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

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In the Matter of)
)
Amendment of Section 73.202(b)) MB Docket No. 08-97
Table of Allotments,) RM-11428
FM Broadcast Stations.)
(Crowell, Knox City, Rule, and Quanah, Texas))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 27, 2010

Released: January 29, 2010

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 LKCM Radio Licenses, L.P., licensee of Stations KFWR(FM), Mineral Wells, Texas, KKAJ-FM, Ardmore, Oklahoma, KYBE(FM), Frederick, Oklahoma, and KJKB(FM), Jacksboro, Texas ("Petitioner"). The Notice proposes changes in four vacant allotments, requested by Petitioner as part of a hybrid proposal which also includes four contingent applications.² Petitioner submitted filing fees for the applications pursuant to *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*.³

2. In order to accomplish the channel substitutions and changes in community of license described in Petitioner's four applications, the Notice proposes, as requested by the Petitioner, changes to the FM Table of Allotments with respect to four vacant FM channels. The Notice proposes the allocation of Channel 288C2 at Rule, Texas, in lieu of Channel 239C2, in order to facilitate a channel upgrade for FM Station KYBE, Frederick, Oklahoma, and a channel upgrade and change of community (from Mineral Wells to Jacksboro, Texas) for FM Station KFWR.⁴ Channel 288C2 can be allotted at Rule, consistent with Section 73.207 of the Commission's rules, provided that the vacant allotment at Knox City, Texas, is changed from Channel 291A to Channel 293A, as further proposed in the Notice. To

¹ *Crowell, Knox City, Rule, and Quanah, Texas*, Notice of Proposed Rule Making, 23 FCC Rcd 14,867 (MB 2008).

² Petitioner filed the following applications: (1) an application to change the channel class and community of license of FM Station KJKB from Channel 238A at Jacksboro, Texas, to Channel 238C3 at Scotland, Texas, as that community's first local service, File No. BPH-20080402ACC; (2) an application to change the channel class and community of license for FM Station KFWR from Channel 240C1 at Mineral Wells, Texas, to Channel 240C0 at Jacksboro, Texas, File No. BPH-20080402ABZ; (3) an application to change the channel class and community of license of Station KKAJ-FM from Channel 239C1 at Ardmore, Oklahoma, to Channel 239C2 at Davis, Oklahoma, as that community's first local service, File No. BPH-20080402ABY; and (4) an application to change the channel and channel class of FM Station KYBE from Channel 240A to Channel 239C3 at Frederick, Oklahoma, File No. BPH-20080402ABJ.

³ Report and Order, 21 FCC Rcd 14212 (2006) ("*Revised Allotment Procedures R&O*").

⁴ See applications BPH-20080402ABJ and BPH-20080402ABZ, respectively, and n.2, *supra*.

accommodate the allotment of Channel 293A at Knox City, the Notice proposes that the channel of the vacant allotment at Crowell, Texas, be changed from Channel 293C3 to Channel 255C3.⁵ Finally, in order to allot Channel 255C3 at Crowell, Texas, the Notice proposes that the channel of the vacant allotment at Quanah, Texas, be changed from Channel 255C3 to Channel 251C3. Petitioner filed comments in response to the Notice. No other comments were received.

3. The allotment changes proposed in the Notice would facilitate implementation of Petitioner's four pending applications, thereby advancing the Commission's allotment priorities by providing first local services to the communities of Scotland, Texas, and Davis, Oklahoma.⁶ In addition, three of the proposed channel substitutions for the four vacant allotments would specify reference coordinates closer to their respective center city coordinates and would result in net service gains.⁷ For all of these reasons, we have determined that the proposals set forth in the Notice would serve the public interest, and the proposals therefore will be adopted as changes in the Commission's FM Table of Allotments.

4. 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 March 15, 2010, 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</u>
Crowell, Texas	255C3
Knox City, Texas	293A
Quanah, Texas	251C3
Rule, Texas	288C2

Coordinates for Channel 255C3 at Crowell, Texas: 34-03-58 NL and 99-43-52 WL, at a site 9.2 km (5.7 miles) north of Crowell.

Coordinates for Channel 293A at Knox City, Texas: 33-25-55 NL and 99-47-43 WL, at a site 2.7 km (1.6 miles) northeast of Knox City (no site change).

Coordinates for Channel 251C3 at Quanah, Texas: 34-24-09 NL and 99-46-02 WL, at a site 11.9 km (7.4 miles) north of Quanah.

⁵ This proposed substitution at Crowell is inconsistent with a proposal in MM Docket No. 00-148, requesting the allocation of Channel 255C3 at Quanah, Texas. The Quanah Channel 255C3 proposal was denied, but review proceedings are still pending in that proceeding. *Quanah, Texas*, Report and Order, 18 FCC Rcd 9405 (MB 2003), *recon. denied*, Memorandum Report and Order, 19 FCC Rcd 7159 (MB 2004), *app. for review pending*. For that reason, the allotment changes adopted in this proceeding will be subject to the final outcome of MM Docket No. 00-148. See *Auburn, Alabama*, Memorandum Opinion and Order, 18 FCC Rcd 10333 (MB 2003).

⁶ The 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).

⁷ The channel substitution at Crowell will result in a net gain of 2,887 persons, the substitution at Quanah will result in a net gain of 3,072 persons, and the substitution at Rule will result in a net gain of 3,073 persons, for a total net gain from the proposed vacant channel substitutions of 9,032 persons.

Coordinates for Channel 288C2 at Rule, Texas: 33-10-29 NL and 99-49-26 WL, at a site 6.6 km (4.1 miles) east of Rule.

5. IT IS FURTHER ORDERED, That effective March 15, 2010, the Media Bureau's Consolidated Data Base System will reflect the following: Channel 255C3 at Crowell, Texas, as a vacant allotment, in lieu of Channel 293C3; Channel 293A at Knox City, Texas, as a vacant allotment, in lieu of Channel 291A; Channel 251C3 at Quanah, Texas, as a vacant allotment, in lieu of Channel 255C3; and Channel 288C2 at Rule, Texas, as a vacant allotment, in lieu of Channel 239C2.

6. IT IS FURTHER ORDERED, that the allotment changes adopted herein are subject to the final outcome of proceedings in MM Docket No. 00-148,⁸ and none of the vacant channels allocated in this proceeding will be available for auction until final resolution in MM Docket No. 00-148.

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

Mark N. Lipp, Esq.
Scott Woodworth, Esq.
Wiley Rein LLP, 1776 K Street NW
Washington, DC 20006

8. 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).

9. Filing window periods for these channels will not be opened at this time. Instead, the issue of opening each allotment for auction will be addressed by the Commission in a subsequent order or orders.

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁸ *Quanah, Texas*, Report and Order, 18 FCC Rcd 9405 (MB 2003), *recon. denied*, Memorandum Report and Order, 19 FCC Rcd 7159 (MB 2004), *app. for review pending*.