

FCC MAIL SECTION

Federal Communications Commission

DA 00-1396

JUN 23 9 17 AM '00

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	MM Docket No. 00-111
(Fallon, Nevada))	RM-9900
)	
(Weiser, Oregon))	MM Docket No. 00-112
)	RM-9901
)	
(Randolph, New York))	MM Docket No. 00-113 ✓
)	RM-9904

NOTICE OF PROPOSED RULE MAKING

Adopted: June 14, 2000

Released: June 23, 2000

Comment Date: August 14, 2000

Reply Comment Date: August 29, 2000

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. We believe that each proposal warrants further consideration because it complies with our technical requirements and could serve the public interest.

2. This multiple docket Notice of Proposed Rule Making is issued in response to the Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making numbers and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

(1) MM Docket No. 00-111, RM-9900

Petitioner: FBB Broadcasting

A. Wray Fitch III

Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(Counsel to petitioner)

Proposal: Allot Channel 281C to Fallon, NV, as the community's third local FM service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Fallon, Nevada	257A, 267C2	257A, 267C2, 281C

Coordinates: 39-28-30 WL; 118-40-43 NL

Additional Information: This allotment requires a site restriction of 8.4 kilometers (5.2 miles) east to avoid a short-spacing to Station KODS, Channel 279C1, Carnelian Bay, CA, and Station KDOT, Channel 283C, Reno, NV.

FCC Contact: Leslie Shapiro, (202) 418-2180

(2) MM Docket No. 00-112, RM-9901

Petitioner: WE Broadcasting

c/o A. Wray Fitch III
Gammon & Grange, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102-3807
(Counsel to petitioner)

Proposal: Allot Channel 280C1 to Weiser, OR, as the community's first local aural service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Weiser, OR	--	280C1

Coordinates: 44-20-39 WL; 117-07-14 NL

Additional Information: This allotment requires a site restriction of 17.8 kilometers (11 miles) northwest to avoid a short-spacing to Station KARO, Channel 277C, Caldwell, ID, and Station KLTB, Channel 282C, Boise, ID.

FCC Contact: Leslie Shapiro, (202) 418-2180

(3) MM Docket No. 00-113, RM-9904

Petitioner: New Testament Christian Ministries, Inc.

c/o David G. O'Neil
Rini, Coran & Lancellotta, P.C.
1350 Connecticut Avenue, N.W., Suite 900
Washington, D.C. 20036-1701
(Counsel to petitioner)

Proposal: Allot Channel 290A to Randolph, NY, as the community's first local aural service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Randolph, New York	--	290A

Coordinates: 42-09-43 WL; 78-58-31 NL

Additional Information: This allotment can be made without the imposition of a site restriction, but is short-spaced to Station CHRE-FM, Channel 289B, St. Catherines, Ontario, Canada. Randolph is located within 320 kilometers (200 miles) of the U.S.-Canadian border. Therefore, concurrence in the allotment by the Canadian Government, as a specially negotiated short-spaced allotment, must be obtained.

FCC Contact: Leslie Shapiro, (202) 418-2189

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference only the specific docket to which the filing pertains. 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 in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before August 14, 2000, and reply comments on or before August 29, 2000, 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 any filing should be served on the petitioner, or its counsel or consultant, listed for the particular docket.

5. 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.

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of these restricted notice and comment rule making proceedings, 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.