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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEB 25 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b)	)	
Table of Allotments	)	MM Docket No. _____
FM Broadcast Stations	)	RM - _____
(Westwego, Houma, and Gonzales,	)	
Louisiana, and Hattiesburg,	)	
Mississippi)	)	

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

**PETITION FOR RULE MAKING**

Respectfully submitted,

CAPSTAR TX LIMITED PARTNERSHIP  
CLEAR CHANNEL RADIO LICENSES, INC.

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February 25, 2002

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## SUMMARY

Capstar TX Limited Partnership, licensee of WUSW(FM) and Clear Channel Radio Licenses, Inc., licensee of KFXN-FM, Houma, Louisiana (collectively "Clear Channel") petition the Commission to amend the FM Table of Allotments to: (1) delete Channel 279C at Hattiesburg, Mississippi and allot Channel 279C0 to Westwego, Louisiana for Station WUSW as that community's first local service; (2) delete Channel 281C at Houma, Louisiana and allot Channel 281C0 to Gonzales, Louisiana for Station KFXN as that community's first local service; and (3) modify the licenses of WUSW and KFXN, respectively. Grant of the Petition will bring first local service to the communities of Westwego and Gonzales, Louisiana. The communities of Hattiesburg, Mississippi and Houma, Louisiana will continue to be served by other local aural services. Clear Channel contends that grant of Petition is in the public interest.

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**PETITION FOR RULE MAKING**

Capstar TX Limited Partnership ("Capstar"), licensee of WUSW(FM), Hattiesburg, Mississippi, and Clear Channel Radio Licenses, Inc., licensee of KFXN-FM, Houma, Louisiana (collectively, "Clear Channel"),<sup>1</sup> by their counsel, hereby request that the Commission amend the FM Table of Allotments to (1) delete Channel 279C at Hattiesburg, Mississippi and allot Channel 279C0 to Westwego, Louisiana for Station WUSW as that community's first local service; (2) delete Channel 281C at Houma, Louisiana and allot Channel 281C0 to Gonzales, Louisiana for KFXN as that community's first local service; and (3) modify the licenses of WUSW and KFXN, respectively. If the Petition is granted, Clear Channel will file applications to modify the license of Station WUSW to specify operation on Channel 279C0 at Westwego, Louisiana, and of Station KFXN to specify operation on Channel 281C0 at Gonzales, Louisiana. Hattiesburg, Mississippi and Houma, Louisiana will retain local aural service, and any area losing service from WUSW and KXFM as a result of these changes will remain well served.

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<sup>1</sup> Both licensees are indirect wholly owned subsidiaries of Clear Channel Communications, Inc.

With new first local services at Westwego and Gonzales, grant of this petition will result in a preferential arrangement of allotments.

The following table summarizes the changes requested in this Petition:

City	Channel	
	Existing	Proposed
Gonzales, Louisiana	-----	281C0
Houma, Louisiana	281C, 298C1	298C1
Westwego, Louisiana	-----	279C0
Hattiesburg, Mississippi	221A, 226A, 279C, 283C1	221A, 226A, 283C1

In support hereof, Clear Channel states as follows:

**I. STATION WUSW, HATTIESBURG, MISSISSIPPI TO WESTWEGO, LOUISIANA**

**A. Technical Analysis**

1. As demonstrated in the Technical Exhibit, Channel 279C0 can be allotted to Westwego, Louisiana at coordinates 29-54-52 North Latitude, 89-54-34 West Longitude consistent with Section 73.207 of the Commission's Rules, provided that Channel 281C is deleted at Houma, Louisiana as described below. *See* Figure 1. A 70 dBu signal can be provided to Westwego from the proposed reference point. *See* Figure 7. The relocation of WUSW to Westwego will result in a net gain in population of 1,087,051 persons able to receive a 60 dBu signal from the station. *See* Technical Narrative at 2. The loss area will continue to be well served by more than five aural services. *See* Figures 5-6.

**B. Change in Community of License**

2. In order to grant a change in community of license the following prerequisites must be met: (i) the proposed use must be mutually exclusive with the existing use; (ii) the proposed allotment plan must represent a preferred arrangement of allotments for the

communities involved; and (iii) the change must not deprive a community of an existing service representing its sole local transmission outlet. *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 3870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) (“*Community of License*”). All three criteria are satisfied in this case. First, the proposed allotment of Channel 279C0 at Westwego is mutually exclusive with the existing allotment of Channel 279C at Hattiesburg. *See* Figure 1. Second, the relocation results in a preferred arrangement of allotments under the Commission’s priorities, since Westwego (2000 U.S. Census pop. 10,763) will receive a first local service (Priority 3) while Hattiesburg (pop. 44,779) will retain local service from seven radio stations (Priority 4).<sup>2</sup> *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Third, with seven remaining services, Hattiesburg clearly will not be deprived of its sole existing service.

