

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

In the Matter of)
)
Amendment of Section 73.202 (b))
Table of Allotments,)
FM Broadcast Stations)
(Allegan and Otsego, Michigan))

MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)

Adopted: May 31, 2000

Released: June 13, 2000

By the Chief, Allocations Branch:

1. The Allocations Branch has before it the Petition for Reconsideration filed by Forum Communications, Inc. (“Forum”), directed to the staff action returning its Petition for Rule Making requesting the substitution of Channel 265A for Channel 222A at Allegan, Michigan, and the substitution of Channel 222A for Channel 265A at Otsego, Michigan. For the reasons discussed below, we grant the Petition for Reconsideration to the extent indicated and deny it in all other respects

2. Our action returning Forum’s Petition for Rule Making was premised upon the fact that Forum’s proposal to reallocate Channel 265A from Otsego to Allegan and to modify Station WQXC(FM)’s license to specify operation on Channel 265A at Allegan did not comply with our spacing requirements for allotments set forth in Section 73.207 of the Commission’s Rules that became effective on October 2, 1989. Forum’s Petition for Reconsideration of the foregoing action explains that the short-spacing that would exist as a result of the reallocation of Channel 265A to Allegan had existed since 1981 and was therefore “grandfathered” pursuant to Section 73.213(c) of the Commission’s Rules. In Fremont and Holton, Michigan, 14 FCC Rcd 17108 (Allocations Br. 1999), the Commission determined that it would allow pre-1989 “grandfathered” FM stations that were in compliance with the Commission’s spacing rules when authorized, to be afforded the same opportunity to change their communities of license as other stations authorized in conformity with the Commission’s current Rules, provided that no additional or new short-spacing would be created by granting the relevant request for a change of community. In light of the facts in this case and Fremont and Holton, Michigan, it appears that the short-spacing that would exist as a result of the reallocation of Channel 265A from Otsego to Allegan does not present an impediment to Forum’s rulemaking petition.

3. A thorough review of Forum's Petition for Rule Making reveals that the proposal to substitute Channel 222 for Channel 265A at Otsego will not result in Otsego being encompassed with a 70 dBu signal, as required by Section 73.315(a) of the Commission's Rules. In fact, the city of license, Otsego, Michigan, is 18.1 kilometers from the transmitter site chosen by Forum to serve Otsego. The predicted distance for a 70 dBu signal transmitted by a Class A FM station operating with maximum facilities, i.e., 6 kilowatts of effective radiated power and 100 meters of antenna height above average terrain (HAAT), is 16.2 kilometers. See Section 73.333 Figure 1 of the Rules. In this light, there is no reason to believe that Forum's Otsego transmitter site will provide a 70 dBu signal that will encompass Otsego, as required by Section 73.315(a) of the Commission's Rules. Therefore, we must deny Forum's Petition for Reconsideration of the staff action returning Forum's Petition for Rule Making.

4. Accordingly, IT IS ORDERED That the aforementioned Petition for Reconsideration filed by Forum Communications, Inc. IS GRANTED to the extent indicated above and IS DENIED in all other respects.

5. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau