[redacted]

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

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In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	
FM Broadcast Stations.	)	
(Encinal, Texas)	)	MB Docket No. 02-349
	)	RM-10599
	)	
(Sheffield, Texas)	)	MB Docket No. 02-350
	)	RM-10600

NOTICE OF PROPOSED RULE MAKING

Adopted: **November 6, 2002** **Released:** **November 8, 2002**

Comment Date: December 30, 2002
Reply Date: January 14, 2003

By the Assistant Chief, Audio Division:

1. Before the Commission for consideration is a multiple docket *Notice of Proposed Rule Making* setting forth two separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. In each instance, the petitioner has stated that she will apply for the requested channel, if allotted. 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 accordance with the Commission's *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rulemaking*. 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. 02-349; RM-10599

Petitioner: Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 286A at Encinal, Texas as potentially the community's third local FM service.

Community	Present	Proposed
Encinal, Texas	--	286A, 259A, 273A[1]

Coordinates: 28-05-37 NL and 99-20-25 WL

Additional Information: Channel 286A can be allotted to Encinal with a site restriction of 6.3 km (3.9 miles) north of Encinal at the reference coordinates indicated above. The proposed allotment will require concurrence by Mexico because it is located within 320 kilometers (199 miles) of the Mexican border.

Encinal is an incorporated town with a population of 704 persons. Petitioner states that Encinal has its own mayor, elementary school system, post office, and volunteer fire department.

FCC Contact: Deborah A. Dupont (202) 418-7072

B. MB Docket No. 02-350; RM-10600

Petitioner: Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 224C2 at Sheffield, Texas as the community's first local FM service.

Community	Present	Proposed
Sheffield, Texas	--	224C2

Coordinates: 30-33-15 NL and 101-52-09 WL

Additional Information: Channel 224C2 can be allotted to Sheffield with a site restriction of 15.7 km (9.8 miles) south of Sheffield at the reference coordinates indicated above. The proposed allotment will require concurrence by Mexico because it is located within 320 kilometers (199 miles) of the Mexican border.

Petitioner states that Sheffield is a city with a population of 600 persons. Petitioner further states that Sheffield has its own fire department, post office, justice of the peace, and numerous business establishments and churches.

FCC Contact: Deborah A. Dupont (202) 418-7072

[1] Although Encinal has no local FM service, two other proposals to allot FM channels to Encinal also are pending. Petitions to add Channels 259A and 273A are under consideration in Dockets 01-152 and 02-188, respectively.

2. Comments, reply comments, counterproposals and other pleadings filed in response to this *Notice of Proposed Rule Making* should reference the 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.

3. Interested parties may file comments on or before **December 30, 2002**, and reply comments on or before **January 14, 2003**, and are advised to read the Appendix for the proper procedures. Additionally, a copy of any filing should be served on the petitioner.

4. 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.[2]

5. For further information concerning this proceeding, contact Deborah A. Dupont, the designated FCC contact, at the telephone number indicated above. For purposes of this restricted notice and comment rule making 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 in the applicable docket is no longer subject to reconsideration by the Commission or review by any 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 any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in the particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner 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 this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

[2] *See Certification that Section 603 and 604 of the Regulatory Flexibility Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed.Reg. 11549 (February 9, 1981).

APPENDIX

1. Pursuant to 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 PROPOSED TO AMEND the FM (TV) Table of Allotments, Section 73.202(b) (73.606(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 discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. The proponent 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 Procedures. 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 proposal 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 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 (Room CY-A257), at its headquarters, 445 Twelfth Street, SW., Washington, D.C.