3. Hattiesburg is located in the Hattiesburg Urbanized area, and Westwego is located within the New Orleans Urbanized Area. Therefore, this relocation does not implicate the Commission’s policy concerning the potential migration of stations from underserved rural areas to well-served urban areas. *See Elizabeth City, North Carolina and Chesapeake, Virginia*, 9 FCC Rcd 3586 (1994). Nevertheless, Clear Channel is prepared to demonstrate that Westwego is an independent community, utilizing the Tuck factors. In making the determination whether to award an urbanized community a first local service preference, the Commission will consider the extent to which the station will provide service to the entire Urbanized Area, the relative populations and proximity of the suburban and central city, and, most importantly, the

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2. Hattiesburg will retain local service from WAII(FM), WJMG(FM), WUSM-FM, WXRR(FM), WBKH(AM), WFOR(AM) and WORV(AM).

independence of the suburban community. *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). In this case, from the proposed transmitter site, WUSW will place a 70 dBu contour over 100 percent of the New Orleans Urbanized Area. Westwego, located in Jefferson Parish, is 27 kilometers away from New Orleans, located in Orleans Parish. The 2000 Census population of Westwego (10,763) is 2.2 percent of the population of New Orleans (484,674). These figures are similar to those of other suburban communities granted a first local preference. *See, e.g., Anniston, Alabama*, DA 01-333 (rel. Feb. 9, 2001) and cases cited therein. In any event, the Commission has repeatedly stated that these factors are less important than evidence of independence. *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995). In making this determination, the Commission is guided by the criteria set forth in *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). Under *Tuck*, the Commission will consider eight factors in assessing the independence of a specified community: (1) the extent to which the community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that covers the community's local needs and interests; (3) whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries. *Tuck*, 3 FCC Rcd at 5378. All eight factors need not favor the

applicant; however, if a majority of the factors demonstrate that the specified community is distinct from the urbanized area, the Commission will treat it as an independent community. *Id.*; *Parker and Port St. Joe, Florida*, 11 FCC Rcd 1095, ¶¶ 9-11 (1996) (finding that the proposed community was independent, although it lacked its own telephone directory and local newspaper, and was included in the urbanized area's market by Arbitron); *accord Jupiter and Hobe Sound, Florida*, 12 FCC Rcd 3570, ¶ 3 (1997) (citing *Parker and Port St. Joe, Florida*).

4. In this case, the evidence presented, evaluated in light of Commission precedent in other change of community allocation proceedings, abundantly supports a finding that Westwego is independent from New Orleans, Louisiana.

(1) *Extent to Which the Residents of Westwego Work in the City of Westwego.*

According to the 1990 U.S. Census, the population of Westwego was 11,218, with 794 residents, or approximately 7 percent, working in Westwego. Some of the major employers within the City of Westwego include the City itself, Westwego Yard (a limestone distribution company), Louisiana Newpack Shrimp Company, Inc. (a shrimp and seafood packing company), T.T. Barge Services, and Garman Avondale Shipyards (a ship and boat building company). Together these industries employ hundreds of Westwego residents. As discussed below in (6), there are approximately 468 local businesses which employ other residents of Westwego.

(2) *Newspapers and Other Media.* *The Westwego Picayune* is a biweekly compilation of matters of local interest to the residents of Westwego, which is published and delivered on Sundays and Thursdays via the *New Orleans Times-Picayune*. *The Westwego Picayune* contains local news for the City of Westwego, including articles on topics such as local government, local business and community news. *The Westwego*

*Picayune* contains numerous advertisements from Westwego businesses. In addition, a website is maintained for the City, <[www.cityofwestwego.com](http://www.cityofwestwego.com)>, that contains information on the local government, City services, attractions, businesses, and economic data. By accessing this webpage, residents and visitors can obtain general information concerning the City's government as well as listings for the local businesses, religious and civic organizations and some community events. The webpage also serves as a place for advertising for local businesses. Sample pages from the City's website are included in Exhibit A.

