

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	MM Docket No. 01-120
)	RM-10126
Amendment of Section 73.202(b))	
(Table of Allotments))	
FM Broadcast Stations)	
)	
Lincoln and Sherman, Illinois)	

To: Chief, Mass Media Bureau
Policy and Rules Division
Allocations Branch

COMMENTS OF SAGA COMMUNICATIONS OF ILLINOIS, INC.

Saga Communications of Illinois, Inc. ("Saga"), by its attorneys, and pursuant to Section 1.415 and 1.420 of the Commission's Rules, hereby respectfully files its Comments on the Commission's *Notice of Proposed Rule Making*, DA 01-1388, released June 8, 2001, that proposed, *inter alia*¹, to modify the Table of Allotments (47 C. F. R. §73.202 (b)) to change the allotment of FM Channel 230B1 from Lincoln, Illinois, to Sherman, Illinois, with a concurrent modification of the license of WMHX(FM), Lincoln, to operate on Channel 230B1 at Sherman. The Commission afforded interested parties until July 30, 2001, within which to file comments. Therefore, these Comments are timely filed. Saga supports the requested channel reallocation. In support the following is shown:

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List A B C D E

¹ The *NPRM* initiates a "multiple docket" rule making proceeding involving channel realignments for Grants, Milan and Shiprock, NM (MM Docket No. 01-118); Van Wert and Columbus Grove, OH (MM Docket No. 01-119); Manning and Moncks Corner, SC (MM Docket No. 01-121) and Lebanon and Hamilton, OH and Fort Thomas, KY (MM Docket No. 01-122) as well as the proceeding concerning Lincoln and Sherman, IL. Pursuant to Paragraph 4 of the *NPRM*, these comments reference only MM Docket No. 01-120.

Background

1. WMHX, Channel 230B1, Lincoln, Illinois, is licensed to Saga. Saga requested the Commission to delete Channel 230B1 from Lincoln and to reallocate it to Sherman, Illinois, with a concurrent modification of the license of WMHX to operate on Channel 230B1 at Sherman. This change is permissible under Section 1.420(i) of the Rules, which authorizes the Commission to modify the license or permit of an FM station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's present allotment.

2. Saga demonstrated that Channel 230B1 can be allotted at Sherman at Saga's requested allocation coordinates 13 kilometers (8.1 miles) north of Sherman. Saga satisfied the two requirements in order to change a station's city of license in a rule making proceeding: (1) the channel changes must be mutually exclusive, and (2) the rule making must not deprive a community of an existing service representing its only local transmission service. The Commission stated that in making the determination of whether to amend the Table of Allotments it would "take into account the totality of the service improvements resulting from a proposed change in community of license in determining whether an allotment proposal should be approved." *See Modification of FM and TV Authorizations (New Community of License)*, 4 FCC Rcd 4870 [66 RR 2d 877] (1989). Saga's proposal is consistent with the rules and Commission policies, i.e., the channel changes are mutually exclusive, and the rule making will not deprive Lincoln of its only local transmission service. WLLM(AM)², also licensed to Saga, and noncommercial educational FM station WLNX, licensed to Lincoln University, will remain licensed to Lincoln. Noncommercial educational stations are considered in the Commission's transmission service analysis. *See Valley Broadcasters, Inc.*, 5 FCC Rcd 2785 (1990). Thus,

² 1370 kHz, 1 kW days, 35 watts nights.

Lincoln will not be deprived of its only transmission service if the Commission reallocates Channel 230B1 to Sherman.

Expression of Continuing Interest

3. If the Commission allots Channel 230B1 to Sherman, Saga will promptly file an application for a minor change construction permit to operate WMHX at Sherman, and upon grant, will promptly construct and operate the facilities.

4. In the *NPRM*, the Commission noted that Saga had provided information regarding the community status of Sherman, but sought comment on the relative population gains and losses resulting from the reallocation. Attachment A is an Engineering Exhibit, which is incorporated herein by reference, that provides the Commission with this information. In summary, however, the Engineering Exhibit shows that the existing operation of WMHX provides service to 226,110 persons in an area of 4,836 square kilometers. The proposed WMHX operation will provide service to 222,198 persons in an area of 4,783 square kilometers. Within the gain area there are 6,047 persons. The loss area contains 9,959 persons. These figures come from the 2000 census, and update the figures shown in Saga's Petition for Rule Making. The entire loss area is well served, with seven stations providing service to the entire gain and loss area.

5. Saga showed that Sherman possesses the requisite "social, economic and cultural components that are commonly associated with community status." *See, FM Table of Allotments (East Hemet, CA)*, 67 RR 2d 146, 147 (1989). WMHX would bring first local service to Sherman, since Sherman currently does not have a local station. From the reference coordinates at **North Longitude 40° 00' 09"**, **West Longitude 89° 39' 35"** WMHX would provide a city grade contour to approximately 42% of the Springfield, Illinois, Urbanized Area. WMHX currently covers 33% of the Springfield Urbanized Area with a city grade signal. Since less than

50% of the Urbanized Area is covered, there is no requirement to provide a showing pursuant to *Headland, Alabama, and Chattahoochee, Illinois*, 10 FCC Rcd 10342 (1995) that stations licensed to Urbanized Areas should not be attributed to Sherman, and apparently, the Commission accepted this as a fact. *See, Rose Hill, Trenton, Aurora and Ocracoke, North Carolina*, DA 96-2062, released December 13, 1996. Sherman warrants a first local service preference. Nonetheless, Saga believes Sherman would warrant a first local service preference even if it were required to make the showing set out in *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1998). Sherman does not appear to be dependent on Springfield, and the stations licensed to the Springfield Urbanized Area should not be attributed to Sherman.

