

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

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| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | MM Docket No. 00-160 |
| Table of Allotments, |) | RM-9928 |
| FM Broadcast Stations. |) | |
| (Pana, Taylorville and Macon, Illinois |) | |

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 6, 2001;

Released: June 15, 2001

By the Chief, Allocations Branch:

1. At the joint request of Kaskaskia Broadcasting, Inc., licensee of WEGY(FM), Pana, Illinois and Miller Communications, Inc., licensee of WMKR(FM), Taylorville, Illinois (“petitioners”), the Allocations Branch has before it the Notice of Proposed Rule Making, 15 FCC Rcd 19046 (2000), proposing (a) the reallocation of Channel 265A from Pana to Macon, Illinois, and the modification of Station WEGY(FM)’s license accordingly; and (b) the reallocation of Channel 232A from Taylorville to Pana, Illinois, and the modification of Station WMKR(FM)’s license accordingly. Petitioners filed comments in support of the proposal reaffirming their intention to file for the respectively channels, if reallocated. No other comments were received.

2. The proposed reallocations were filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) (“Change of Community”).

3. In considering a change of community of license proposal, we must determine whether the proposal would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See Change of Community, supra. Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.¹ See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

¹ 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 given to priorities (2) and (3).]

4. As stated in the Notice, Macon is an incorporated community with a 1990 U.S. Census population of 1,282 persons (the 2000 Census population is 1,213). Macon is self-governing with a mayor and village board. The community has its own fire department, water, sewer and garbage service, as well as its own telephone prefix (768), post office, and zip code. There are also a number of churches, organizations, and businesses that serve the Macon community, including many incorporating “Macon” in their names, e.g., Macon AG Service, Mason Motel, Macon Motors, Macon Night Owl, Inc., Macon Presbyterian Church, Macon Speedway, Macon U-Tan, Macon United Methodist Church, Macon Waves, Macon County Archery, Main Street Carry Out Restaurant, and Main Attraction Hair Salon. Its support of its proposal petitioners also state that the reallocation of Channel 265A from Pana to Macon will result in a preferential arrangement of allotments since it will provide Macon with its first local service, without depriving Pana of its sole local service.

5. In response to the request to provide the overall public interest benefits derived from the reallocations, petitioners assert that Macon is a fast-growing community, as people continue to move from cities to small towns throughout the State of Illinois. Thus, it is important for Macon to have its own local radio station to address local issues and to provide local information to the growing Macon population. This will be particularly important because Macon will have increased traffic through the community as a result of the expansion of U.S. Route 51. Currently, U.S. Route 51, a four-lane highway, ends at the northern city limits of Macon. Because of the growth of the Macon area, the State of Illinois granted funding for expansion of this highway. In a few years, U.S. Route 51 will be expanded in a southerly direction through Macon towards Moweaqua, Illinois. Consequently, a local radio station that can reach the Macon community, as well as those traveling through Macon on U.S. Route 51, will become an indispensable source of valuable information to the listening public.

6. In making this comparison, we find that the proposed reallocation of Channel 265A to Macon from Pana triggers priority (3)--first local service. Under this priority, both communities would retain a first local service, since the reallocation of Channel 232A from Taylorville to Pana is proposed herein as a replacement service. Moreover, the reallocation of Channel 232A to Pana (population 5,614) will not deprive Taylorville (population 11,427) of its sole local service, whereas Stations WIHM(AM), WQLZ(FM) and WTIM(FM) would remain licensed to the community. Both the gain and loss areas will continue to receive at least five reception service is considered to be well-served. Since the reallocation to Macon and Pana will not provide 70 dBu coverage to more than 50% of the Decatur Urbanized Area, a Tuck analysis is not necessary.²

7. Moreover, an engineering analysis has determined that the reallocation of Channel 265A to Macon will provide new service (minus the overlap) to an area of 1,943 square kilometers (750.2

² See Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995); Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951); RKO General, Inc., 5 FCC Rcd 3222 (1990); and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

square miles) to a population encompassing 123,675 persons. In addition, the reallocation of Channel 232A to Pana as a replacement service will provide new service (minus the overlap) to over 2,516 square kilometers (971.5 square miles) to a population encompassing 39,933 persons, a gain of service to 9,499 persons.

8. We believe the public interest would be served by reallocating Channel 265A from Pana to Macon, Illinois, as the community's first local aural transmission service. We also reallocate Channel 232A from Taylorville to Pana, Illinois, as a replacement service. An engineering analysis has determined that Channel 265A can be reallocated to Macon in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.9 kilometers (4.3 miles) south at Station WEGY's requested site.³ Additionally, Channel 232A can be reallocated to Pana in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.7 kilometers (7.3 miles) west at Station WMKR's requested site.⁴ In accordance with Section 1.420(i) of the Commission's Rules, we modify Station WEGY(FM)'s license to specify Channel 265A at Macon, Illinois, as its new community of license. Likewise, we modify Station WMKR(FM)'s license to specify Channel 232A at Pana, Illinois, as its new community of license.

9. Our action in approving the reallocation and change of community of license of Station WEGY(FM) from Pana to Macon, Illinois, is premised upon the activation of Channel 232A at Pana to prevent the removal of the sole local service in Pana. Accordingly, consistent with precedent, we will condition the grant of an authorization to operate on Channel 265A at Macon upon the activation of Channel 232A at Pana and the grant of program test authority.

10. Accordingly, pursuant to the authority found 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 30, 2001, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

³ The coordinates for Channel 265A at Macon are 39-41-08 North Latitude and 88-55-29 West Longitude.

⁴ The coordinates for Channel 232A at Pana are 39-22-56 North Latitude and 89-12-56 West Longitude.

| <u>City</u> | <u>Channel No.</u> |
|-----------------------|--------------------|
| Pana, Illinois | 232A |
| Taylorville, Illinois | 224B1, 247A |
| Macon, Illinois | 265A |

11. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Kaskaskia Broadcasting, Inc. for Station WEGY(FM) at Pana, Illinois, IS MODIFIED to specify operation on Channel 265A at Macon, Illinois, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620, provided that Channel 232A at Pana, Illinois, is activated and the station is on the air broadcasting.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

12. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Miller Communications, Inc. for Station WMKR(FM) at Taylorville, Illinois, New York, IS MODIFIED to specify operation on Channel 232A at Pana, Illinois, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

13. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Kaskaskia Broadcasting, Inc. and Miller Communications, Inc., licensees of Stations WEGY(FM) and WMKR(FM), respectively, are required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

14. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to petitioners, as follows:

Kaskaskia Broadcasting, Inc.
918 East Park
Post Office Box 169
Taylorville, Illinois 62568
(Licensee of Station WEGY(FM))

Miller Communications, Inc.
918 East Park Street
Post Office Box 169
Taylorville, Illinois 62568
(Licensee of Station WMKR(FM))

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

16. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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