

NOV 25 2003 ORIGINAL

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

In the Matter of)
)
Amendment of Section 73.202(b))
FM Table of Allotments,)
FM Broadcast Stations.)
(Rising Star, Texas))
)

MB Docket No. 03-175
RM-10719

DISP.

NOV 28 4 22 PM '03

FCC MAIL SECTION

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 21, 2003

Released: November 26, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rulemaking*¹ issued at the request of Charles Crawford ("Crawford"), requesting the allotment of Channel 290C3 at Rising Star, Texas. Crawford filed late comments expressing his interest in the allotment of Channel 290C3 at Rising Star. Katherine Pyeatt ("Pyeatt") filed a counterproposal proposing a Channel 224C3 allotment at Gustine, Texas. No other comments were filed in response to the *Notice*. For the reasons discussed below, we are dismissing both the underlying proposal for a Channel 290C3 allotment at Rising Star and the counterproposal for a Channel 224C3 allotment at Gustine.

2. Crawford's comments were received at the Commission after the initial comment deadline unaccompanied by a motion to accept. It is the responsibility of the party submitting comments to ensure that documents are delivered to the Commission on time.² Paragraph 2 of the *Appendix to the Notice of Proposed Rule Making* clearly states that a rulemaking petitioner is expected to file a continuing expression of interest by the initial comment date. Since Crawford's comments were not accompanied by a request for late acceptance and did not contain an explanation for filing after the initial comment date, we will not accept his late-filed expression of interest. Moreover, in view of the filing of a timely counterproposal herein, we cannot consider Crawford's untimely expression of interest. Therefore, having determined that the initial comments of Crawford are deficient, and no other parties have stated an interest in an allotment at Rising Star, Texas, no further consideration will be made with regard to an allotment at Rising Star.

3. We are also dismissing the counterproposal for Channel 224C3 at Gustine, Texas. In order to accommodate this allotment, Pyeatt proposed a series of channel substitutions, including the substitution of Channel 287A for Channel 288A at Coahoma, Texas. However, the proposed Channel 287A allotment at Coahoma is short-spaced to the licensed site of Station KTXC, Channel 284C1, Lamesa, Texas, and cannot be considered.³

¹ See *Rising Star, Texas*, 18 FCC Rcd 15402 (MB 2003).

² See *Gosnell and Osceola, Arkansas; Germantown and Ripley, Tennessee*, 4 FCC Rcd 6170 (MMB 1989).

³ See 47 C.F.R. §73.208.

4. IT IS ORDERED, That the petition for rule making filed by Charles Crawford, proposing the allotment of Channel 290C3 at Rising Star, Texas, IS DISMISSED.

5. IT IS FURTHER ORDERED, That the Counterproposal filed by Katherine Pyeatt IS DISMISSED.

6. For further information regarding the proceeding listed above, contact Kathleen Scheuerle, (202)418-2180.

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

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief, Audio Division
Media Bureau**