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

2001 APR 27 P 4: 35

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 97-86
Table of Allotments,	)	RM-9025
FM Broadcast Stations.	)	RM-9084
(Camdenton and	)	
Laurie, Missouri)[1]	)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 18, 2001 **Released: April 27, 2001**

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Camdenton Community Broadcasters ("CCB"), the Commission has before it for consideration the Notice of Proposed Rule Making, 12 FCC Rcd 3518 (1997), requesting the allotment of Channel 265A at Camdenton, Missouri, as the community's first local commercial FM service.[2] Bott Communications, Inc. ("Bott") filed a counterproposal.[3] CCB filed comments restating its interest in an FM allotment at Camdenton. Lake Broadcasting, Inc., Bott and CCB filed additional comments in response to the Notice and counterproposal.

2. Bott counterproposed the allotment of Channel 265C3 to Laurie, Missouri, as that community's first local aural transmission service. In support of its proposal, Bott states that allotment of a channel at Laurie will promote the third allotment priority established in Revison of FM Assignment Policies and Procedures, 90 FCC 2d 88, 91 (1982), whereas the allotment at Camdenton would serve only the fourth allotment priority as noncommercial Station KCVO-FM is licensed to Camdenton. According to Bott, Channel 265A at Camdenton will provide service to 37,250 people while the allotment of Channel 265C3 at Laurie will provide service to 56,533 people. Bott states that Laurie is an incorporated community with a 1990 U.S. Census population of 507 people. Laurie has its own bank, post office and zip code with a municipal government consisting of a Board of Directors. Bott further states that Laurie has a police department with six full-time officers and that the Gravois Fire Protection District maintains a fire station in Laurie. In addition, Laurie has numerous civic organizations, including the Lyons Club, the Elks Club and a Rotary Club.

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[1] The community of Laurie, Missouri, has been added to the caption.

[2] Station KCVO-FM, Channel 219C3, is licensed to Camdenton, Missouri, and operated by Lake Area Educational Broadcasting Foundation.

[3] The counterproposal filed by Bott (RM-9084) was put on public notice on May 12, 1997, Report No. 2195.

3. In an effort to resolve the conflicting requests, the staff has performed a channel search for both Camdenton and Laurie. However, our study shows that there are no alternate channels available for either community. Therefore, we have been guided by the allotment priorities set forth in Revision of FM Assignment and Policies and Procedures, 90 FCC Rcd 2d (1982).[4] We find that the public interest would be better served by the allotment of Channel 265C3 at Laurie, as its first local aural service (priority 3), than by the allotment of a channel at Camdenton as its second local aural service (priority 4). We find that Laurie is a community for allotment purposes and is deserving of a first local aural service.[5]

4. Channel 265C3 can be allotted to Laurie, Missouri, in compliance with the Commission's minimum distance separation requirements, with a site restriction six kilometers south of the community.[6] We note that from this site, city grade coverage will also be provided to the community of Camdenton, Missouri.

5. 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 June 11, 2001, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as

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[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] Lake, licensee of Station KBMX(FM), Channel 270A, Eldon, Missouri, and permittee of Station KFXE(FM), Channel 271A, Cuba, Missouri, filed comments in this proceeding because of the mutual exclusivity between CCB's Camdenton proposal for Channel 265A and Lake's counterproposal filed in MM Docket 89-120, to make changes at Eldon and Cuba, Missouri, which involved the use of Channel 264A at Waynesville, Missouri. See 10 FCC Rcd 12624 (1995). The Report and Order in Docket 89-120 denied Lake's counterproposal, and Lake filed a petition for reconsideration in that proceeding. To eliminate this conflict, Lake suggested a site restriction for the Camdenton allotment. Likewise, in reply comments to the public notice accepting the counterproposal for Laurie, Lake noted the conflict between Channel 265C3 at Laurie and the Eldon proceeding and suggested a global solution that would introduce a new community into this proceeding.

We will dismiss Lakes's pleadings as moot. First, Lake's site restriction for Camdenton is not needed because we are not making an allotment there. Second, Lake's license for its Eldon and other stations have been revoked by the Commission; those actions have been affirmed by the U.S. Court of Appeals for the D.C. Circuit, and the U.S. Supreme Court has denied certiorari. Third, the Commission recently dismissed as moot Lake's petition for reconsideration in the Eldon proceeding, MM Docket 89-120. See Memorandum and Order, DA 01-930, released April 13, 2001. Finally, the global solution could not, in any event, have been considered in this proceeding because it is well established that new communities cannot be introduced after the counterproposal deadline in an allotment rulemaking proceeding. See, e.g., Corpus Christi and Three Rivers, TX, 11 FCC Rcd 517 (1996), denying recon, 8 FCC Rcd 1375 (1993) (alternative resolution not permitted because it introduced a new community after deadline for filing counterproposals).

[6] The coordinates for Channel 265C3 at Laurie are 38-08-30 and 92-50-37.

follows:

Community	Channel Number
Laurie, Missouri	265C3

6. A filing window for Channel 265C3 at Laurie, Missouri, 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.

7. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by Camdenton Community Broadcasters to allot Channel 265A at Camdenton, Missouri (RM-9025) IS DENIED.

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

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 265C3 at Laurie, Missouri, 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