

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

DISPATCH

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 03-119
Table of Allotments,) RM-10694
FM Broadcast Stations.)
(Savannah, Springfield and)
Tybee Island, Georgia))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: September 3, 2003

Released: September 5, 2003

By the Assistant Chief, Audio Division:

1. In response to a Petition for Rule Making filed by Cumulus Licensing Corp. ("Cumulus"), licensee of Station WSIS, Springfield, Georgia and WEAS, Savannah, Georgia, the Commission has before it for consideration the *Notice of Proposed Rule Making*,¹ requesting changes to the FM Table of Allotments. Cumulus requests the substitution of Channel 280C2 for Channel 280C3 at Springfield, Georgia, reallocation of Channel 280C2 to Tybee Island, Georgia, and the reallocation of Channel 226C1 from Savannah, Georgia, to Springfield, Georgia, as a replacement service for Channel 280C3 at Springfield. Cumulus filed comments restating its intention to file applications for Channel 280C2 at Tybee Island and Channel 226C1 at Springfield. No other comments were received in response to the *Notice* in this proceeding.²

2. The proposed reallocation of Stations WSIS and WEAS was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.³

3. As explained in the *Notice*, Cumulus requested the substitution of Channel 280C2 for Channel 280C3 at Springfield, reallocation of Channel 280C2 to Tybee Island, Georgia, and modification of the authorization for Station WSIS to specify operation on Channel 280C2 at Tybee Island, as a first local

¹ *Savannah, Springfield and Tybee Island, Georgia*, 18 FCC Rcd 10388 (M.B.2003).

² On June 6, 2003, a Notice of Counsel's Change of Address was submitted by Mark N. Lipp, Esq. The new address is Vinson & Elkins, L.L.P., The Willard Office Building, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1008.

³ See *Modification of FM and TV Authorizations to Specify a new Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990).

service under priority 3) of the allotment priorities.⁴ Cumulus acknowledges that Station WSIS is the only operating service in Springfield. In support of the removal of Station WSIS and to ensure continued service at Springfield, Cumulus proposed to reallocate Station WEAS, Channel 226C1 from Savannah, Georgia, to Springfield, Georgia, and made a commitment to operate Station WEAS at Springfield. The reallocation of Station WEAS will not deprive Savannah of local service as fourteen stations will continue to provide local service to Savannah.

4. Based upon the information presented in this proceeding, we believe the public interest would be served by the substitution of Channel 280C2 for Channel 280C3 at Springfield and reallocation of the channel to Tybee Island, Georgia, since it would provide a first local service for the community. The change of community of license for Station WSIS will not result in the removal of sole local aural service for Springfield because of the reallocation of Station WEAS from Savannah, Georgia, to Springfield, Georgia, in this proceeding. Cumulus requested the reallocation of Station WEAS from Savannah to Springfield, stating its willingness to file an application for Channel 226C1 at Springfield. A staff engineering analysis indicates that the reallocation of Channel 280C2 from Springfield to Tybee Island will result in a net gain in service to 70,081 people in a community of 3,392 people. We further show that the allotment of Channel 280C2 at Tybee Island covers 85 percent of the Savannah Urbanized Area while Channel 280C3 at Springfield covered only 8 percent of the urbanized area. Cumulus provided a *Tuck* showing establishing independence of Tybee Island from the Savannah Urbanized Area.⁵ Additionally, the reallocation of Channel 226C1 from Savannah to Springfield will experience neither a loss or gain as Station WEAS will continue to operate at its current site consistent with Section 73.207 of the Commission's Rules at coordinates 32-02-48 and 81-20-27. Our engineering analysis indicates that Channel 280C2 can be allotted to Tybee Island in compliance with the Commission's spacing requirements at coordinates 32-00-45 and 80-55-44. To ensure that local service will continue to be provided to Springfield, we shall condition the grant of an authorization to operate Station WSIS on Channel 280C2 at Tybee Island upon activation of service for Station WEAS on Channel 226C1 at Springfield.⁶ The Commission has specifically stated that the public has a legitimate expectation that existing service will continue, and that this expectation is a factor to be weighed independently against the service benefits that may result from reallocating a channel. We have weighed the factors and are granting the proposal submitted by Cumulus because of the public interest benefits of providing first local service to Tybee Island. However, we will condition the reallocation of Channel 280C2 to Tybee Island on activation of Channel 226C1 at Springfield to insure continued service at Springfield.

⁴ The FM Allotment priorities are: (1) First full-time aural service, (2) Second full-time service, (3) First local service, and (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

⁵ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). (Eight factor analysis for determining a proposed community's independence from a nearby urbanized area.)

⁶ See *Llano and Marble Falls, TX*, 12 FCC Rcd 809 (M.M. 1997).

5. Accordingly, pursuant to the 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 ORDERED, That effective October 20, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Tybee Island, Georgia	280C2
Savannah, Georgia	231C0, 238C1, 243C, 247C0, 271C
Springfield, Georgia	226C1 ⁷

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the authorization of Cumulus Licensing Corp. for Station WSIS, Channel 280C3, Springfield, Georgia, IS MODIFIED to specify operation on Channel 28C2 at Tybee Island, Georgia, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of Station WSIS shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That pursuant to section 316(a) of the Communications Act, of 1934, as amended, that the authorization of Cumulus Licensing Corp., for Station WEAS, Channel 226C1, Savannah, Georgia, IS MODIFIED to specify operation on Channel 226C1 at Springfield, Georgia, subject to the following conditions:

- (a) Within 90 Days of the effective date of the *Order*, the licensee of Station WEAS shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

⁷ The license for Station WSIS, Springfield, Georgia, was modified from Channel 280A to Channel 280C3 in a one-step application (BPH-19990325IE) which has not been reflected in the FM Table of Allotments. Upon termination of this proceeding, we shall correct the FM Table of Allotments to reflect the correct class of channel

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Cumulus Licensing Corp., licensee of Stations WSIS, Springfield, Georgia, and Station WEAS, Savannah, Georgia, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the change in community of license for Station WSIS, Channel 280C3, Springfield, to Channel 280C2, Tybee Island, and for the change in community of license for Station WEAS, Channel 226C1, from Savannah, Georgia, to Springfield, Georgia.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau