

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

2001 AUG 14 A 10: 56

In the Matter of)
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)
Amendment of Section 73.202(b),)
FM Table of Allotments,)
FM Broadcast Stations.)
(Naches, Sunnyside and Benton City,)
Washington.))
)
)
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RECEIVED
MM Docket No. 01-95 /
RM-10093

REPORT AND ORDER (Proceeding Terminated)

Adopted: August 1, 2001

Released: August 10, 2001

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a *Notice of Proposed Rule Making* issued at the request of Butterfield Broadcasting Corporation ("petitioner") licensee of Stations KZTA(FM), Naches, Washington and KZTB(FM), Sunnyside, Washington. The *Notice* proposed the substitution of Channel 245C2 for 245A at Naches and modification of Station KZTA's license accordingly, and the reallocation of Channel 244A from Sunnyside to Benton City, Washington, and modification of Station KZTB's license accordingly. Petitioner filed comments reiterating its intention to file the necessary applications to effectuate the modifications, if granted.

2. Petitioner invokes the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.¹ This provision applies because the proposal to allot Channel 244A at Benton City is mutually exclusive with Station KZTB's current allotment of Channel 244A at Sunnyside. In addition, the allotment of Channel 244A at Benton City will provide the community with a first local transmission service, will not deprive Sunnyside of its sole aural local transmission service² and falls within priority (3) of the FM allotment priorities.³

3. We will grant the proposals. We believe that the proposed upgrade at Naches and the reallocation from Sunnyside to Benton City will result in a preferential arrangement of allotments and will serve the public interest. The incorporated community of Benton City, 1990 U.S. Census population 1,806

¹ See *Report and Order* in MM Docket No. 88-526 ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) ("Change of Community MO&O").

² Petitioner states that Sunnyside also receives local service from NCE Station KAYB(FM), and AM Station KZTS (also licensed to Butterfield).

³ 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 given to priorities (2) and (3).] See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982)

persons, will receive its first local aural transmission service. We find that Benton City is a community for allotment purposes. It has a mayor/city council form of local government, local post office and zip code, shared school district, city water system and monthly newspaper with a paid circulation of 3,700, and a variety of retail establishments and employèrs. Furthermore, the reallocation will promote the public interest because it will eliminate the Section 73.213(c)(2) grandfathered short-spacing between Stations KZTA and KZTB.

4. In addition, the upgrade at Naches will allow Station KZTA to provide enhanced service to the community and to a broader listening area. We agree with petitioner’s claims that with the Naches upgrade and the change of community from Sunnyside to Benton City, a combined total of 157,055 persons will receive an additional service, and that no white, gray, or underserved areas will be created.

5. Channel 245C2 can be allotted at Naches at a site 19.5 kilometers (12.1miles) southwest of the community.⁴ Channel 244A can be allotted to Benton City at a site 4.9 kilometers (3.1 miles) east of the community.⁵

6. We note that since both communities are within 320 kilometers (200 miles) of the U.S.-Canadian border, we have requested concurrence of the Canadian government for the allotment at those communities. Concurrence has not yet been received for these allotments. Accordingly, any construction permits that are granted prior to the receipt of formal concurrence of the Canadian Government will include the following condition: “Operation with the facilities specified herein is subject to modification, suspension, or termination without right to hearing if specifically objected to by Industry Canada. This condition will be removed once formal approval for the allotment is received from Industry Canada.”

7. 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 September 24, 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>City</u>	<u>Channel No.</u>
Naches, Washington	245C2
Benton City, Washington	244A
Sunnyside, Washington	--

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licenses of Butterfield Broadcasting Corporation for Stations KZTA(FM), and KZTB(FM), ARE MODIFIED to specify operation on Channel 245C2 at Naches, and to specify operation on Channel 244A at Benton City, respectively, subject to the following conditions:

⁴ The coordinates for Channel 245C2 at Naches are NL 46-36-02 and WL 120-52-06.

⁵ The coordinates for Channel 244A at Benton City are NL 46-14-48 and 120-25-40.

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and,
- (c) Nothing contained herein shall be construed to authorize a change in location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.
- transmitter

9. Pursuant to Commission Rule Section 1.1104(1)(k) and 2(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of existing FM allotment, if the request is granted, must submit a rulemaking fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Butterfield Broadcasting Corporation licensee of Stations KZTA(FM), Naches, Washington and KZTB(FM), Sunnyside, Washington, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the upgrade at Naches and the change of community from Sunnyside to Benton City, respectively.

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

11. For further information concerning this proceeding, contact Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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