(3) *Community Leaders and Residents Perceive Themselves as Separate From New Orleans.* According to the City's Mayor, Robert E. Billoit, residents of Westwego perceive their city as a separate community, distinct from New Orleans. The City of Westwego has its own unique identity and history that is separate from that of New Orleans, and the residents take great pride in their City.

Located on the west bank of the Mississippi River and the northern portion of the Barataria Basin, the City was founded in 1870 by the Texas & Pacific Railroad when it placed a railroad yard and docks on the Mississippi River. Local folklore holds that as trains departed the new railroad station, rail workers yelled "west we go," hence the origin of the City's name. Westwego was first incorporated as a village on January 18, 1919, and later as a town on September 16, 1919. It was incorporated as a city on October 12, 1951, annexing several villages and plantations. The City was known for its seafood processing and shipbuilding industries, and its early residents were fishermen, shrimpers, oystermen and trappers. Today the City of Westwego is a center of marine business and related industries. *See Exhibit A.*

(4) *Westwego Has Its Own Local Government and Elected Officials.*

Westwego's City government functions independently of any other governmental units. Westwego is governed by a mayor and a five-member elected City Council. The mayor and council members serve 4-year terms. With an operating budget for 2002 of \$15 million, the City of Westwego also has a City Clerk/Treasurer and 105 city employees, who handle the administrative functions of the City government and the daily operations of the City. Westwego has a number of City departments, boards, commissions and committees comprised of City residents, such as the Parks and Recreation Department, the Beautification Commission, and the Tourist Commission. *See Exhibit A.*

(5) *The City of Westwego Has Its Own Zip Codes and Its Own Telephone*

*Directories.* The City of Westwego has two zip codes, 70094 and 70096. The U.S. Postal Service maintains a branch office in the City of Westwego to serve its residents. The City of Westwego also has two telephone directories, published by BellSouth and Sunshine Pages. Each directory contains residential, business and governmental listings for the City. *See Exhibit A.*

(6) *Westwego Has Numerous Commercial Establishments and Its Own Health*

*Facilities.* There are approximately 468 local businesses located within the City of Westwego. A few of these businesses identify with the City using "Westwego" or "Wego" in their names, for example: Wego Auto Sales, Carguill Westwego Elevator (a grain elevator business) and Wego Supermart, LLC. Other local businesses in Westwego include: Southern Safaris, Inc. (a fly-fishing shop), Classic Car & Motorcycle, National Gypsum Company (a lumber company), Global Fabrication & Welding, J.P. & Sons Construction, Landry's Carpentry, Shademaker Products, Tuan Construction, Willow

Incorporated-Sales Model, Nine Mile Point Nursery Farms, Peace of Mind Security, Inc., Allied Communications, Fricke School of Music, Massarini Photography, Red Light Grill, Breaux's Cajon Café, Cajon Moon Restaurant, Delgrandile's Restaurant, Rob's Seafood Unlimited, B&B Marine Industries, Outboard Motor Repair, Alario Brothers Commercial Fishing and Marina Supplies, Inc., and CYTEC Industries, Inc. *See Exhibit A.*

Several health care providers are located in the City of Westwego. Most residents receive medical services from Westbank Primary Care. While the majority of doctors in Westwego are family practitioners, there are a number of other specialists such as dentists, chiropractors, physical therapists and veterinarians. *See Exhibit A.*

Residents enjoy excellent recreation facilities and a broad range of community events. The City of Westwego has several local and State parks, such as Bayou Segnette State Park, which includes a playground, camping grounds, cabins, boating and fishing facilities. Jean Lafitte National Historical Park and Barataria Preserve is also located in Westwego and features wetlands, waterways and hiking trails. The Catfish Bourgeois Park is known for its excellent biking trails. In collaboration with Compaq, a PGA golf course is under construction in Westwego.

