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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 03-140
Table of Allotments,	)	RM-10697
FM Broadcast Stations.	)	
(Avoca, Freeland and,	)	
Wilkes-Barre, Pennsylvania)	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: October 1, 2003

Released: October 3, 2003

By the Assistant Chief, Audio Division:

1. In response to a Petition for Rule Making filed by Entercom Wilkes-Barre Scranton, LLC ("Entercom"), licensee of Station WAMT, Freeland, Pennsylvania, and Station WKRZ, Wilkes-Barre, Pennsylvania, the Commission has before it for consideration the *Notice of Proposed Rule Making*,<sup>1</sup> requesting changes to the FM Table of Allotments. Entercom requests the reallocation of Channel 276A from Freeland to Avoca, Pennsylvania, and the reallocation of Channel 253B from Wilkes-Barre to Freeland, Pennsylvania, as a replacement service for Channel 276A at Freeland. Entercom filed comments restating its intention to file applications for Channel 276A at Avoca and Channel 253B at Freeland. No other comments were received in response to the *Notice* in this proceeding.

2. The proposed reallocation of Stations WAMT and WKRZ 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.<sup>2</sup>

3. As explained in the *Notice*, Entercom requested the reallocation of Channel 276A to Avoca, Pennsylvania, from Freeland, Pennsylvania, and modification of the authorization for Station WAMT to specify operation on Channel 276A at Avoca, as a first local service under priority (3) of the allotment priorities.<sup>3</sup> Entercom acknowledges that Station WAMT is the only operating service in Freeland. In support of the removal of Station WAMT and to ensure continued service at Freeland, Entercom proposed

<sup>1</sup> *Avoca, Freeland and Wilkes-Barre, Pennsylvania*, 18 FCC Rcd 12176 (M.B.2003).

<sup>2</sup> *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).

<sup>3</sup> 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).

to reallocate Station WKRZ, Channel 253B from Wilkes-Barre, Pennsylvania, to Freeland, Pennsylvania, and made a commitment to operate Station WKRZ at Freeland. The reallocation of Station WKRZ will not deprive Wilkes-Barre of local service as stations WMGS(FM), WILK(AM), and WBAX(FM) will continue to provide local service to Wilkes-Barre.

4. Based upon the information presented in this proceeding, we believe the public interest would be served by the reallocation of Channel 276A to Avoca, Pennsylvania, since it would provide a first local service for the community. The change of community of license for Station WAMT will not result in the removal of sole local aural service for Freeland because of the reallocation of Station WKRZ from Wilkes-Barre, Pennsylvania, to Freeland, Pennsylvania, in this proceeding. Entercom requested the reallocation of Station WKRZ from Wilkes-Barre to Freeland, stating its willingness to file an application for Channel 253B at Freeland. A staff engineering analysis confirms that the requested reallocations can be made in compliance with the Commission's spacing requirements.<sup>4</sup> Our analysis further shows that the reallocation of Channel 276A from Freeland to Avoca will result in a loss of service to 140,673 people with a gain in service of 305,737 people with both the gain and loss areas having five or more services. We further show that the proposed allotment at Avoca will cover 52 percent of the Scranton Urbanized Area. Since Station WAMT, Freeland, is located within the Hazleton Urbanized Area and is relocating to Avoca, located in the Scranton Urbanized Area, Station WAMT is not relocating from a rural to an urban area, as the station is already located in an urban area. Entercom provided a *Tuck* showing establishing independence of Avoca from the Scranton Urbanized Area. Station WKRZ at Freeland will continue to provide service to 79 percent of the Scranton Urbanized Area and 94 percent of the Hazleton Urbanized Area since there will be no relocation of its transmitter. Therefore, the proposed relocations do not implicate the Commission's policy concerning the potential migration of stations from underserved rural areas to well-served urban areas as the stations are currently service urbanized areas.<sup>5</sup> As stated in the *Notice*, Station WKRZ, Wilkes-Barre, is a grandfathered short-spaced station. Consistent with our policy, since no change in transmitter site is requested, we believe that Station WKRZ should be afforded the opportunity to change its community of license.<sup>6</sup> Entercom will be required to specify its current licensed site for Station WKRZ, Wilkes-Barre, for the applications for a construction permit and a license for Station WKRZ, Freeland. To ensure that local service will continue to be provided to Freeland, we shall condition the grant of an authorization to operate Station WAMT on Channel 276A at Avoca upon activation of service for Station WKRZ on Channel 253B at Freeland.<sup>7</sup> 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

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<sup>4</sup> The coordinates for Channel 276A at Avoca, Pennsylvania, are 41-18-20 and 75-45-38. The coordinates for Channel 253B at Freeland, Pennsylvania, are 41-11-56 and 75-49-06. Since Avoca and Freeland are located within 320 kilometers of the U.S.-Canadian border, the Canadian Government will be notified of the changes to the FM Table of Allotments adopted in this proceeding.

<sup>5</sup> See *Elizabeth City, North Carolina and Chesapeake, Virginia*, 9 FCC Rcd 3586 (1994).

<sup>6</sup> See *Shelbyville and LaVergne, Tennessee*, 16 FCC Rcd 16331 (M.M.B. 2002), *Oceanside and Encinitas, California*, 14 FCC Rcd 15032 (M.M.B. 1999) and *Newnan and Peachtree City, Georgia*, 7 FCC Rcd 6307 (M.M.B. 1992).

<sup>7</sup> See *Llano and Marble Falls, TX*, 12 FCC Rcd 809 (M.M.B. 1997).

independently against the service benefits that may result from reallocating a channel. We have weighed the factors and are granting the proposal submitted by Entercom because of the public interest benefits of providing first local service to Avoca. However, we are compelled to condition the reallocation of Channel 276A to Avoca on activation of Channel 253B at Freeland to insure continued service at Freeland.

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 November 17, 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
Avoca, Pennsylvania	276A
Freeland, Pennsylvania	253B
Wilkes-Barre, Pennsylvania	225B

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the authorization of Entercom Wilkes-Barre Scranton, LLC for Station WAMT, Channel 276A, Freeland, Pennsylvania, IS MODIFIED to specify operation on Channel 276A at Avoca, Pennsylvania, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of Station WAMT 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 Entercom Wilkes-Barre Scranton, LLC, for Station WKRZ, Channel 253B, Wilkes-Barre, Pennsylvania, IS MODIFIED to specify operation on Channel 253B at Freeland, Pennsylvania, subject to the following conditions:

- (a) Within 90 Days of the effective date of the *Order*, the licensee of Station WKRZ 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.

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, Entercom Wilkes-Barre Scranton, LLC, licensee of Stations WAMT, Freeland, Pennsylvania, and Station WKRZ, Wilkes-Barre, Pennsylvania, 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 WAMT, Channel 276A, Freeland, to Avoca, and for the change in community of license for Station WKRZ, Channel 253B, from Wilkes-Barre, to Freeland, Pennsylvania.

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