

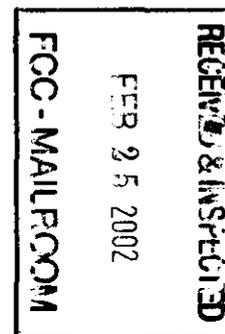


Federal Communications Commission
Washington, D.C. 20554

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February 20, 2002

The Law Office of Dan J. Alpert
2120 N. 21st Road
Arlington, VA 22201



Dear Mr. Alpert:

This letter refers to the petition for rule making you filed on September 24, 2001, on behalf of Broadcast Equities Corp., requesting that FM Channel 300A be allotted to Dexter, Georgia.

An initial review of your petition shows that it is unacceptable for consideration at this time. The proposal for Channel 300A at Dexter is short-spaced to the licensed facilities for Station WHTA, Channel 300C1, Hampton, Georgia. Although a construction permit has been issued to allow the station to change to Channel 300C2 at a location that would be fully spaced, no license has been issued for the facilities proposed. In regard to this downgrade at Hampton, any rulemaking proposal must protect the authorized Class C1 facilities until the Class C2 facilities are licensed. See Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment, 4 FCC Rcd 2413 (1989). Thus, your request is contingent on the grant of the license for the facilities specified in the construction permit for Station WHTA, and we do not accept such contingent petitions for rulemaking. See Cut and Shoot, Texas, 11 FCC Rcd 16383 (1996).

Therefore, we are returning your petition for rulemaking.

Sincerely,

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