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

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In the Matter of)
) MB Docket No. 07-176
Amendment of Section 73.202(b),) RM-11389
Table of Allotments,)
FM Broadcast Stations.)
(Humboldt, Nebraska))
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 31, 2007

Released: November 2, 2007

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division issued a *Notice of Proposed Rule Making* in response to a Petition for Rule Making filed by Cumulus Licensing LLC ("Petitioner").¹ The *Notice* proposes the allotment of Channel 226C3 at Humboldt, Nebraska. Petitioner, the permittee of FM Channel 244C3 at Humboldt, contemporaneously filed an application seeking a change of community to Effingham, Kansas,² and is proposing the allotment of Channel 226C3 at Humboldt in order to maintain that community's first local aural transmission service. Petitioner filed an FCC Form 301 application proposing allotment of Channel 226C3 at Humboldt,³ and was required to submit a filing fee.⁴

¹ *Humboldt, Nebraska*, Notice of Proposed Rule Making, DA 07-3621, released August 17, 2007 (MB 2007) ("*Notice*"). See 72 Fed.Reg. 51,208 (September 6, 2007).

² File No. BMPH-20070119ADF. Petitioner further proposes to substitute Channel 245C3 for Channel 244C3. Although petitioner's construction permit at Humboldt is currently the only potential local aural transmission service for that community, a change of community for an unbuilt station does not raise the same concerns as removal of an operating station that is a sole local service. See *Vernon Center and Eagle Lake, Minnesota*, Report and Order, 21 FCC Rcd 14,714 (MB 2006); *Sanibel and San Carlos Park, Florida*, Report and Order, 10 FCC Rcd 7,215 (MMB 1995); and *Pawley's Island and Atlantic Beach, South Carolina*, Report and Order, 8 FCC Rcd 8,657 (MMB 1993).

³ File No. BNPH-20070119ACW.

⁴ See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14,212 (2006).

2. Petitioner filed comments supporting the allotment of Channel 226C3 at Humboldt, reaffirming its intention to apply for the channel if it is allotted and, if authorized, to build and operate a station on that channel. No other comments were received.

3. We determined in an earlier proceeding that Humboldt is a community for allotment purposes and is deserving of a local service.⁵ We find that the public interest would be served by the allotment of Channel 226C3 at Humboldt, Nebraska. Channel 226C3 can be allotted at Humboldt at city reference coordinates without site restriction: 40-09-51 NL and 95-56-40 WL.

4. 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.⁶

5. Accordingly, IT IS ORDERED, That effective December 17, 2007, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel Number</u>
Humboldt, Nebraska	226C3

6. 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:

Mark N. Lipp, Esq.
Scott Woodworth, Esq.
Wilen Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(Counsel for Cumulus Licensing LLC)

7. A filing window period for Channel 226C3 at Humboldt, Nebraska, 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.

⁵ *Humboldt, Nebraska*, 13 FCC Rcd 22,177, Report and Order (MMB 1998).

⁶ See 5 U.S.C. § 801 (a)(1)(A).

9. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072. Questions related to the application filing process for Channel 226C3 at Humboldt, Nebraska, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau