

FEDERAL ROOM

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

2000 DEC -1 P 3: 51

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	MM Docket No. 99-58
FM Broadcast Stations.)	RM-9461
(Strattanville and Farmington Township,)	RM-9611
Pennsylvania) ¹)	

FILED

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 22, 2000

Released: December 1, 2000

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a *Notice of Proposed Rule Making*, 14 FCC Rcd 2877 (1999), at the request of West Wind Broadcasting ("petitioner"), proposing the allotment of Channel 267A at Strattanville, Pennsylvania, as the community's first local aural transmission service (RM-9461). Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted. A counterproposal was filed by Clarion County Broadcasting, Inc. ("CCBI"), licensee of Stations WCCR-FM and Station WWCH-AM, Clarion, Pennsylvania, proposing the allotment of Channel 267A at Farmington Township, Pennsylvania, as the community's first local aural transmission service (RM-9611).² Reply comments were filed by Strattan Broadcasting, Inc. ("SBI"), licensee of Station WMKX(FM), Channel 288B1, Brookville, Pennsylvania, and by CCB.

2. In support of its proposal, petitioner states Strattanville is located in Clarion County (population 41,699)³ and has a population of 490 persons. Petitioner also states that Strattanville would benefit from a first local aural transmission service because it would have an outlet of self-expression. Health and safety for the community would be increased due to having a local communication outlet for warning the Strattanville area of emergency conditions caused by severe weather or other health hazards. Additionally, a staff research has revealed that Strattanville is an incorporated community with a post office and a zip code (16258). It has no local government, but has some businesses, e.g., Cheryl's Deli & Grocery, Debbie's Super Cone, Keystone Shortway 76, Triple J. Fuel Stop, Servicemaster, B.F. Auto Service, Bill Leadbetter's Auto Body, Bob's Volkswagen Service, Don Knapp's Auto Body, Thompson Automotive Repair, and Cedarview Memorial Park.

3. In support of its Farmington Township counterproposal, CCBI states that Farmington Township is located in northern Clarion County and has a population of 1,927 persons. CCB states that the county population has increased by 0.3% between 1990 and 1997. CCBI also states that Farmington Township

¹ The community of Farmington Township, Pennsylvania, has been added to the caption.

² The counterproposal was placed on Public Notice on May 6, 1999 (Report No. 2328), RM-9611.

³ All population figures are taken from the 1990 U.S. Census.

was founded in 1806, and is an incorporated township within the Commonwealth of Pennsylvania. The governing body is comprised of an elected board of three supervisors. It has a volunteer fire department, churches, civic, fraternal, and charitable groups and organizations, such as the Farmington Volunteer Fire Company Auxiliary and Boy/Girl Scout Troops. Farmington Township is adjacent to the Cook Forest State Park which provides residents with over 50 miles of fishing and boating and over 6,500 acres of hiking, camping, swimming, cross county skiing and horseback riding. CCBI affirms its intention to apply for Channel 267A at Farmington Township, if allotted.

4. In their reply comments, SBI and CCBI oppose the allotment of Channel 267A at Strattanville arguing that it is not a “community” for allotment purposes because it is devoid of the customary factors associated with determining “community” status, such as a public library, schools, shopping centers, newspaper, and social or civic organizations, citing Seales Valley, California, 3 FCC Rcd 5221 (1990), see also Naples, Florida, 41 RR 2d 1549 (1977). They further argue that the Commission has in the past rejected claims of “community” status where a nexus has not been shown between the political, social and community organizations in the community in question, citing Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991). Moreover, SBI claims that Strattanville’s only school closed five years ago, and that the borough has less than four businesses. SBI further claims that most of the citizens of Strattanville go to Clarion for civic and social activities, and that Clarion is clearly the source of all business activity. SBI concludes that it does not appear that Strattanville has any identifiable organizations, civic groups, schools, or a police department, that have a nexus with Strattanville, and thus, its claim of “community” status should be rejected, citing Avon, North Carolina, 14 FCC Rcd 3939 (1999). Lastly, SBI asserts that Station WMKX(FM) city grade signal covers the community of Strattanville, and that the borough is in “very dire economic conditions.” CCBI argues that it is wholly doubtful that a station licensed to Strattanville would be economically viable, and would have the resources to even minimally serve its community of license.

5. Section 307(b) of the Communications Act, as amended by the Telecommunications Act of 1996, requires that the Commission allot channels “...among the several states and communities.” The Commission has defined “communities” as geographically identifiable population groupings. Generally, if a community is incorporated or listed in the U.S. Census, that is sufficient to satisfy its “community” status. Therefore, since Strattanville and Farmington Township are incorporated and listed the U.S. Census, we find that both are “communities” for allotment purposes. As such, each community is deserving of a first local aural transmission service, triggering priority (3). Generally, conflicting proposals are considered on a comparative basis consistent with the FM allotment priorities set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).⁴ However, our staff has found an alternate Class A channel for Farmington Township, and a comparison is no longer necessary. Therefore, we find that the public interest would best be served by allotting Channel 267A at Strattanville, Pennsylvania, and Channel 291A at Farmington Township, Pennsylvania, as each community’s first local aural transmission service.

6. With respect to CCBI’s argument that a station licensed to Strattanville would not be “economically viable” and would have “minimal resources to serve its community”; and SBI’s argument that Strattanville is in “very dire economic conditions,” raise issues which the Commission has already determined are not relevant in either a licensing or allotment context. See Policies Regarding Detrimental

⁴ The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service, and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).]

Effects of Proposed New Broadcast Stations on Existing Stations, supra; Cheyenne, Wyoming, 8 FCC Rcd 4473 (1993). Consequently, there is no basis under the current state of Commission precedent for consideration of those issues.

Technical Summary

7. An engineering analysis has determined that Channel 267A can be allotted to Strattanville in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.1 kilometers (9.4 miles) northeast to avoid a short-spacing to the licensed site of Station WORD-FM, Channel 268B, Pittsburgh, Pennsylvania.⁵ Additionally, Channel 291A can be allotted to Farmington Township with a site restriction of 15.1 kilometers (9.4 miles) to avoid a short-spacing to the construction permit site of Station WMKX(FM), Channel 388B1, Brookville, Pennsylvania, and to the licensed and construction permit sites of Station WCTL(FM), Channel 292A, Union City, Pennsylvania.⁶ Since Strattanville is located within 320 kilometers (200) miles of the U.S.-Canadian border, Canadian concurrence for the allotment of Channel 267A at Strattanville has been obtained. However, concurrence for the allotment of Channel 291A at Farmington Township has been requested, but not yet received. Therefore, if a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Canadian government, the construction permit will include the following condition: "Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing, if found by the Commission to be necessary in order to conform to the USA-Canadian FM Broadcast Agreement."

8. 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 January 15, 2001, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Strattanville, Pennsylvania	267A
Farmington Township, Pennsylvania	291A

9. Filing windows for Channel 267A at Strattanville, Pennsylvania, and Channel 291A at Farmington Township, Pennsylvania, will not be opened at this time. Instead, the issue of opening filing windows for these channels will be addressed by the Commission in a subsequent order.

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

⁵ The coordinates for Channel 267A at Strattanville are 41-18-36 North Latitude and 79-13-05 West Longitude.

⁶ The coordinates for Channel 291A at Farmington Township are 41-30-54 North Latitude and 79-18-13 West Longitude.

11. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

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