

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 99-6
Table of Allotments,	)	RM-9431
FM Broadcast Stations.	)	RM-9596
(St. Johnsbury and Barton, Vermont) <sup>1</sup>	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: April 5, 2000**

**Released: April 14, 2000**

By the Chief, Allocations Branch:

1. At the request of Dana Puopolo ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 14 FCC Rcd 1025 (1999), proposing the allotment of Channel 262A to St. Johnsbury, Vermont, as the community's second local FM service. Petitioner filed comments reiterating his intention to apply for the channel, if allotted. In addition, a counterproposal was filed by Vermont Broadcast Associates, Inc. ("VBA"), requesting the allotment of Channel 262A to the Barton, Vermont, as its first local aural service.<sup>2</sup> No other comments or reply comments were received.

2. VBA states that Barton is an incorporated village within the Town of Barton. It goes on to state that the village of Barton, with a 1990 U.S. Census population of 908 persons, has its own elected officials, post office, zip code and public library. In addition, according to VBA, the village of Barton has its own businesses and service establishments, including car dealerships and grocery/convenience stores, three churches and two schools. VBA points out that Barton also supports the area's municipal services (fire department, power, water and waste treatment). It acknowledges that St. Johnsbury has a larger population than Barton, 6,424 persons, but points out that St. Johnsbury already receives local aural service from two stations, fulltime AM Station WSTJ and FM Station WKXH. Therefore, it contends that that the allotment of Channel 262A to Barton, as a first local aural service, would further a higher allotment priority.<sup>3</sup>

3. In an effort to resolve the conflicting requests, the staff has performed a channel search for both St. Johnsbury and Barton. However, our study shows that there are no alternate channels

<sup>1</sup> The community of Barton, Vermont, has been added to the caption.

<sup>2</sup> Public Notice of the filing of the counterproposal was given on April 29, 1999, Rept. No. 2327.

<sup>3</sup> The FM allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local aural service; and (4) other public interest matters. Priorities (2) and (3) are given co-equal weight. See, Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

available for either community. Therefore, we have been guided by the allotment priorities set forth in Revision of FM Allotment Policies and Procedures, *supra*, and find that the public interest would be better served by the allotment of Channel 262A to Barton, as its first local aural service (Priority 3), than by the allotment of the channel to St. Johnsbury as its third local aural service (Priority 4). We find that Barton, although less populous than St. Johnsbury, is a community for allotment purposes and deserving of a first local aural service.

4. Channel 262A can be allotted to Barton in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction.<sup>4</sup> Barton is located within 320 kilometers (200 miles) of the U.S.-Canadian border and use of these coordinates does not negate the short-spacings to the proposed allotment of Channel 262A at Sherbrook, Quebec and the vacant allotment of Channel 262A at Magog, Quebec, Canada.<sup>5</sup> Canadian concurrence in the allotment has been requested but has not yet been received. However, rather than delay any further the opportunity to file applications for this channel, we will allot Channel 262A to Barton at this time. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Canadian Government, the construction permit will include the following condition: "Operation with the facilities specified herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Canada-United States FM Broadcast Agreement or if specifically objected to by Industry Canada."

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 30, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Barton, Vermont	262A

6. A filing window for Channel 262A at Barton, Vermont, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the petition for rule making filed by Dana Puopolo to allot Channel 262A to St. Johnsbury, Vermont (RM-9431), IS DENIED.

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

<sup>4</sup> The coordinates for Channel 262A at Barton are 44-44-54 North Latitude and 72-10-36 West Longitude.

<sup>5</sup> The Canadian government has proposed to delete vacant Channel 262A at Magog.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
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