of vacant Channel 291A at Kerrville, Texas.

3. We are substituting Channel 249C1 for Channel 249C3 at Cuero, reallocating Channel 249C1 to McQueeney, and modifying the license of Station KVCQ to specify operation on Channel 249C1 at McQueeney, Texas.³ This will result in a preferential arrangement of allotments as required by the Commission in Section 1.420(i) of the Commission's Rules and Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License"), 4 FCC Rcd 4870 (1989); recon granted in part, 5 FCC Rcd 7094 (1990). In reaching this determination, we compared the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1988).⁴ This will provide a first local service to McQueeney, Texas, with a population of 2,063 persons while Cuero will continue to receive local service from AM Station KTXC. This reallocation will also result in a net service gain to 342,882 persons. In regard to the 74,917 persons losing service, we note that this population will continue to receive a minimum of eight aural services.

4. In order to accommodate Channel 249C1 at McQueeney, we are making three channel substitutions. First, we are substituting Channel 296A for Channel 250C2 at Beeville, Texas, and are modifying the license of Station KYTX to specify operation on Channel 296A.⁵ This downgrade in channel will result in 31,457 persons in an area of 5,886 square kilometers losing service. However,

¹ To accommodate Channel 281C2 at Mason, Rawhide Radio also proposed the substitution of Channel 245C1 for Channel 281C1 at Brownwood, Texas. However, in MM Docket No. 98-198 we have already substituted Channel 245C1 for Channel 281C1 at Brownwood. 15 FCC Rcd 5506 (2000), recon. pending. As such, this aspect of the Rawhide Radio counterproposal need not be considered in the context of this proceeding.

² The proposed Channel 291C2 substitution at San Angelo conflicts with the proposed Channel 293A allotment at Eldorado, Texas.

³ The reference coordinates for the Channel 249C1 allotment at McQueeney, Texas, are 29-21-24 and 97-39-48.

⁴ The FM allotment priorities are: (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

⁵ The reference coordinates for the Channel 296A allotment at Beeville, Texas, are 28-27-03 and 97-50-15.

this entire area will continue to receive a minimum of five aural services. Shaffer Communications Group, Inc., licensee of Station KYTX, has agreed to the channel substitution and transmitter site relocation to a site closer to Beeville. Rawhide Radio has agreed to reimburse Shaffer Communications Group for the costs of changing its channel and transmitter site. Second, we are also substituting Channel 242A for vacant Channel 249A at Cotulla, Texas, at the existing reference coordinates.⁶ Third, we are substituting Channel 281C2 for vacant Channel 249C2 at Mason, Texas.⁷ There are now three applications pending for this allotment at Mason. Channel 281C2 can be accommodated at the sites specified in those applications and the applicants will be permitted to amend their respective applications to specify Channel 281C2 without loss of cut-off protection.⁸

5. We are substituting Channel 291C2 for Channel 289C3 at San Angelo, Texas, and are modifying the license of Station KMDX to specify operation on Channel 291C2.⁹ This will result in a net increase in service to 3,780 persons in an area of 3,821 square kilometers. Regency Broadcasting, Inc., licensee of Station KMDX, has agreed to the channel upgrade and any transmitter site change. In order to accommodate the Channel 291C2 upgrade at San Angelo, we are substituting Channel 296A for Channel 291A at Colorado City, Texas, and are modifying the license of Station KAUM to specify operation on Channel 296A.¹⁰ James G. Baum, licensee of Station KAUM, has agreed to the channel substitution. We are also changing the reference coordinates for the vacant Channel 291A allotment at Kerrville, Texas.¹¹ These reference coordinates are located within Kerrville.

6. The Channel 291C2 upgrade at San Angelo conflicts with the Channel 293A allotment at Eldorado, Texas, proposed in the Notice. As an alternate channel, we are allotting Channel 285A to Eldorado as a first local service.¹²

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 July 12, 2000, 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:

⁶ The reference coordinates for the Channel 242A allotment at Cotulla, Texas, are 28-30-22 and 99-12-46.

⁷ The reference coordinates for the Channel 281C2 allotment at Mason, Texas, are 30-33-57 and 99-06-49.

⁸ In a separate proceeding in MM Docket No. 99-342, we are considering an upgrade of the Channel 281A construction permit at Pearsall, Texas, to specify operation on Channel 281C1 at a site that would accommodate the Channel 281C2 allotment at Mason in this proceeding.

⁹ The reference coordinates for the Channel 291C2 allotment at San Angelo, Texas, are 31-18-09 and 100-35-45.

¹⁰ The reference coordinates for the Channel 296A allotment at Colorado City, Texas, are 32-23-15 and 100-53-33.

¹¹ The reference coordinates for the Channel 291A allotment at Kerrville, Texas, are now 30-01-54 and 99-09-01.

¹² The reference coordinates for the Channel 285A allotment at Eldorado, Texas, are 30-51-36 and 100-36-00.

| <u>Community</u> | <u>Channel No.</u> |
|----------------------|--------------------|
| Beeville, Texas | 289C3, 296A |
| Colorado City, Texas | 296A |
| Cotula, Texas | 242A |
| Cuero, Texas | ----- |
| Eldorado, Texas | 285A |
| Mason, Texas | 224A, 281C2 |
| McQueeney, Texas | 249C1 |

8. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Rawhide Radio, L.L.C. for Station KVCQ, Channel 249C3, Cuero, Texas, IS MODIFIED to specify operation on Channel 249C1 at McQueeney, Texas, 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 construction permit (FCC Form 301), specifying the new facility;

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

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Rules.

9. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Shaffer Communications Group, Inc. for Station KYTX, Channel 250C2, Beeville, Texas, IS MODIFIED to specify operation on Channel 296A in lieu of Channel 250C2, 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 construction permit (FCC Form 301), specifying the new facility;

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

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Rules.

10. IT FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Regency Broadcasting, Inc. for Station KMDX, Channel 289C3, San Angelo, Texas, IS MODIFIED to specify operation on Channel 291C2 in lieu of Channel 289C3, 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 construction permit (FCC Form 301), specifying the new facility;

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

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Rules.

11. Pursuant to Section 1.1104 (1)(k) and (2)(k) of the Commission's Rules, 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 rulemaking fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, the respective licensees are required to submit a rulemaking fee in addition to the fee required for the application to effect the change in community of license.

12. A filing window for Channel 285A at Eldorado, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

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

14. For further information concerning this proceeding, contact Robert Hayne, Mass Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

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