

MAILED

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

JUN - 2 2006

FCC Mail ROOM

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 06-59
Table of Allotments,)	RM-11319
FM Broadcast Stations.)	
(Southwest City, Missouri, and)	
Gravette, Arkansas))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 31, 2006

Released: June 2, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*¹ proposing changes in the FM Table of Allotments, 47 C.F.R. § 73.202(b). In response to a petition filed by KERM, Inc. ("KERM"), licensee of Station KURM-FM, Channel 262A, Southwest City, Missouri, the *Notice* proposes to change the community of license for Station KURM-FM from Southwest City, Missouri, to Gravette, Arkansas.

2. KERM's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² KERM, which does not propose any change in the transmitter site for Station KURM-FM, represents that if its request is granted, it will file an application to modify the facilities of Station KURM-FM to specify operation on Channel 262A at Gravette, Arkansas. KERM filed comments supporting the changes. No other comments were received.

3. In determining whether to approve a change of community, we compare the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.³ Retention of Channel 262A at Southwest City, which will continue to be served by Station KLTK(AM), Southwest City, Missouri, would satisfy only the fourth allotment

¹ *Southwest City, Missouri, and Gravette, Arkansas*, Notice of Proposed Rule Making, DA 06-611, 71 Fed.Reg. 18693 (April 12, 2006).

² *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).

³ The FM 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). *See Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 91 (1982), *recon. denied*, 56 RR 2d 448 (1983).

priority, "other public interest matters," whereas the proposed reallocation of Channel 262A at Gravette, Arkansas, would satisfy the third allotment priority, "first local service."

4. Neither Gravette nor Southwest City is located within an urbanized area, and the change of community, which does not involve a change in transmitter site, would not cause Station KURM-FM to place a 70 dBu signal over any portion of an urbanized area. Under the circumstances, no *Tuck* analysis is necessary.⁴

5. Gravette, Arkansas, a town of 1,810 persons, is deserving of its own local service. For all of the foregoing reasons, we conclude that the public interest would be served by reallocating Channel 262A at Gravette, Arkansas. Channel 262A can be allotted at Gravette in compliance with the minimum distance separation requirements of the Commission's Rules at Station KURM-FM's existing transmitter site. The reference coordinates for the allotment are 36-25-54 NL and 94-30-46 WL, with a site restriction of 5.4 kilometers (3.4 miles) west of Gravette.

6. 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.⁵

7. Accordingly, pursuant to the authority found 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), 0.283, and 1.420(i), IT IS ORDERED, That effective July 17, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel Number</u>
Gravette, Arkansas	262A
Southwest City, Missouri	----

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of KERM, Inc., for Station KURM-FM, Channel 262A, Southwest City, Missouri, IS MODIFIED to specify operation on Channel 262A at Gravette, Arkansas, 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

⁴ See *Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988) ("*Tuck*").

⁵ See 5 U.S.C. §801(a)(1)(A).

proposed facilities are categorically excluded from environmental processing.

9. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), KERM, Inc., licensee of Station KURM-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

10. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

Dan J. Alpert, Esq.
The Law Offices of Dan J. Alpert
2120 N. 21st Road
Arlington, Virginia 22201

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

12. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau