

Federal Communications Commission

DA 06-263

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

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In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 05-267
Table of Allotments,)	RM-10365
FM Broadcast Stations.)	RM-11278
(St. Simons Island, Georgia))	
)	
Reclassification of License of Station)	BLH-19870915KA
WOGK(FM), Ocala, Florida)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 2, 2006

Released: February 6, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. In response to Petitions for Rule Making filed by Nancy C. Harper and Murphy Broadcasting ("Murphy"), the Audio Division considers herein a *Notice of Proposed Rule Making* ("Notice")¹ proposing the allotment of Channel 229C3 or 229A, respectively, to St. Simons Island, Georgia, as that community's second local aural transmission service. To accommodate either of these proposed channel allotments at St. Simons Island, Station WOGK(FM) ("WOGK"), Ocala, Florida must operate as a Class C0 facility pursuant to the Commission's reclassification procedures.² Murphy filed comments supporting the allotment of either Channel 229C3 or Channel 229A to St. Simons Island, stating that if either channel is so allotted, Murphy would file an application for authority to construct and operate an FM station on St. Simons Island. No counterproposals or other comments have been filed. As explained below, we allot Channel 229C3 to St. Simons Island and reclassify Station WOGK to a Class C0 facility.

2. **Background.** The *Notice* proposed the allotment of Channel 229C3 or Channel 229A at St. Simons Island, Georgia, as that community's second local aural transmission service. To accommodate either of these proposed channel allotments, Station WOGK must be required to operate on Channel 229C0 in lieu of Channel 229C.³ An *Order to Show Cause* was issued against Ocala Broadcasting, L.L.C. ("Ocala Broadcasting"), licensee of Station WOGK, Ocala, Florida, affording it 30 days to express in writing an intention to seek authority to upgrade its technical facilities to preserve Class C

¹ *St. Simons Island, Georgia*, 20 FCC Rcd 15244 (MB 2005).

² See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21649 (2000); see also note 2 to Section 1.420(g) and note 4 to Section 73.3573 of the Commission's Rules.

³ Station WOGK operates on Channel 229C with the minimum effective radiated power of 100 kilowatts and less than the minimum Class C antenna height above average terrain ("HAAT") of 451 meters.

status or to otherwise challenge the proposed action.⁴ Ocala Broadcasting filed a response stating that it would file the necessary application to implement minimum Class C facilities for FM Station WOGK within 180 days of the comment deadline of the *Order to Show Cause*. Although Ocala Broadcasting filed a timely application (File No. BPH-20020829ABN) that attempted to implement minimum antenna HAAT for a Class C station, the FAA ruled that the transmitter site was unsuitable. That application was not amended nor was a new application with a suitable transmitter site filed for about two years following the FAA ruling, although the licensee did file periodic updates about its efforts to find a suitable site. Subsequently, the Audio Division requested information from many applicants, including Ocala Broadcasting, to show compliance with the new local radio ownership rules or to request a waiver of these rules. The Audio division dismissed Ocala Broadcasting's application for failure to submit the requested information and thus for failure to prosecute its application.⁵

3. **Discussion.** In light of the foregoing facts, we are reclassifying Station WOGK in the context of this proceeding to specify operation on Channel 229C0 instead of Channel 229C at Ocala, Florida.

4. We believe that the public interest would be served by the allotment of Channel 229C3 at St. Simons Island, Georgia, because it will provide a greater coverage area than Channel 229A to St. Simons Island and also provide the second local aural transmission service to that community.⁶ Channel 229C3 can be allotted to St. Simons Island, Georgia, consistent with the technical requirements of the Commission's rules, at coordinates 31-14-54 NL and 81-29-57 WL, with a site restriction of 16.4 kilometers (10.2 miles) northwest of the center city coordinates for St. Simons Island.

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, *see* 5 U.S.C. 801(a) (1) (A).

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

⁴ See *Reclassification of License of Station WOGK(FM), Ocala, Florida*, 17 FCC Rcd 1657 (MMB 2002).

⁵ See Public Notice, DA 04-3647, dated November 18, 2004.

⁶ Channel 224A has already been allotted to St. Simons Island.

<u>Community</u>	<u>Channel Number</u>
Ocala, Florida	225C2, ⁷ 229C0
St. Simons Island, Georgia	224A, 229C3

7. A filing window for Channel 229C3, St. Simons Island, Georgia, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

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

9. For further information concerning this proceeding, contact R. Barthen Gorman, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 229C3 at St. Simons Island, Georgia, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁷ Channel 224A has been inadvertently listed in 47 C.F.R. § 73.202(b), FM Table of Allotments under Ocala, Florida. We have no record that such an allotment actually exists. Nevertheless, based on our records, we are listing Channel 225C2 under Ocala, Florida, in the FM Table of Allotments. This channel is licensed to Asterisk Communications, Inc. (See File No. BLH-20011022AAS). This action constitutes an editorial change in the FM Table of Allotments. Therefore, we find for good cause that a public notice and comment proceeding is unnecessary. See 5 U.S.C. § 553(b)(A) and (B).