

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

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In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Beaumont and Mont Belvieu, Texas))

MB Docket No. 04-426
RM-11125

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: February 2 , 2006

Released: February 6, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*¹ issued at the request of Cumulus Licensing, LLC, licensee of Station KRWP(FM), Beaumont, Texas ("Petitioner"), proposing the reallocation of Channel 248C from Beaumont to Mont Belvieu, Texas, as the community's first local aural transmission service, and the modification of the license for Station KRWP(FM) to reflect the changes. Petitioner filed comments reiterating its intention to file an application for the channel and to construct the facilities if the application is granted. No other comments were received.

2. Petitioner filed this proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² 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. This determination is based upon the FM Allotment priorities.³

3. In support of the petition, Petitioner states that its proposal will serve the public interest, it would result in a preferential arrangement of allotments, and meets the requirements for reallocation set forth in *Change of Community R&O*. First, the allotment of Channel 248C at Mont Belvieu is mutually exclusive with the current use of Channel 248C at Beaumont. Second, the community of Beaumont would not be deprived of its only local service.⁴ Third, the proposal would provide a first local aural transmission service at Mont Belvieu (2000 U.S. Census population 2,324) under Priority three, which will result in a preferential arrangement of allotments over the retention of an eleventh local transmission service at Beaumont, under Priority four. In addition, Petitioner states that the reallocation will not involve any gain or loss of service because there is no change in physical facilities resulting from the reallocation.

¹ *Beaumont and Mont Belvieu, Texas*, 19 FC Rcd 23571 (MB 2004).

² See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O")*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990).

³ See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1988). The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to given to priorities (2) and (3)].

⁴ Six FM stations and four AM stations will remain in Beaumont.

4. Petitioner's proposal to reallocate Channel 248C from Beaumont to Mont Belvieu, Texas, as the community's first local aural transmission service will serve the public interest. Mont Belvieu is a community for allotment purposes, and this proposal will provide it with its first local aural transmission service without depriving Beaumont of its sole local transmission service. Accordingly, Channel 248C is reallocated at Mont Belvieu at Station KRWP(FM)'s license site 50.1 kilometers (31.1 miles) east of the community.⁵ Since there is no change in transmitter site, Station KRWP(FM)'s proposed 70dBu will continue to cover over 50% of the Galveston, Texas City, Beaumont and Port Arthur, Texas Urbanized Areas. Although Petitioner submits a showing to establish the community's independence of these Urbanized Areas pursuant to the Commission's holding in *Faye and Richard Tuck*,⁶ we agree that such a showing is not necessary in this case.⁷

5. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office Pursuant to the Congressional Review Act.⁸

6. Accordingly, pursuant to the authority contained in 47 U.S.C. §§ 4(i), 5(c)(1), 303(g), and (r), and 307(b), and 47 C.F.R. §§ 0.61, 0.204(b) and 0.283, IT IS ORDERED That effective March 23, 2006, the FM Table of Allotments, 47 C.F.R. § 73.202(b) IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel</u>
Beaumont, Texas	231C1, 236C1, 273C2, 300C
Mont Belvieu, Texas	248C

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

8. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁵ The coordinates for Channel 248C at Mont Belvieu are 29-41-52 NL and 94-24-09 WL.

⁶ See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

⁷ See *Dayton, Incline Village and Reno, Nevada*, 15 FCC Rcd 22461, 22462 (MMB 2000); *St. Maries, Idaho and Spokane, Washington*, 14 FCC Rcd 17012, 17019 (MMB 1999); *Boulder and Lafayette, Colorado*, 12 FCC Rcd 583, 584 (MMB 1997); see also *East Los Angeles, Long Beach and Frazier Park, California*, 10 FCC Rcd 2864 (MMB 1995).

⁸ See 5 U.S.C. § 801(a)(1)(A).