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

In the matter of	)	
	)	
Amendment of Section 73.202(b)	)	
FM Table of Allotments,	)	
FM Broadcast Stations	)	
(Pierce, Nebraska)	)	MM Docket No. 01-340
	)	RM-10345
	)	
(Coosada, Alabama)	)	MM Docket No. 01-341
	)	RM-10346
	)	
(Pineview, Georgia)	)	MM Docket No. 01-342
	)	RM-10347
	)	
(Diamond Lake, Oregon)	)	MM Docket No. 01-343
	)	RM-10348

NOTICE OF PROPOSED RULE MAKING

Adopted: December 5, 2001 **Released: December 14, 2001**

Comment Date : February 4, 2002
Reply Comment Date: February 19, 2002

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a multiple docket *Notice of Proposed Rule Making* setting forth four separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner states that it will file an application for construction permit at each locality and bid at auction if the channel is allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in response to a Commission *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rule Making*. Each proposal has its own docket and rulemaking number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice,* this procedure will conserve Commission resources and expedite the processing of FM allotment petitions by avoiding duplicative actions. We request comments and/or counterproposals for the following proposals:

A. MM Docket No. 01-340, RM-10345

Petitioner: **Pierce Radio, LLC**
C/O Lawrence Bernstein
Law Offices of Lawrence Bernstein
1818 N Street, NW
Suite 700
Washington, DC 20036

Proposal: Allot Channel 248C2 at Pierce, Nebraska, as community's first local aural transmission service.

Community	Channel Present	Channel Proposed
Pierce, Nebraska	--	248C2

Coordinates: 42-11-30 NL and 97-28-00 WL.

Additional Information: Channel 248C2 can be allotted at Pierce at a site 5 kilometers (3.1 miles) east of the community. In support of the allotment, petitioner states that Pierce is the largest community and the seat of Pierce County. It is the largest of the three designated cities in the county. It has a 1990 US Census population of 1615 persons, and a 2000 US Census population of 1,774 persons. As the county seat, Pierce houses county offices, and elected and appointed county officials. In addition, there are churches, businesses, medical facilities and recreational facilities. We seek additional information on the community status of Pierce.

FCC Contact: Victoria M. McCauley (202) 418-2180.

B. MM Docket No. 01-341, RM-10346

Petitioner: **Media Equities Corp.**
C/O Dan J. Alpert
Law Offices of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201

Proposal: Allot Channel 226A at Coosada, Alabama as the community's first local aural transmission service.

Community	Channel Present	Channel Proposed
Coosada, Alabama	--	226A

Coordinates: 32-26-58 NL and 86-11-38 WL

Additional Information: Channel 226A can be allotted at Coosada at a site 14 kilometers (8.7 miles) southeast of the community. In support of the allotment, petitioner states that Coosada is an incorporated town, with a 2000 U.S. Census population 1,382 persons. It is governed by a mayor and five-member city council. We seek additional information on the community status of Coosada.

FCC Contact: Victoria M. McCauley (202) 418-2180.

C. MM Docket No. 01-342, RM-10347

Petitioner: **Data+Corp.**
C/O Dan J. Alpert
Law Offices of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201

Proposal: Allot Channel 226A at Pineview, Georgia, as the community's first local aural transmission service.

Community	Channel Present	Channel Proposed
Pineview, Georgia	--	226A

Coordinates: 32-00-44 NL and 83-28-19 WL.

Additional Information: Channel 226 can be allotted at Pineview at a site 8.4 kilometers (5.3 miles) southeast of the community.

FCC Contact: Victoria M. McCauley (202) 418-2180.

D. MM Docket No. 01-343, RM-10348

Petitioner: **Robert W. Larson**
161 Millsview Lane
Roseburg, Oregon 97470

Proposal: Allot Channel 299A at Diamond Lake, Oregon, as the community's first local aural transmission service.

Community	Channel Present	Channel Proposed
Diamond Lake, Oregon	--	299A

Coordinates: 43-10-44 NL and 122- 8-16 WL

Additional Information: Channel 299A can be allotted at Diamond Lake without a site restriction. In support of the allotment, petitioner states that Diamond Lake is an unincorporated community in a remote location in the Cascade Mountains. Petitioner states that the community has year-round residents and stores and shops to serve their needs. He claims that the community receives no local radio or television signals due to the terrain, and that for safety, the community needs its own local service. We seek additional information on the community status of Diamond Lake.

FCC Contact: Victoria M. McCauley (202) 418-2180.

3. Comments, reply comment, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rulemaking 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 in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before February 4, 2002, and reply comments on or before February 19, 2002, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section

73.202(b) of the Commission's Rules. *See Certification that Section 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).

6. For further information regarding a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rulemaking 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 review or by any staff 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 must be served by the person making the presentation upon the other parties to the proceedings unless the Commission specifically waives this service requirement. Any comment which has not been served on the petition 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 the *Notice of Proposed Rule Making* to which this Appendix is attached, 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 Secretary, Federal Communications Commission, 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 Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.