Section 307(b) Analysis

6. In determining which proposal will better serve the public interest, the Commission is guided by the allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Under priority three, first local service, Sherman warrants a preference over retaining WMHX in Lincoln as a third local service.

Other Public Interest Considerations

7. In changing its community of license, WMHX proposes to relocate its transmitter site. The slight decrease in overall population noted supra in ¶4 should be considered *de minimis*. The Engineering Exhibit indicates that there is no gain or loss area resulting from the proposed WMHX change receiving fewer than five aural services. Therefore, the area is well-served. *See, FM Table of Allotments (Douglas, GA, et al.)*, 10 FCC Rcd 7706, 7707 (1995) (where loss area received service from at least five full-time reception services, Commission found area to be "well-served"). *See also Wray and Otis, Colorado*, 13 FCC Rcd 2612 (1998). As noted above, since Lincoln will continue to enjoy service from WLLM and WLNK, Saga's proposal will not

deprive Lincoln of its only local transmission service. The Commission has made similar allotment changes where only a daytime AM station remained in a community. See *Johnstown and Altamont, New York*, 13 FCC Rcd 12463 (1998) [WIZR, Johnstown, operating with 1 kW day and 28 watts at night].

8. Saga showed in the Engineering Exhibit submitted with its petition for rule making, that Sherman would be entirely covered by a 70 dBu or better signal from WMHX(FM). Thus, modification of the license for WMHX would be consistent with the Commission's city-grade contour coverage requirements.

9. The Commission's priorities for assigning FM allotments are set out in *Revision of FM Assignment Policies and Procedures, supra*. They are: (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). Here, as noted *supra* first local service to Sherman is greatly preferred to retaining three local services to Lincoln. Thus, there would a preferential arrangement of allotments resulting from the allotment of Channel 230B1 to Sherman.

WHEREFORE, Saga respectfully again requests the Commission to amend Section 73.202(b) of the Commission's Rules, as follows:

	<u>Illinois</u>	
	<u>Present</u>	<u>Proposed</u>
Lincoln	230B1, (*205A)	(*205A) ³
Sherman	----	230B1

³WLNK(FM) and WLLM(AM) are to remain licensed to Lincoln.

Conclusion

Saga requests the Commission to allot Channel 230B1 to Sherman, Illinois, and modify the license of WMHX to operate on FM Channel 230B1 at Sherman. If the Commission so modifies the license of WMHX, Saga will timely file an application for minor change construction permit to operate WMHX at Sherman, and upon grant thereof, Saga will construct the new facilities and operate them.

Respectfully submitted,

**SAGA COMMUNICATIONS OF
ILLINOIS, INC.**

By: _____

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July 26, 2001

ATTACHMENT A

ENGINEERING EXHIBIT
COMMENTS IN A
NOTICE OF PROPOSED RULE MAKING
SAGA COMMUNICATIONS OF ILLINOIS, INC.
FM STATION WMHX
LINCOLN, ILLINOIS
MM DOCKET NO. 01-120
RM-10126

Engineering Statement

This engineering exhibit was prepared on behalf of Saga Communications of Illinois, Inc. in support of comments in a Notice of Proposed Rule Making, MM Docket No. 01-120, RM-10126. In that NPRM, Saga proposed to reallocate FM channel 230B1 from Lincoln to Sherman, Illinois. Channel 230B1 is employed by Saga's station WMHX. Comments were requested by the FCC "... on the relative population gains and losses resulting from the reallocation".

Sherman Village, Illinois with population of 2,476 persons is located in Sangamon County, which had population of 188,951 persons. The existing operation of WMHX provides service to 226,110 persons in an area of 4,836 square kilometers. The proposed WMHX operation will provide service to 222,198 persons in an area of 4,783 square kilometers. Within the gain area there are 6,047 persons. The loss area contains 9,959 persons.

The entire gain and loss area is well served. The following seven stations provide service to the entire gain and loss area.

<u>Station Call</u>	<u>Frequency (kHz)</u>	<u>Illinois City</u>
WMAY	970	Springfield
WDZ	1050	Decatur
WVEL	1140	Pekin
WTAX	1240	Springfield
WWFS	1290	Peoria
WLLM	1370	Lincoln
WFMB	1450	Springfield

Other non-listed stations provide service also.

Population figures are from the 2000 census.



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July 23, 2001

CERTIFICATE OF SERVICE

I, Angela Y. Powell, a paralegal in the law offices of Smithwick & Belendiuk, P.C., hereby certify that on July 26, 2001, a copy of the foregoing Comments of Saga Communications of Illinois, Inc., was delivered by courier to the following:

Ms. Victoria McCauley*
Federal Communications Commission
The Portals II
445 Twelfth Street, S.W.
Room 2-C222
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Angela Y. Powell

*by hand