

BEFORE THE
Federal Communications Commission

WASHINGTON, D. C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,) MB Docket No. 08-26
FM Broadcast Stations.) RM-11418
(Evert and Ludington, Michigan)

TO: Honorable Marlene H. Dortch, Secretary
ATTN: Assistant Chief, Audio Division
Media Bureau

FILED/ACCEPTED
MAR 12 2009
Federal Communications Commission
Office of the Secretary

PETITION FOR PARTIAL RECONSIDERATION OR CLARIFICATION

Bay View Broadcasting, Inc. (BVBI), licensee of FM Broadcast Station WMOM, Pentwater, Michigan, by its attorney, and pursuant to Sections 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and Sections 1.106 and/or 1.420(f) of the Commission's Rules, hereby respectfully submits this Petition for Partial Reconsideration or Clarification of the "Report and Order", DA 09-412, released February 27, 2009, amending the FM Table of Allotments and, inter alia, ordering Station WMOM to change frequency from its current allotment of Channel 274A (102.7 MHz) to Channel 242A (96.3 MHz). In particular, BVBI seeks reconsideration or clarification of paragraph 12 of DA 09-412, dealing with the timing of

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Station WMOM's relocation to Channel 242A. In support whereof, the following is shown:

1. BVBI did not object to the proposals made in this docket, including the allocation of a new FM channel at Ewart, Michigan and the proposed frequency shifts to accommodate this, including a shift in Station WMOM's operating frequency.

2. However, BVBI objects to being forced to file a construction permit application on or before June 29, 2009 (the first working day after the 90th day subsequent to the "effective date") to effectuate the move from Channel 274A to Channel 242A. This is so because the winner of the auction for Channel 274A at Ewart will not be known by that time, and so there will be no one available to make the reimbursement to BVBI called for by paragraph 13 of DA 09-412. It could possibly be a number of years before a construction permit at Ewart is granted. It would be unfair, therefore, for the FCC to require BVBI to incur expenses to effectuate the channel move prior to the existence of a party responsible for the reimbursement of BVBI for its reasonably and prudently expended costs in making the frequency shift.

3. BVBI therefore requests that the Commission clarify paragraph 12 of DA 09-412, or otherwise grant

partial reconsideration of said order, that BVBI need not file any application or do any other thing relative to the frequency shift from Channel 274A to Channel 242A until:

- (1) the 90th day subsequent to the date upon which the grant of a construction permit to the successful bidder at FCC auction for Channel 274A at Ewart, Michigan has become final and no longer subject to administrative or judicial action, review, rehearing or appeal (a "Final Order"); and
- (2) BVBI and/or its successors or assigns have reached an agreement with the Ewart permittee over the amount of reimbursement due BVBI as the result of Station WMOM's frequency shift to Channel 242A.

WHEREFORE, Bay View Broadcasting, Inc. urges that this Petition for Partial Reconsideration or Clarification **BE GRANTED** and that the "Report and Order", DA 09-412, be clarified as specified above.

Respectfully submitted,

BAY VIEW BROADCASTING, INC.

By 
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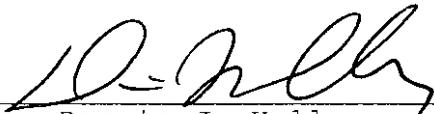
CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Petition for Partial Reconsideration, etc." were served by first-class mail, postage prepaid, on this 12th day of March, 2009 upon the following:

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