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

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OCT 29 2008

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In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 07-280
Table of Allotments,)	RM-11379
FM Broadcast Stations.)	
(Linden, Tennessee))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 22, 2008

Released: October 24, 2008

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice"),¹ issued at the request of George S. Flinn, Jr. ("Petitioner"), proposing the allotment of Channel 267A at Linden, Tennessee to prevent removal of Linden's first potential local service. No counterproposals or other comments were received in response to this *Notice*. For the reasons discussed below, we are amending the FM Table of Allotments, Section 73.202(b) of the Commission's Rules,² by allotting Channel 267A at Linden.

2. **Background.** The *Notice* proposed the allotment of Channel 267A at Linden, Tennessee to prevent removal of the community's first local service. In this regard, Petitioner filed a hybrid community of license application requesting the substitution of Channel 264C3 for vacant but applied for Channel 267A at Linden, reallocation of Channel 264C3 from Linden to Waynesboro, Tennessee, as its first local service, and modification of the new FM station license.³

3. **Discussion.** Accordingly, we are allotting Channel 267A at Linden, as its first local service. Channel 267A at Linden can be allotted, consistent with the minimum distance separation requirements of the Commission's Rules, at reference coordinates 35-39-45 NL and 87-44-25 WL with the imposition of a site restriction 10.1 kilometers (6.3 miles) northeast of Linden. The Waynesboro hybrid community of license application, File No. BNPH-20070502AFM, will be granted simultaneously

¹ See *Linden, Tennessee*, Notice of Proposed Rule Making, 22 FCC Rcd 21666 (MB 2007).

² 47 C.F.R. § 73.202(b).

³ See File No. BNPH-20070502AFM. Petitioner was the winning bidder in Auction 70 for authority to construct a new FM station on Channel 267A at Linden. To accommodate the new FM station hybrid application, we issued a *Order to Show Cause* ("OTSC") directed to Flinn Broadcasting Corporation, licensee of Station WYDL(FM), Middleton, Tennessee proposing the modification of Station WYDL(FM) to specify operation on Channel 262C3 in lieu of Channel 264C3 at Middleton, Tennessee. See *Letter to Flinn Broadcasting Corporation, WYDL(FM), Middleton, Tennessee* (MB June 22, 2007). The licensee filed comments stating that it consents to the proposed modification of Station WYDL to Channel 262C3 at Middleton, Tennessee.

with the release of this *Report and Order*.⁴

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, see 5 U.S.C. § 801(a)(1)(A).

5. **Ordering clauses.** 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) and 0.283, IT IS ORDERED, That effective December 8, 2008, 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>Communities</u>	<u>Channel No.</u>
Linden, Tennessee	267A

6. The window period for filing applications for Channel 267A at Linden 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.

7. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁴ Linden will not be deprived of its only local service because the new station's facilities at Linden are unbuilt. See *Linden, Texas et al.*, Report and Order, 16 FCC Rcd 10853 (MMB 2001) (holding that removal of unbuilt facilities does not present the same loss of service concerns as removal of a licensed station). Moreover, the grant of this application does not violate our vacant allotment backfill policy with respect to the new allotment of Channel 267A at Linden since the new FM station at Linden is unbuilt. See *Pacific Broadcasting of Missouri, LLC*, Memorandum Opinion and Order, 18 FCC Rcd 2291 (2003), *recon denied*, Memorandum Opinion and Order, 19 FCC Rcd 10950 (2004).