

FCC MAIL ROOM

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

In the matter of )  
Amendment of Section 73.202(b) )  
FM Table of Allotments, ) MB Docket No. 04-12  
FM Broadcast Stations. ) RM-10834<sup>1</sup>  
(Russellville and Littleville, Alabama) )  
)

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

Adopted: April 12, 2004

Released: April 14, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rulemaking*<sup>2</sup> issued at the request of Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station WMXV, Russellville, Alabama, requesting changes to the FM Table of Allotments in Alabama. Clear Channel requested the reallocation of Channel 278A from Russellville, Alabama, to Littleville, Alabama, and the modification of the license for Station WMXV to specify operation at Littleville. Clear Channel filed comments and reply comments in which it restated its intention to file an application for Channel 278A at Littleville. Late-file comments were received from Mike Self. No other comments were filed.

2. Based upon the information presented in this proceeding, we believe the public interest will be served by reallocating Channel 278A to Littleville, Alabama, since it would result in a preferential arrangement of allotments. The proposed reallocation of Station WMXV 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>3</sup> In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments as set forth in *Revision of FM Assignment Policies and Procedures*.<sup>4</sup> Littleville would receive its first local service fulfilling allotment priority (3) of the Commission's allotment priorities. This action will not deprive Russellville of local service as Station WGOL(AM) and Station WKAX(AM) will continue to provide service to the community. Retention of Channel 278A at Russellville is considered under priority (4), other public service.

<sup>1</sup> On March 16, 2004, an *Erratum* was released correcting the rule making number from 10843 to 10834. See DA No. 04-707

<sup>2</sup> See *Russellville and Littleville, Alabama*, 19 FCC Rcd 898 (MB 2004).

<sup>3</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>4</sup> The allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See *Second Report and Order in BC Docket 80-130, Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1982).

3. The reallocation proposal is consistent with the requirements set forth in *Change of Community, supra*. As explained in the *Notice*, Littleville is not located within an urbanized area.<sup>5</sup> Our analysis shows that Station WMXV will continue to provide service to 18 percent of the Florence, Alabama Urbanized Area once the station is reallocated to Littleville. Therefore, information responsive to a *Tuck* analysis is not necessary.<sup>6</sup> Channel 278A can be allotted to Littleville Alabama, in compliance with the Commission's minimum distance separation requirements at coordinates 34-25-44 and 87-40-47. Our analysis confirms that there will be no loss in service and no underserved areas will be created as Clear Channel has made a commitment to operate Station WMXV at its current licensed site. In accordance with Section 1.420(i) of the Commission's Rules, we will modify the license for Station WMXV to specify operation on Channel 278A at Littleville, Alabama, as its new community of license.

4. 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 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS ORDERED That effective June 1, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's rules, IS AMENDED, with respect to the communities listed below, as follows:

Community	Channel No.
Littleville, Alabama	278A
Russellville, Alabama	-----

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Clear Channel Broadcasting Licenses, Inc. for Station WMXV, Russellville, IS MODIFIED to specify operation on Channel 278A at Littleville, Alabama, in lieu of Channel 278A at Russellville, Alabama, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee of Station WMXV 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 by Station KTCL in accordance with Section 73.1620 of the Rules.

(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 unless the proposed facilities are categorically excluded from environmental processing.

9. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's rules, 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 of community. As a result of this proceeding, Clear Channel Broadcasting Licenses, Inc., licensee of Station WMXV, Channel 278A, Russellville, Alabama, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for Station WMXV, Channel 278A, Russellville, Alabama, to Channel 278A at Littleville, Alabama, at the time its Form 301 application is submitted.

<sup>5</sup> See, *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

<sup>6</sup> See *Huntington Broadcasting Co. v. FCC*, 192 F.2d 33 (D.C. Cir. 1951), *RKO General, Inc.*, 5 FCC Rcd 3222 (1990), and *Faye and Richard Tuck ("Tuck")*, 3 FCC Rcd 5374 (1988).

10. For further information regarding the proceeding listed above, contact Kathleen Scheuerle, (202)418-2180.
11. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

**FEDERAL COMMUNICATIONS COMMISSION**

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