The City plans and sponsors a number of events and activities for residents of all ages. For example, the City of Westwego hosts the Westwego Fair Fest/Miss Westwego Festival annually. It also sponsors community bingo, Westwego Wheels for Life Bike-a-Thon, the Memorial Christmas Under Trees, "Party in the Park", the Bayou Segnette Bassmaster Fishing Tournament, and the Westwego Blessing on the Bayou Festival. Additionally, the John A. Alario, Sr. Event Center, a convention center in Westwego,

hosts a number of events year-round, including the Louisiana Philharmonic, and college basketball games. *See Exhibit A.*

Westwego is also home to many churches and religious organizations, such as First Baptist Church of Westwego, Westwego Missionary Baptist Church, Tabernacle Church, Assemblies of God, Westwego Church of God in Christ, Our Lady of Prompt Succor, and New Life Fellowship, to name a few. *See Exhibit A.* There also are a number of civic and service organizations in Westwego, including American Legion (Post #206), Westwego Lodge #25, Disabled American Veterans, Westwego Civic Association, Westwego Historical Society, Westwego Senior Citizens, Westwego VFW #6973, Rotary Association, Lion's Club, and Westwego Cajon Heritage Society and Foundation.

(7) *Extent to which the community and the central city are part of the same advertising market.* As stated above, the City of Westwego has two telephone directories. Businesses advertise in these directories as well as in the local biweekly publication, *The Westwego Picayune*, which enable the businesses to reach the residents of Westwego. Thus, the residents of Westwego do not need to seek out New Orleans media sources in order to find out what is happening in their community or to obtain information about the products and services that are available to them locally.

(8) *Westwego's School and Library Systems are Governed by Jefferson Parish, but its Police and Fire Protection are Provided Independent of any other Jurisdiction.* Reading materials and public reference materials are made available to the community at the Westwego branch library, which is part of the Jefferson Parish Library System. The Westwego Library is open Monday through Saturday, and has over 31,000

volumes of materials for circulation. It has computer and Internet access, a meeting room and a video collection. The Westwego Library offers many activities and special programs for the entire family including pre-school story time for children.

The Jefferson Parish School System operates the public schools in Westwego. The Jefferson Parish School System is comprised of a nine-member board; one board member represents Westwego residents. The City of Westwego has four elementary schools, including Westwego Elementary, a junior high school, and a special school. Westwego also has a number of private and parochial schools.

The City provides many municipal services to its residents. The Westwego Police Department employs 32 full-time police officers and other civilian staff. The Westwego Police Department is an active part of the community and it sponsors programs that keep residents actively involved with police departmental work. The Westwego Fire and Rescue department has both a full-time and volunteer staff. It has five fire stations in Westwego with 10 full-time firefighters and 185 volunteer firefighters. The Fire Department provides fire, hazardous material clean-up, search and rescue, and extrication services for the residents of Westwego.

The City has its own Water and Sewer Departments which provide water and sanitation and waste disposal services, including trash collection and recycling for City residents. The Westwego Recreational Maintenance department is responsible for general maintenance, parks and roads maintenance, litter control, and building maintenance for City facilities.

## II. STATION KFXN, HOUMA TO GONZALES, LOUISIANA

### A. Technical Analysis

5. The relocation of WUSW to Westwego, Louisiana requires the deletion of Channel 281C at Houma, Louisiana and its allotment to Gonzales, Louisiana as a Class C0. Channel 281C0 can be allotted to Gonzales at coordinates 29-52-55 North Latitude, 90-56-07 West Longitude consistent with Section 73.207 of the Commission's Rules. *See* Figure 2. A 70 dBu signal can be provided to Gonzales from the proposed reference point. *See* Figure 10. The downgrade of KFXN will result in a net loss in population of 636,625 persons able to receive a 60 dBu signal from the station. *See* Technical Narrative at 2. However, this loss is more than made up by the gain from the relocation of WUSW, described above.

### B. Change in Community of License

6. The deletion of Channel 281C at Houma and its reallocation as Channel 281C0 to Gonzales satisfies the requirements for a change in community of license. *See Community of License, supra.* First, the proposed allotment of Channel 281C0 at Gonzales is mutually exclusive with the existing allotment of Channel 281C at Houma. *See* Figure 2. Second, the relocation results in a preferred arrangement of allotments under the Commission's priorities, since Gonzales (2000 U.S. Census pop. 8,156) will receive a first local service (Priority 3) while Houma (pop. 32,393) will retain local service from Stations KCIL(FM) and KFXN(AM) (Priority 4). *See Revision of FM Assignment Policies and Procedures, supra.* Third, Houma will not be deprived of its sole existing service.

7. Gonzales is not located within any Urbanized Area, and the 70 dBu signal will not cover any portion of an Urbanized Area. In fact, the current 70 dBu signal of KFXN covers more than 50% of the New Orleans and Baton Rouge Urbanized Area. Therefore, this relocation does

not implicate the Commission's policy concerning the potential migration of stations from underserved rural areas to well-served urban areas. *See Elizabeth City, North Carolina and Chesapeake, Virginia*, 9 FCC Rcd 3586 (1994).

