

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

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 99-103
Table of Allotments,) RM-9506
FM Broadcast Stations.) RM-9829
(Bayfield, Colorado and)
Teec Nos Pos, Arizona)¹)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 19, 2000

Released: April 25, 2000

By the Chief, Allocations Branch:

1. The Commission considers herein the Notice of Proposed Rule Making (“Notice”), 14 FCC Rcd 4567 (1999), issued in response to a petition filed by Mountain West Broadcasting (“Mountain West”) proposing the allotment of Channel 237A to Bayfield, Colorado, to provide an additional local aural FM transmission service to that community.² Petitioner filed supporting comments in response to the Notice.³ A counterproposal was filed on behalf of Voice Ministries of Farmington, Inc. (“Voice”).⁴ Voice also filed responsive comments. No other comments were received.

2. In its counterproposal Voice has requested the allotment of Channel 237C1 to Teec Nos Pos, Arizona, a census designated place, as that community’s first local aural transmission service, and states its intention to apply for the channel, if allotted.⁵ In support of its proposal, Voice advises that Teec Nos Pos (pop. 317),⁶ the home of a sizeable Native American population, is the headquarters

¹ The community of Tec Nos Pos, Arizona, has been added to the caption.

² As referenced in the Notice, at the time this proposal was filed Channel 296C had been proposed for allotment to Bayfield as its first local transmission service in the context of MM Docket No. 99-76. See 14 FCC Rcd 4071 (1999). Channel 296C was subsequently allotted to Bayfield. See 14 FCC Rcd 21502 (1999).

³ Petitioner refiled its comments after the record closed in this proceeding to substitute its original signature for the facsimile signature submitted earlier. Pursuant to the provisions of § 1.52 of the Commission’s Rules, the facsimile signature of an attorney or unrepresented party is acceptable for filing providing the signatory retains the original document until the Commission’s decision is final and no longer subject to judicial review.

⁴ Public Notice of the counterproposal was given March 8, 2000 (Report No. 2393).

⁵ The distance between Teec Nos Pos, Arizona and Bayfield, Colorado, is 158 kilometers whereas a distance of 200 kilometers is required in this instance.

for the Red Mesa Unified School District #27, which includes Red Mesa Elementary through High Schools. Further, Voice reports that Teec Nos Pos contains many local business establishments that would generally be linked with a community of its size in Arizona.⁷ In further support of its proposal, Voice asserts that the requested allotment of Channel 237C1 at Teec Nos Pos would enable a station licensed thereon to provide service to an area comprising 14,448.6 square kilometers, containing approximately 40,827 persons.

3. Voice urges that since Channel 296C is allotted to Bayfield, the allotment of proposed Channel 237A would result in the provision of a second local aural transmission service to that community. Conversely, Voice advises that its proposal to allot Channel 237C1 to Teec Nos Pos, Arizona, as that community's first local aural transmission service, would fulfill a higher allotment priority. However, in an effort to accommodate Mountain West's desire to provide an additional FM service to Bayfield, Voice offers that Channel 223A can be allotted to that community in lieu of proposed Channel 237A. Voice urges that adoption of its alternate proposal would still enable the residents of Bayfield to receive a new local FM service while simultaneously providing the residents of Teec Nos Pos with that community's first local aural transmission service.

4. Based upon the above information, we believe that each community is deserving of an FM allotment. Conflicting proposals are comparatively considered under the guidelines set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).⁸ However, in this instance, as Voice has identified an alternate Class A channel for consideration at Bayfield, we will adopt its proposed alternative allotment of Channel 223A to Bayfield to accommodate the allotment of Channel 237C1 to Tee Nos Pos. Consequently, the need for a comparative consideration between the two communities has been eliminated.

5. Channel 223A can be allotted to Bayfield consistent with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules provided the transmitter therefor is located at least 11.8 kilometers (7.3 miles) south of the community at coordinates 37-07-29 NL and 107-34-10 WL. Additionally, Channel 237C1 can be allotted to Teec Nos Pos, Arizona, without the imposition of a site restriction, at coordinates 36-54-36 NL and 109-06-00 WL⁹

⁶ Population figures reported herein were taken from the 1990 U.S. Census Reports.

⁷ Although not listed by Voice, it has come to our attention that Tec Nos Pos has numerous community services including its own fire department, ambulance service, utility services administered by the Navajo Tribal Authority, a grocery store and gas station, numerous Apache County offices, and several Federal government field installations.

⁸ The allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Priorities (2) and (3) are given co-equal weight.

⁹ Although Voice suggested the use of an existing electronic site to accommodate Channel 237C1 at Teec Nos Pos, located 49.9 kilometers (31 miles) south of the community at coordinates 36-27-39 NL and 100-05-44, our engineering analysis has determined that use of that site would not comply with the requirements of Section

6. 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 June 9, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Teec Nos Pos, Arizona	237C1
Bayfield, Colorado	223A, 296C

7. A filing window for Channel 223A at Bayfield, Colorado, and for Channel 237C1 at Teec Nos Pos, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for those channels will be addressed by the Commission in a subsequent Order.

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

9. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

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Mass Media Bureau

73.315 of the Commission's Rules to provide 70 dBu signal coverage over the entire community. Additionally, in determining compliance with the minimum distance separation requirements, if a new proposed allotment requires a site restriction, the Commission will endeavor to impose the least restrictive theoretical site from the intended city of license. See Fort Myers, Florida, 3 FCC Rcd 2671 (1988). It is not until the application stage that the actual availability of a particular site is demonstrated. See West Palm Beach, Florida, 3 FCC Rcd 5810 (1988).