

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MM Docket No. 98-162
FM Broadcast Stations.)	RM-9263
(Taccoa and Sugar Hill, Georgia)	
)	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: July 11, 2001

Released: July 20, 2001

By the Chief, Allocations Branch:

1. The Allocations Branch has before it the Notice of Proposed Rule Making in this proceeding, 13 FCC Rcd 17750 (1998). Southern Broadcasting of Pensacola, Inc. (“Southern Broadcasting”), LBJS Broadcasting Company, L.P and El Dorado Communications, Inc. filed Comments. Fuller-Jeffrey Radio of New England, Inc. filed Reply Comments. For the reasons discussed below, we are substituting Channel 291C1 for Channel 291C at Taccoa, Georgia, reallocating Channel 291C1 to Sugar Hill, Georgia, and are modifying the Station WNGC license to specify operation on Channel 291C1 at Sugar Hill.

2. At the request of Southern Broadcasting, licensee of Station WNGC, Channel 291C, Taccoa, Georgia, the Notice proposed the substitution of Channel 291C1 for Channel 291C at Taccoa, Georgia, reallocating of Channel 291C1 to Sugar Hill, Georgia, and modification of the Station WNGC license to specify operation on Channel 291C1 at Sugar Hill. The Notice also stated that Station WNGC is a pre-1964 grandfathered short-spaced station and that this proposal does propose any change in the currently authorized station WNGC transmitter site. The Notice specifically noted the policy set forth in Newnan and Peachtree, Georgia, 7 FCC Rcd 6307 (1992), which permits pre-1964 grandfathered short-spaced stations to change their community of license when no change in transmitter is proposed. In regard to this proposal, the Notice requested comments as to whether this policy should be extended to pre-1964 stations that have subsequently modified their facilities but still do not comply with the minimum separation standards now set forth in Section 73.207(b) of the Rules. All parties filing Comments or Reply Comments supported the continuation of the Newnan and Peachtree policy.

3. Southern Broadcasting filed its proposal pursuant to Section 1.420(i) of the Rules which permits the modification of a station authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Modification of FM and TV Authorizations to Specify a New Community of License (“Community of License”), 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990). In considering a reallocation proposal, we compare the existing allotment versus the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM allotment priorities set forth in Revision of FM Allotment Policies and Procedures, 90

FCC 2d 88 (1982).¹

4. We are substituting Channel 291C1 for Channel 291C at Toccoa, Georgia, reallocating Channel 291C1 to Sugar Hill, Georgia, and are modifying the Station WNGC license to specify operation on Channel 291C1 at Sugar Hill, Georgia.² This will provide Sugar Hill with a first local service while Toccoa will continue to receive local service from Station WLET and Station WNEG. Under Newnan and Peachtree, we are also permitting Station WNGC to operate at its authorized site as a pre-1964 short-spaced station. We continue to believe that stations originally authorized in compliance with our separation requirements, and who have received subsequent authorizations continuing the pre-1964 status and determined to be in the public interest, should be afforded the same opportunity to change their community of license as other stations authorized in conformity with our Rules.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5©(1), 303 (g) and ® 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 September 4, 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:

<u>Community</u>	<u>Channel No.</u>
Sugar Hill, Georgia	291C1
Toccoa, Georgia	-----

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Southern Broadcasting of Pensacola, Inc., for Station WNGC, Channel 291C, Toccoa, Georgia, IS MODIFIED to specify operation on Channel 291C1 at Sugar Hill, Georgia, 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 construction permit (FCC Form 301), specifying the new facility at its currently authorized site,
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Rules,
- (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.

7. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's Rules, any party seeking a change in community of license for an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rulemaking fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Southern Broadcasting of Pensacola, Inc. is required to submit a rulemaking fee in addition to the fee required for the application to implement the changes authorized in this Order.

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

¹ The FM allotment priorities are: (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

² The reference coordinates for the Channel 291C1 allotment at Sugar Hill, Georgia, are 34-22-40 and 83-39-25.

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

FEDERAL COMMUNICATIONS COMMISSION

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