FCC MAIL SECTION
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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MB Docket No. 04-150
FM Broadcast Stations.	)	RM-10857
(Trenton and Burlington, New Jersey)	)	

REPORT AND ORDER

Adopted: October 20, 2004 **Released: October 25, 2004**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding proposing the reallotment of Channel 248B from Trenton to Burlington, New Jersey, and modification of the license of Station WPST specify operation on Channel 248B at Burlington.[1] Nassau Broadcasting II, L.L.C. ("Nassau Broadcasting") filed Comments. For the reasons discussed below, we are granting the proposed channel reallotment and modification of license.

2. Nassau Broadcasting, licensee of Station WPST, Channel 248B, Trenton, New Jersey, filed this proposal pursuant to Section 1.420(i) of the Commission's rules which permits the modification of a station authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.[2] *Community of License* requires that any reallotment proposal result in a preferential arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures.*[3]

3. As requested, we are reallotting Channel 248B from Trenton to Burlington, New Jersey, and are modifying the Station WPST license to specify operation on Channel 248B at Burlington.[4] There will no change in the currently authorized Station WPST transmitter site.[5] This will provide a first local service for

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[1] *Trenton and Burlington, New Jersey,* 19 FCC Rcd 6933 (MB 2004).

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

[3] 90 FCC 2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service,; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

[4] The reference coordinates for the Channel 248B allotment at Burlington, New Jersey, are 40-14-05 and 74-46-02.

[5] Station WPST is a pre-1964 grandfathered short-spaced station. Even though we are creating a new short-spaced allotment not in conformity with Section 73.207 of the rules, we permit such a station to change its community of license where there is no change in transmitter site. *See Newnan and Peachtree City, Georgia,* 7 FCC Rcd 6307 (continued....)

Burlington while Trenton will continue to receive local service from five FM stations and two AM stations. Burlington, with a population of 9,736 persons according to the 2000 U.S. Census, is an incorporated community with a mayor and city council. Burlington has its own police department, municipal court, volunteer fire department, library, school system, post office and zip code. Burlington also has local businesses, health care facilities, civic organizations and the Burlington County Times covers local news and enables local businesses to advertise to local residents.

4. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

5. Accordingly, 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 ORDERED, That effective December 10, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

City	Channel No.
Burlington, New Jersey	248B
Trenton, New Jersey	233B, 268B

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Nassau Broadcasting II, L.L.C. for Station WPST, Channel 248B, Trenton, New Jersey, IS MODIFIED, to specify operation on Channel 248B at Burlington, New Jersey, subject to the following conditions:

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

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing;

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

7. 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 rulemaking fee when filing the application to implement the change in community of license and/or upgrade. As a result of this proceeding, Nassau Broadcasting II, L.L.C. is required to submit a rulemaking fee in addition to the fee required for the

(Continued from previous page)
(MMB 1992). As proposed in the *Notice*, Station WPST is required to specify its existing transmitter site in the construction permit application to implement this reallotment.

application to effect the change in its community of license.

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

9. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau