

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

FCC MAIL ROOM

Nov 7 4 17 PM '05

In the Matter of)
)
Reclassification of License of) RM-11288
Station WUSW(FM), Hattiesburg, Mississippi)
)

ORDER TO SHOW CAUSE

Adopted: November 2, 2005

Released: November 4, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a petition for rulemaking filed by Unity Broadcasting permittee of FM Station WGDQ, Channel 226A, Hattiesburg, Mississippi, ("Petitioner"), seeking to amend the FM Table of Allotments by upgrading Channel 226A to Channel 226C3, reallocating Channel 226C3 to Sumrall, Mississippi, as that community's first competitive local transmission service, and modifying the license of Station WGDQ accordingly. To accommodate the allotment of Channel 226C3 at Sumrall, Mississippi, Petitioner requests the reclassification of Station WUSW(FM) ("WUSW"), Channel 279C, Hattiesburg, Mississippi to specify operation on Channel 279C0 because that station is operating at below minimum Class C facilities. Petitioner has also certified, as required, that no other Class A channels are available for allotment at Sumrall.¹

2. Station WUSW currently operates on Channel 279C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 322 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of 451 meters HAAT. The staff has tentatively concluded that if Station WUSW operates as a Class C0 facility, any short-spacing between Station WUSW and the proposed use of Channel 226C3 at Sumrall, Mississippi, at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Clear Channel Broadcasting Licenses, Inc. ("Clear Channel") licensee of Station WUSW, Hattiesburg, Mississippi, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order, supra*, and note 2 of Section 1.420 (g) of the Commission's Rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Clear Channel to show cause why Station WUSW's license should not be modified to specify operation on Channel 279C0 in lieu of Channel 279C at Hattiesburg, Mississippi. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is

¹ See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd 21649, 21662-63 (2000).

now set forth in Section 1.87 of the Commission's Rules.² In this instance, the reclassification of Station WUSW as a Class C0 station at Hattiesburg, Mississippi, will accommodate the allotment of Channel 226C3 to Sumrall, Mississippi, as proposed by Petitioner. We consider the proposed reclassification of Station WUSW to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The Station WUSW license at Hattiesburg, Mississippi, can be modified to allow the reclassification of Channel 279C to Channel 279C0 at its currently authorized transmitter site.³

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Clear Channel Broadcasting Licenses, Inc., licensee of Station WUSW(FM), Hattiesburg, Mississippi, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 279C0, Hattiesburg, Mississippi.

6. Pursuant to Section 1.87 of the Commission's Rules, Clear Channel Broadcasting Licenses, Inc. may, no later than December 19, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this Order to Show Cause. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will be issued if the modification is found to be in the public interest. If Clear Channel chooses to seek authority to modify Station WUSW(FM)'s facilities, an acceptable application for a construction permit to increase the antenna height to at least 451 meters HAAT or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date (December 19, 2005).

7. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

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² See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

³ The reference coordinates for Channel 279C at Hattiesburg, Mississippi, are: 31-31-37 NL and 89-08-07 WL.

8. For further information on this proceeding, contact R. Barthen Gorman, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau