

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 05-246
Table of Allotments,	)	RM-11263
FM Broadcast Stations.	)	RM-11309
(Hallettsville, Meyersville, and Yoakum, Texas)	)	
	)	
Reclassification of License of Station	)	BMLH-20001010AC0
KCYY(FM), San Antonio, Texas	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: March 15, 2006**

**Released: March 17, 2006**

By the Assistant Chief, Audio Division, Media Bureau:

1. In response to a Petition for Rule Making filed by Charles Crawford ("Petitioner"), the Audio Division considers herein a *Notice of Proposed Rule Making* ("Notice")<sup>1</sup> proposing the allotment of Channel 261A to Meyersville, Texas (RM-11263), as that community's first local aural transmission service. To accommodate this proposed channel allotment at Meyersville, FM Station KCYY, Channel 262C, San Antonio, Texas, must operate on Channel 262C0 pursuant to the Commission's reclassification procedures.<sup>2</sup> Petitioner filed comments and a "Response to Counterproposal." LaGrange Broadcasting Corporation ("LaGrange") filed "Comments and Counterproposal" ("Counterproposal") requesting that Channel 261A be substituted for Channel 260A at Station KTXM(FM), Hallettsville, Texas, and reallocated to Yoakum, Texas (RM-11309). LaGrange also filed reply comments to the Public Notice listing its counterproposal.<sup>3</sup> As explained below, we allot Channel 261A to Meyersville, Texas, and reclassify Station KCYY to a Class CO facility.

2. **Background.** To accommodate the proposed allotment of Channel 261A at Meyersville, Station KCYY must be downgraded to Channel 262C0 in lieu of Channel 262C.<sup>4</sup> An *Order to Show Cause* was issued against CXR Holdings, Inc. ("CXR"), licensee of FM Station KCYY, San Antonio, Texas, affording it 30 days to express in writing an intention to seek authority to upgrade its technical facilities to preserve

<sup>1</sup> *Meyersville, Texas*, 20 FCC Rcd 13003 (MB 2005).

<sup>2</sup> 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.

<sup>3</sup> *Public Notice, Report No. 27453*, released January 25, 2006.

<sup>4</sup> Station KCYY operates on Channel 262C 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.

Class C status or to otherwise challenge the proposed action.<sup>5</sup> CXR filed a response stating that it would file the necessary application to implement minimum Class C standards for FM Station KCYY within 180 days of the comment deadline of the *Order to Show Cause*. CXR did not file the necessary application to implement minimum Class C facilities for FM Station KCYY. Therefore, in accordance with the Commission's reclassification procedures noted above, the license for FM Station KCYY is hereby reclassified to specify operation on Channel 262C0 instead of Channel 262C at San Antonio.

3. LaGrange made the reallocation request in this docket pursuant to Section 1.420(i) of the Commission's rules,<sup>6</sup> which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.<sup>7</sup> 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.<sup>8</sup> The reallocation of Channel 261A, FM Station KTXM, from Hallettsville, Texas (2000 U.S. Census population of 2,345 persons) to Yoakum, Texas (2000 U.S. Census population of 5,731 persons) would allow the establishment of a second local aural transmission service at Yoakum, Texas. Reallocating Station KTXM to Yoakum falls under priority (4) of the FM allotment priorities, while the allotment of Channel 261A to Meyersville would provide that community with its first local aural transmission service under priority (3) of the FM allotment priorities. Meyersville is a community to which an FM allotment can be made.<sup>9</sup> Accordingly, since the allotment of Channel 261A to Meyersville would serve a higher FM allotment priority, we allot Channel 261A to Meyersville.

4. For the reasons stated above, we find that the public interest would be served by allotting Channel 261A to Meyersville, Texas. Channel 261A can be allotted to Meyersville, Texas, consistent with the technical requirements of the Commission's rules, at coordinates of 28-54-58 NL and 97-19-37 WL, with a site restriction of 2.0 kilometers (1.2 miles) southwest of Meyersville, Texas. Concurrence in the allotment by the Government of Mexico is required because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Although Mexican concurrence has been requested, notification has not been received. If a construction permit for Channel 261A at Meyersville,

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<sup>5</sup> See *Reclassification of License of Station KCYY(FM), San Antonio, Texas*, 19 FCC Rcd 19482 (MB 2004).

<sup>6</sup> 47 C.F.R. § 1.420(i).

<sup>7</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

<sup>8</sup> The FM allotment priorities are listed in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). The allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

<sup>9</sup> See *Semora, North Carolina*, 5 FCC Rcd 934 (1990).

Texas, is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: "Operation with the facilities specified herein for Meyersville, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico."

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 May 1, 2006, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Meyersville, Texas	261A
San Antonio, Texas	225C1, <sup>10</sup> 241C1, 247C, 258C, 262C0, 270C1, 274C1 283C1, 298C0

7. A filing window for Channel 261A, Meyersville, Texas, 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 the Petition for Rule Making (RM-11263) filed by Charles Crawford IS GRANTED.

9. IT IS FURTHER ORDERED That the Counterproposal (RM-11309) filed by La Grange Broadcasting Corporation IS DENIED.

10. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

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<sup>10</sup> Channel 225C1 has been licensed to San Antonio since August 19, 1997 (*See* BLH-19970530KA). Therefore, we correct 47 C.F.R. § 73.202(b), FM Table of Allotments under San Antonio, Texas, which lists Channel 225C instead of Channel 225C1. This action constitutes an editorial change in the FM Table of Allotments, for which a public notice and comment proceeding is unnecessary. *See* 5 U.S.C. § 553(b)(A) and (B).

11. 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 260A at Yoakum, Texas, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

**FEDERAL COMMUNICATIONS COMMISSION**

**John A. Karousos  
Assistant Chief,  
Audio Division  
Media Bureau**