DOCKET FILE COPY ORIGINAL

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

FCC MAIL SECTION
OCT 2 11 39 AM '00
DISPATCHED BY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
FM Table of Allotments,	)	MM Docket No. 00-186
FM Broadcast Stations.	)	RM-9970
(Rapid City, South Dakota and	)	
Gillette, Wyoming)	)	

NOTICE OF PROPOSED RULE MAKING

Adopted: September 20, 2000 **Released: September 29, 2000**

Comment Date: November 20, 2000
Reply Comment Date: December 5, 2000

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a petition for rule making filed by Bethesda Christian Broadcasting, Inc. ("petitioner"), licensee of Station KLMP, Rapid City South Dakota, requesting the substitution of Channel 250C for 250C1 at Rapid City, and the modification of Station KLMP's license accordingly, and the substitution of Channel 282A for vacant Channel 249A at Gillette, Wyoming, to accommodate its upgrade. Petitioner states that it will immediately file the necessary application to implement the upgrade, if allotted.

2. In support of its proposal, petitioner states that Station KLMP could expand its service area and provide greater and more reliable broadcast service to the residents of Rapid City as well as the surrounding Black Hills area. It notes that to effectuate the upgrade, Channel 249A at Gillette, Wyoming, will have to be modified to Channel 282A. It also notes that there are three applicants for Channel 249A at Gillette all of whose applications specify sites that would work if Channel 282A is substituted for Channel 249A.

3. We believe that the proposed upgrade warrants consideration since it would enable Station KLMP at Rapid City, South Dakota, to expand its coverage area. To accommodate the upgrade, we also propose the substitution of Channel 282A for Channel 249A at Gillette, Wyoming. An engineering analysis has determined that Channel 250C can be allotted at Rapid City, South Dakota, at petitioner's requested site.[1] Additionally, Channel 282A can be allotted at Gillette, Wyoming, at a site within the geographic area of the community.[2] As requested, we shall also propose to modify the license of Station KLMP to specify operation on Channel 250C.

4. Accordingly, we seek comments on the proposed amendment of the FM Table of

---

1 The coordinates for Channel 250C at Rapid City, South Dakota, are 44-19-42 and 103-50-03.

2 The coordinates for Channel 282A at Gillette, Wyoming, are 44-17-36 and 105-30-06.

Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Rapid City, South Dakota	250C1	250C
Gillette, Wyoming	249A	282A

5. IT IS ORDERED That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this *Notice of Proposed Rule Making* to the following:

Gillette FM LLC
P.O. Box 3463
Carefree, AZ 85377
(Applicant at Gillette, WY)

Ron Franscell
1001 Clarion Drive
Gillette, WY 8278
(Applicant at Gillette, WY)

Kevin Clements
33 East Cedar
Chicago, IL 60611
(Applicant at Gillette, WY)

6. 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.

7. Interested parties may file comments on or before November 20, 2000, and reply comments on or before December 5, 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 such comments should be served on the petitioner, or its counsel or consultant, as follows:

Bethesda Christian Broadcasting, Inc.
P.O. Box 168
Rapid City, SD 57709
(Petitioner)

J. Dominic Monahan
Luvass, Cobb, Richards & Fraser, P.C.
300 Forum Building
777 High Street
P.O. Box 10747
Eugene, Oregon 97401
(Counsel to Petitioner)

8. 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.

9. For further information concerning this proceeding, contact Victoria M. McCauley, 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 Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, 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 Information Reference Center (Room CY-A257) at its headquarters, 445 12th Street, S.W., Washington, D.C.
20554.