

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

MAILED
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FCC Mail Room

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 06-19
Table of Allotments,) RM-11288
FM Broadcast Stations.)
(Hattiesburg and Sumrall, Mississippi))

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 17, 2006

Released: May 19, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* ("Notice")¹ issued in response to a Petition for Rule Making filed on behalf of Unity Broadcasters ("Petitioner"), licensee of FM Station WGDQ, Channel 226A, Hattiesburg, Mississippi. Petitioner seeks to upgrade Channel 226A to Channel 226C3, to reallocate Channel 226C3 from Hattiesburg to Sumrall, Mississippi and to modify Station WGDQ's license accordingly. To accommodate this allotment, the Commission reclassified FM Station WUSW, Channel 279C, Hattiesburg, Mississippi, from Channel 279C to Channel 279C0, as requested by Petitioner. Petitioner filed comments in which it reiterates its intent to effectuate its proposal. No other comments or counterproposals have been filed. For the reasons stated below, we grant Petitioner's rulemaking requests.

2. Petitioner made the reallocation request in this docket pursuant to Section 1.420(i) of the Commission's Rules,² 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.³ 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.⁴

3. In this instance, the reallocation proposal would allow the establishment of a second local aural transmission service at Sumrall, Mississippi (2000 U.S. Census population of 1,005 persons). In addition, Petitioner's proposal will provide a net gain in radio service to 72,464 persons. Both of these factors fall under priority (4) of the FM allotment priorities. We find that allowing Station WGDQ to provide a second local service to Sumrall would prevail over retaining Station WGDQ as a ninth local

¹ *Hattiesburg and Sumrall, Mississippi*, Notice of Proposed Rule Making, 21 FCC Rcd 1154 (MB 2006).

² 47 C.F.R. § 1.420(i).

³ See *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

⁴ See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) first full-time service; (2) second full-time aural service; (3) first local service and (4) other public interest matters. Equal weight is given to priorities (2) and (3).

service to Hattiesburg.⁵ Therefore, we find that upgrading Station WGDQ's Channel from Channel 226A to Channel 226C3 and changing that station's community of license from Hattiesburg to Sumrall, Mississippi, results in a preferential arrangement of allotments under the FM allotment priorities and thus would serve the public interest. As noted earlier, the allotment of Channel 226C3 to Sumrall would not deprive Hattiesburg (2000 U.S. Census population of 44,779 persons) of its sole local transmission outlet, because Hattiesburg will retain local service from three AM stations and five FM stations.

4. Consistent with the technical requirements of the Commission's rules, Channel 226C3 can be allotted to Sumrall, Mississippi, utilizing coordinates of 31-33-15 NL and 89-24-50 WL, with a site restriction of 19.5 kilometers (12.1 miles) northeast of Sumrall.

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 July 3, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Hattiesburg, Mississippi	221A, 279C0, 283C1
Sumrall, Mississippi	226C3, 247A

7. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by Unity Broadcasters IS GRANTED.

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Unity Broadcasters for Station WGDQ(FM), Hattiesburg, Mississippi, IS MODIFIED to specify operation on Channel 226C3 at Sumrall, Mississippi, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

⁵ *See, e.g., Cimarron, Las Vegas and Pecos, New Mexico*, Report and Order, 20 FCC Rcd 16255 (MB 2005) (providing a third local service to Pecos, New Mexico, and serving a larger population, preferred over continuing to provide a sixth local service to Las Vegas, New Mexico).

9. Pursuant to 47 C.F.R. Section 1.1104(3)(l), Unity Broadcasters, licensee of Station WGDQ(FM), is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for Station WGDQ(FM), Channel 226C3, from Hattiesburg, Mississippi, to Sumrall, Mississippi, at the time it submits its Form 301 application.

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

11. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau