

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.
(West Rutland, Vermont)
MM Docket No. 00-12
RM-9706

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 6, 2001

Released: June 8, 2001

By the Chief, Allocations Branch:

1. The Allocations Branch has before it the Notice of Proposed Rule Making and Order to Show Cause in this proceeding. 15 FCC Rcd 1938 (2000). Brian Dodge filed Comments and Great Casco Bay Wireless Talking Machine Limited Liability Company ("Great Casco") filed Reply Comments. For the reasons discussed below, we are substituting Channel 298A for Channel 298C3 at West Rutland, Vermont.

Background

2. At the request of Great Casco, licensee of Station WTHT, Channel 298C1, Lewiston, Maine, the Notice of Proposed Rule Making and Order to Show Cause proposed the substitution of Channel 298A for Channel 298C3 at West Rutland, and modification of the Station WRUT construction permit to specify Channel 298A. That substitution would permit Station WTHT to operate at 100 kilowatts. In its Petition for Rule Making, Great Casco notes that in MM Docket No. 89-519, we substituted Channel 298C3 for channel 298A at West Rutland and modified the Station WRUT construction permit to specify operation on Channel 298C3. 5 FCC Rcd 5886 (1990). The subsequent application filed by Brian Dodge to implement Class C3 facilities was dismissed on December 11, 1991, and that action became final on January 10, 1992. No new Class C3 application has ever been filed by Brian Dodge and Brian Dodge has not sought reconsideration of that action. For this reason, Great Casco asserts that the public interest

1 With respect to the Station WRUT construction permit, on April 13, 1993, we denied an application (File No. BPH-891229JP) to replace the expired Station WRUT construction permit, declared forfeit the underlying construction permit (File No. BPH-851209MK), and deleted the WRUT call letters. See Letter to Brian Dodge, reference 1800B3-MFW. Brian Dodge, permittee of Station WRUT, filed a Petition for Reconsideration directed against that action.

would now be best served by returning the underlying allotment at West Rutland to Channel 298A in order to permit its Station WTHT to operate at 100 kilowatts. In response to the Notice of Proposed Rule Making and Order to Show Cause, Brian Dodge contends that a Class C3 allotment should be maintained in order to provide service to the rural areas of Vermont. To substantiate this assertion, Brian Dodge states that he would submit “maps and other amendments” within ten days. There have been no such submissions.

3. We are substituting Channel 298A for Channel 298C3 at West Rutland, Vermont.² This will enable Great Casco to improve the facilities of Station WTHT. In this regard, Brian Dodge has made no attempt to implement Class C3 facilities for over eight years since the dismissal of his earlier application for Class C3 facilities became final. This does not represent any degree of diligence on the part of Brian Dodge and has denied service to the public. On the basis of the record in this proceeding, we do not find any public interest justification to maintain a Class C3 allotment at West Rutland, Vermont.³ Cf. Hazelhurst, Utica and Vicksburg, Mississippi, 9 FCC Rcd 6439 (1994); Leavenworth, Othello and East Wenatchee, Washington, 10 FCC Rcd 983 (1995).

4. Accordingly, pursuant to 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 July 23, 2001, 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>Community</u>	<u>Channel No.</u>
West Rutland, Vermont	298A

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

6. For further information concerning this proceeding, contact Robert Hayne, Mass Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

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

² The reference coordinates for the Channel 298A allotment at West Rutland, Vermont, are 43-34-04 and 73-00-30.

³ Our action substituting Channel 298A for Channel 298C3 at West Rutland is without prejudice to any action with respect to the disposition of the aforementioned Brian Dodge Petition for Reconsideration directed against the cancellation of his Station WRUT construction permit.