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

MAILED

AUG 31 2009

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Waverly, Alabama))

FCC
MB Docket No. 09-54
RM-11520

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: August 19, 2009

Released: August 21, 2009

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making* (the "Notice")¹ issued at the request of Auburn Network, Inc. ("Petitioner"), licensee of Station WGZZ(FM), Waverly, Alabama. The Notice proposes to substitute Channel 262A for vacant Channel 232A at Waverly, Alabama. The purpose of this requested channel substitution is to allow Petitioner to change the channel of Station WGZZ from Channel 262A to Channel 232A at Waverly. Petitioner has filed a Form 301 Application (with the requisite fee) seeking the channel substitution for Station WGZZ(FM).² Station WGZZ(FM)'s channel substitution is intended to facilitate two additional changes: (1) a change of community of license for Station WAOQ(FM), Channel 262A, from Brantley, Alabama, to Goshen, Alabama, as that community's first local service; and (2) a change in community and frequency of Station WEZZ(AM), from 930kHz at Monroeville, Alabama, to 920 kHz at Brantley, Alabama, as a replacement service.

2. We shall substitute FM Channel 262A for vacant Channel 232A at Waverly, because we believe that the substitution will promote the public interest. The substitution of Channel 262A for vacant Channel 232A at Waverly will accommodate the proposed channel substitution for Station WGZZ(FM) at Waverly, thereby facilitating the changes of community for Stations WAOQ(FM) and WEZZ(AM), from Brantley to Goshen, Alabama, and from Monroeville to Brantley, Alabama, respectively. These channel changes will result in a first local service at Goshen, Alabama, and a net gain in service to 8,672 persons.³

¹ *Waverly, Alabama*, Notice of Proposed Rule Making, 24 FCC Rcd 4636 (MB 2009).

² Petitioner filed a FCC Form 301 minor change application for Station WGZZ(FM) to change its channel from Channel 262A to Channel 232A at Waverly, Alabama (FCC File No. BMPH-20081216BKY), and was required to submit a filing fee pursuant to *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 14212 (2006) ("Revised Allotment Procedures R&O").

³ A first local service at Goshen, Alabama, would promote priority three of the Commission's FM allotment priorities, which are: FM allotment priorities are: (1) first fulltime aural service; (2) second fulltime 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 Rcd 88 (1982), *recon. denied*, Memorandum Opinion and Order, 56 RR2d 448 (1983).

Moreover, these changes can be accomplished without any deleterious effect upon the service that can be made available using the vacant Class A allotment at Waverly.

3. A staff engineering analysis indicates that Channel 262A can be allotted at Waverly, consistent with the minimum distance separation requirements of the Commission's rules, at coordinates 32-48-14 NL and 85-41-28 WL, with a site restriction of 13 km (8.1 miles) northwest of the community.

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. 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 October 5, 2009, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel</u>
Waverly, Alabama	262A

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

7. A filing window period for Channel 262A for Waverly, Alabama, 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. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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