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

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Amendment of Section 73.202(b) | ) | |
| Table of Allotments, | ) | |
| FM Broadcast Stations. | ) | |
| (Groveland, California) | ) | MB Docket No. 05-13 |
| | ) | RM-11078 |
| | ) | |
| (Powers, Oregon) | ) | MB Docket No. 05-14 |
| | ) | RM-11088 |
| | ) | |
| (Zapata, Texas) | ) | MB Docket No. 05-15 |
| | ) | RM-11148 |

## NOTICE OF PROPOSED RULEMAKING

**Adopted: January 26, 2005** **Released: January 28, 2005**

**Comment Date: March 21, 2005**
**Reply Comment Date: April 5, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a multiple docket *Notice of Proposed Rule Making* setting forth two separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. The petitioner for each proposal has stated that it will apply for each requested channel, if allotted. Each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket *Notice of Proposed Rule Making* issued in response to a Commission *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Notice of Proposed Rule Making*. Each proposal has its own docket and rule making number and the Commission's Reference Information Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

**A. MB Docket No. 05-13; RM-11078**

**Petitioner: Robert Eurich, President**
**105 Mountain Air, Inc.**
**7179 N. Van Ness**
**Fresno, California 93711**

**Proposal:** Allot Channel 264A at Groveland, California, as the community's first local commercial FM transmission service.[1]

[1] In support of the proposal, petitioner states that Groveland is a Census Designated Place with a 2000 U.S. Census population of 3,388 persons. Groveland has many local businesses which provide services to tourists visiting (continued....)

| Community | Present | Proposed |
|---|---|---|
| Groveland, California | --- | 264A |

**Coordinates:** 37-50-45 NL and 120-12-00 WL

**Additional Information:** This allotment is located at city reference coordinates and requires no site restriction.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

**B. MB Docket No. 05-14; RM-11088**

**Petitioner: Mikel Chavez**
**P.O. Box 400**
**Coquille, Oregon 97423**

**Proposal:** Allot Channel 293C2 at Powers, Oregon, as the community's first local aural transmission service.[2]

| Community | Present | Proposed |
|---|---|---|
| Powers, Oregon | --- | 293C2 |

**Coordinates:** 42-53-01 NL and 124-04-19 WL

**Additional Information:** This allotment is located at city reference coordinates and does not require a site restriction.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

**C. MB Docket No. 05-15; RM-11148**

**Petitioner: Jeraldine Anderson**
**1702 Cypress Drive**
**Irving, Teas 75061**

**Proposal:** Allot Channel 292A at Zapata, Texas, as the community's fourth local FM transmission service.

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(...continued from previous page)
Yosemite National Park as well as local residents. The local Chamber of Commerce has over 100 members providing many types of services. Groveland is considered the portal to Yosemite National Park, which is just 15 miles away.

[2] In support of the proposal, petitioner states that Powers is an incorporated city with a 2000 U.S. Census population of 734 persons. It has its own city council, fire department, police department, post office, water supply system, waste treatment system, library, and school district—including K-12 public schools. The U.S. Forest Service has offices in the city and is the largest employer. Powers has public, private, religious, and retail services associated with an independent city. Powers has its own zip code and telephone prefix.

| Community | Present | Proposed |
|---|---|---|
| Zapata, Texas | 228A, 274A, 280A | 228A, 274A, 280A 292A |

**Coordinates**: 26-49-57 NL and 99-14-25 WL

**Additional Information:** This allotment requires a site restriction of 9.0 kilometers (5.6 miles) south to avoid a short-spacing to the licensed site for Station KPSO-FM, Channel 292A, Falfurria, Texas. Since Zapata is located within 320 kilometers (199 miles) of the U.S.- Mexican border, concurrence of the Mexican government has been requested.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference *only* the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Pursuant to Sections 1.415 and 1.419[3] of the Commission's Rules, interested parties may file comments on or before March 21, 2005, and reply comments on or before April 5, 2005, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, as listed above for each docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.[4] This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any

[3] 47 C.F.R. Sections 1.415 and 1.419.

[4] *See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549 (February 9, 1981).

reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

7. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS PROPOSED TO AMEND the M Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this *Appendix* is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this *Appendix* is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* 47 C.F.R. Section 1.420(d)).

(b) With respect to petitions for rule making which conflict with the proposals in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this *Appendix* is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service (*see 47 C.F.R.* Section 1.420(a), (b) and (c)). Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of 47 C.F.R. Section 1.420, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Information Reference Center (Room CY-A257) at its headquarters, 445 12th Street, S.W., Washington, D.C. 20554.