8. The City of Gonzales, Louisiana, is a community deserving of a first local service. Gonzales is located in Ascension Parish between Baton Rouge and New Orleans. Gonzales is listed in the U.S. Census 2000 with a population of 8,156. The U.S. Post Office associates two ZIP Codes, 70707 and 70737 with Gonzales. The U.S. Postal Service operates three postal branch offices in the City of Gonzales. *See Exhibit B.* Gonzales's government functions independently of any other governmental units. It has an elected mayor and five district council members. The mayor and council members each serve four-year terms. The city government has a city clerk, a district attorney, a police chief, a utilities manager, a health and housing authority, employment services office, and a zoning and planning committee. Among the services provided by the town government are water supply, sewage and sanitation services, garbage disposal, local planning and zoning, business permits and licenses, and police protection and fire rescue services. The City has its own Police Department as well as a substation of the Ascension Parish Sheriff's office. The City of Gonzales Fire Department operates two fire stations in Gonzales, and employs a full-time fire chief and full and part-time firefighters. The City of Gonzales Fire Department offers fire, rescue, EMS and other services to the residents of Gonzales. *See Exhibit B.*

9. The City of Gonzales has its own unique identity and history. Named after its first sheriff and mayor, Joseph Gonzales, the City of Gonzales was started on Joe Gonzales' cornfield donated for community use. Known as "The Jambalaya Capital of the World," Gonzales is a melting pot of nationalities, where squatters of Spanish and French ancestry settled

amidst the Houma Indians. Today, you can find the influences of Native American, French, Spanish, African, Acadian, German and Italian lifestyles in Gonzales. The largest city in Ascension Parish, Gonzales was incorporated as a city in March 1977, and officially proclaimed as the City of Gonzales by Governor Edwin Edwards on August 17, 1977. *See Exhibit B.*

10. Gonzales businesses include a wide variety of companies and industries such as Thorpe Products, US Fusion Services, Inc., a polyethylene pipe fusion company, United Community Bank, Ascension Hospital, Ascension Rehabilitation Center, East Ascension Telephone Company, and Ascension College. A substantial number of businesses identify themselves with the community by using “Gonzales” in their names, for example: Gonzales Animal Clinic, Gonzales Electric Service Inc., Gonzales Gallery, Gonzales Hardware Supply Company, Gonzales Interior Specialties, Gonzales Music Wholesale, Gonzales Seamans Center, Gonzales Sheet Metal LLC, Gonzales Military Surplus, Gonzales Tire Coy Inc., The Gonzales Tux Shop and Gonzales Used Furniture. *See Exhibit B.*

11. The Gonzales Public Library is largest public library in the Ascension Public Library system. The library is open six days a week, and has a circulation of over 177,000. It has 50 public access computers with Internet and word processing. It also has a number of meeting rooms. The library offers several programs for children and adults throughout the year. *See Exhibit B.*

12. The Ascension Parish Public School District provides public education for children in Gonzales. There are two primary schools, including Gonzales Primary School, one elementary school, one middle school, Gonzales Middle School, and one high school in Gonzales. Gonzales is also home to a number of religious organizations, such as Gonzales Baptist Temple, Galvez Pentecostal Church, Ascension Christian Assembly, and Jehovah’s

Witness. Among the civic organizations located in Gonzales are the Lions Club of Gonzales and the Ascension Chamber of Commerce. *See* Exhibit B. The annual events that are held in Gonzales are the Jambalaya Festival, Christmas parade and Celebrate Ascension. Gonzales is home to the Pelican Point Golf Club, a championship golf course, River Road African American Museum and Gallery and the Tee Joe Gonzales Museum. *See* Exhibit B.

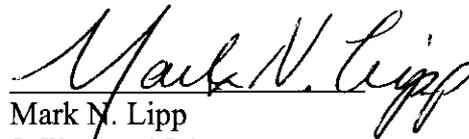
### **III. CONCLUSION**

Grant of this petition is in the public interest because Westwego and Gonzales will both receive their first local service and an additional 548,681 people will be able to receive radio service. Hattiesburg and Houma will retain local service, and the residents of the respective areas will continue to enjoy reception of many aural services. The Commission should promptly issue a Notice of Proposed Rule Making as described herein.

Respectfully submitted,

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