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

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MAR - 2011

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In the Matter of )  
)  
Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations. )  
(Lake Brownwood and Early, Texas) )

MB Docket No. 09-181  
RM-11573

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REPORT AND ORDER  
(Proceeding Terminated)

Adopted: March 2, 2011

Released: March 4, 2011

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Notice of Proposed Rule Making issued in response to a Petition for Rule Making filed by Katherine Pyeatt ("Petitioner").<sup>1</sup> The *Notice* proposes the allotment of Channel 294C2 as a first local service at Lake Brownwood, Texas, a Census-Designated Place of 1,694 persons. The Audio Division also has before it a counterproposal to allot Channel 294A as a first local service at Early, Texas. For the reasons discussed below, we shall allot Channel 294A at Early and dismiss the petition for rule making to allot Channel 294C2 at Lake Brownwood.

2. In response to the *Notice*, Petitioner filed comments supporting the allotment of Channel 294C2 at Lake Brownwood, and reaffirming her intention to participate in the auction for the channel if it is allotted and, if selected as the permittee, to build and operate a station on that channel. Munbilla Broadcasting Properties, Ltd. ("Munbilla") submitted a timely counterproposal requesting that the Commission allot Channel 294A as a first local service at Early, Texas, an incorporated city of 2,588 persons, in lieu of the allotment of Channel 294C2 at Lake Brownwood.<sup>2</sup> Munbilla's proposed allotment of Channel 294A at Early is mutually-exclusive with the *Notice's* proposed allotment of Channel 294C2 at Lake Brownwood, Texas. Munbilla states that, if its counterproposal is granted, it will participate in the auction for that channel and, if selected as the permittee, it will build and operate facilities to provide FM broadcast service at Early on Channel 294A.

3. In choosing between competing allotment proposals, we compare the proposed arrangements of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and*

<sup>1</sup> *Lake Brownwood, Texas*, Notice of Proposed Rule Making, 25 FCC Rcd 85 (MB 2010) ("*Notice*"). Petitioner also filed an application for a construction permit for Channel 294C2 at Lake Brownwood, Texas. See File No. BNPH-20090826AAU.

<sup>2</sup> See Public Notice, Report No. 2910 (July 13, 2010). Munbilla also filed an application for a construction permit for Channel 294C2 at Early, Texas. See File No. BNPH-20100301ACP.

*Procedures.*<sup>3</sup> Either allotment of Channel 294C2 at Lake Brownwood or allotment of Channel 294A at Early would satisfy the third allotment priority, "first local service." Under these circumstances, Channel 294A should be allotted at Early, whose population is greater than that of Lake Brownwood.<sup>4</sup> Accordingly, we will allot Channel 294A as a first local service at Early, Texas. Channel 294A can provide the required city-grade 70 dBu contour coverage to the entire community from an allotment site 7.2 km (4.5 miles) northeast of Early at the following reference coordinates: 31-46-21 NL and 98-52-41 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.<sup>5</sup>

5. Accordingly, IT IS ORDERED, That effective April 18, 2011, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel No.</u>
Early, Texas	294A

6. IT IS FURTHER ORDERED, That the petition of Katherine Pyeatt, seeking the allotment of Channel 294C2 at Lake Brownwood, Texas, IS DISMISSED, and the associated application for a construction permit, File No. BNPH-20090826AAU, IS DISMISSED.

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

Katherine Pyeatt  
2215 Cedar Springs Road – Suite 1605  
Dallas, Texas 75201

John Joseph McVeigh, Esq.  
16230 Falls Road  
Post Office Box 128  
Butler, Maryland 21023-0128  
(Counsel for Munbilla Broadcasting Properties, Ltd.)

8. A filing window period for Channel 294A at Early, Texas, 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*.

<sup>3</sup> *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

<sup>4</sup> *Id.* See also *Blanchard, Louisiana, and Stephens, Arkansas*, Memorandum Opinion and Order, 10 FCC Rcd 9828 (1995) (in a comparison of competing proposals for a first local service, the difference in population is dispositive).

<sup>5</sup> See 5 U.S.C. § 801 (a)(1)(A).

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

10. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072. Questions related to the application filing process for Channel 294A at Early, Texas, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez  
Assistant Chief, Audio Division  
Media Bureau