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AUG 12 2002

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	
FM Broadcast Stations.	)	
(Vici, Oklahoma)	)	MB Docket No. 02-205
	)	RM-10470
	)	
(Big Lake, Texas)	)	MB Docket No. 02-206
	)	RM-10469
	)	
(Leakey, Texas)	)	MB Docket No. 02-207
	)	RM-10468
	)	

NOTICE OF PROPOSED RULE MAKING

Adopted: July 31, 2002; **Released: August 9, 2002**

Comment Date: September 30, 2002
Reply Comment Date: October 15, 2002

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is a multiple docket *Notice of Proposed Rule Making* setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if 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 rule making 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 for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. **MB Docket No. 02-205; RM-10470**

Petitioner: Robert Fabian

4 Hickory Crossing Lane
Argyle, Texas 76226

Proposal: Allot Channel 249A at Vici, Oklahoma, as the community's first local aural transmission service.

Community	Present	Proposed
Vici, Oklahoma	---	249A

Coordinates: 36-08-59 NL and 99-17-53 WL

Additional Information: A Commission engineering analysis indicates that Channel 249A can be allotted to Vici in compliance with the spacing requirements without a site restriction. In support of the proposal, petitioner states that Vici is an incorporated community of over 680 people, has a form of local government, its own post office, fire department, school district and numerous churches to serve the community. Petitioner further states that the allotment could provide an outlet for local self-expression for the community.

FCC Contact: Kathleen Scheuerle (202) 418-2180

B. **MB Docket No. 02-206; RM- 10469**

Petitioner: Robert Fabian

4 Hickory Crossing Lane
Argyle, Texas 76226

Proposal: Allot Channel 246A at Big Lake, Texas, as the community's third local commercial FM transmission service.

Community	Present	Proposed
Big Lake, Texas	252A, 280A	246A, 252A, 280A

Coordinates: 31-11-33 NL and 101-20-53 WL

Additional Information: Channel 246A can be allotted to Big Lake, Texas, in compliance with the Commission's spacing requirements with a site restriction 10.7 kilometers (6.6 miles) east of the community. Since Big Lake is located within 320 kilometers (200 miles) of the U.S.-Mexican border,

concurrence of the Mexican Government has been requested for the allotment of Channel 246A at Big Lake. In support of the proposal, petitioner states that Big Lake is an incorporated community with over 3,400 people. Petitioner further states that Big Lake has its own local government, post office, fire department, school system and a number of churches to serve the community.

Contact: Kathleen Scheuerle (202) 418-2180

C. **MB Docket No. 02-207; RM-10468**

Petitioner: Robert Fabian

4 Hickory Crossing Lane
Argyle, Texas 76226

Proposal: Allot Channel 275A at Leakey, Texas, as the community's third local commercial FM transmission service.

Community	Present	Proposed
Leakey, Texas	226A, 282A	226A, 275A, 282A

Coordinates: 29-41-30 NL and 99-50-07 WL

Additional Information: Channel 275A can be allotted to Leakey, Texas, in compliance with the Commission's spacing requirements with a site restriction 8.3 kilometers (5.1 miles) southwest of the community. In support of the proposal, petitioner states that Leakey is an incorporated community with a population of over 400 people. Further, Leakey has a local government, post office, volunteer fire department, school district and a number of local churches to serve the community. Since Leakey is located within 300 kilometers (200 miles) of the U.S.-Mexican border, concurrence of the Mexican Government has been requested for the allotment of Channel 275A at Leakey.

FCC Contact: Kathleen Scheuerle (202) 418-2180

3. Comments, reply comments, 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 rule making 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. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before September 30, 2002, and reply comments on or before October 15, 2002, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal

Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C.20554. 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. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

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 this *Notice*, 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 Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W.; TW-A325, 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 (Room CY-A257) at its headquarters, 445 12th Street, S.W, Washington, D.C.