

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 01-186
Table of Allotments,)	RM-9976
FM Broadcast Stations.)	
(Honor, Bear Lake, Ludington,)	
and Walhalla, Michigan))	

**NOTICE OF PROPOSED RULE MAKING
AND ORDER TO SHOW CAUSE**

Adopted: August 1, 2001

Released: August 10, 2001

Comment Date: October 1, 2001

Reply Date: October 16, 2001

By the Chief, Allocations Branch

1. Before the Commission for consideration is a petition for rule making filed by Northern Radio of Michigan, Inc. (“Northern”) proposing the substitution of Channel 264C3 for Channel 264A at Honor, Michigan, and the modification of its license for Station WIAR to specify operation on the higher class channel. Northern also requests the substitution of Channel 291A for Channel 261A at Bear Lake, Michigan, substitution of Channel 254A for Channel 292A at Ludington, Michigan and the substitution of Channel 293A for vacant Channel 255A at Walhalla, Michigan. Northern indicated that it would file an application for Channel 264C3 at Honor if the channel is allotted to the community.

2. We believe Northern’s proposal warrants consideration because the proposed substitution could provide Honor with a wide coverage area FM service. In support of its proposal, Northern states that a Class C3 facility at Honor will provide 1mV/m or better service to 79,839 people which is a 124 percent increase over its potential Class A population coverage of 35,699 people. Channel 264C3 can be allotted to Honor at Northern’s specified site.¹ To accommodate the upgrade at Honor, Northern has requested changes at Bear Lake, Ludington and Walhalla, Michigan. Northern requests the substitution of Channel 291A for Channel 261A at Bear Lake, Michigan, and modification of the license for Station WSRQ to specify operation on Channel 291A. Channel 291A can be allotted to Bear Lake in accordance with the Commission’s spacing requirements at a new transmitter site.² Although D&B Broadcasting, LLC, licensee of Station WSRQ supported the proposed changes,

¹ The coordinates for Channel 264C3 at Honor are 44-37-25 and 86-00-19.

² The coordinates for Channel 291A at Bear Lake are 44-17-30 and 86-13-30.

Station WSRQ is now under new ownership.³ Therefore, we shall issue an Order to Show Cause to the current licensee of Station WSRQ.⁴ Northern proposed the substitution of Channel 254A for Channel 292A at Ludington, Michigan, and modification of the license for Station WKLA. Channel 292A can be allotted to Ludington at the licensed site for Station WKLA.⁵ Northern also requests the substitution of Channel 293A for vacant Channel 255A at Walhalla, Michigan.⁶ Channel 293A can be allotted to Walhalla in compliance with the Commission's spacing requirements.⁷ Since the communities of Honor, Bear Lake, Ludington and Walhalla are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian Government will be requested for the proposed allotments. As requested, we shall also propose to modify the license for Station WIAR to specify operation on Channel 264C3, the license for Station WSRQ to specify operation on Channel 291A, and the license for Station WKLA to specify operation on Channel 254A accordance with section 1.420(g) of the Commission's Rules.

3. Whenever an existing licensee is ordered to switch frequencies to accommodate a new channel allotment, we require the proponent of a new allotment to make a commitment that it would reimburse the affected station for the costs incurred in changing frequencies. Northern has acknowledged its responsibility to reimburse Station WKLA, Ludington, Michigan, for the reasonable costs in changing frequency. In comments, Northern is requested to make a reimbursement commitment to the licensee for Station WSRQ, Bear Lake, for changing its channel and site.

4. In view of the above, we believe the public interest would be served by proposing the substitution of Channel 264C3 for Channel 264A at Honor, Michigan, since it would provide the community with expanded FM service. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

³ The assignment of license for Station WSRQ from D&B Broadcasting, LLC to Fort Bend Broadcasting Co. was granted on September 27, 2000 (Public Notice Report No. 44831 issued October 2, 2000).

⁴ On March 19, 2001, the Commission sent a letter to Fort Bend Broadcasting Co., requesting that it provide an affidavit within 30 days of the date of the letter concerning Station WSRQ's operational status. MacDonald Garber Broadcasting, Inc. filed comments in MM Docket No. 00-69 indicating that Station WSRQ is currently silent and may have been silent "almost 100% of the time during the past five years." See 15 FCC Rcd 10242 (2000).

⁵ The coordinates for Channel 254A at Ludington are 44-03-27 and 86-24-58.

⁶ Channel 255A at Walhalla at coordinates 43-54-08 and 86-10-13 is included in a Public Notice dated September 29, 2000, DA 00-2232, FM Broadcast Auction Scheduled for February 21, 2001. The auction was rescheduled from February 21, 2001 to May 9, 2001 and on March 7, 2001, the auction was again rescheduled from May 9, 2001 to December 5, 2001, for reasons of administrative convenience (Public Notice DA 01-619).

⁷ The coordinates for Channel 293A at Walhalla are 44-00-18 and 86-08-16.

Community	Channel No.	
	Present	Proposed
Bear Lake, Michigan	261A	291A
Honor, Michigan	264A	264C3
Ludington, Michigan ⁸	242A, 292A	242A, 254A
Walhalla, Michigan	255A	293A

5. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that Lake Michigan Broadcasting, Inc., the licensee of Station WKLA, Ludington, Michigan, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 254A in lieu of Channel 292A.

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that Fort Bend Broadcasting Company, the licensee of Station WSRQ, Bear Lake, Michigan, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 291A in lieu of Channel 261A.

7. Pursuant to Section 1.87 of the Commission's Rules, Lake Michigan Broadcasting, Inc. and Fort Bend Broadcasting Company, may not later than October 1, 2001, file a written statement showing with particularity why their respective authorization should not be modified as proposed in the Order to Show Cause. The Commission may call on Lake Michigan Broadcasting, Inc. and/or Fort Bend Broadcasting Company to furnish additional information. If Lake Michigan Broadcasting, Inc. and/or Fort Bend Broadcasting Company raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Lake Michigan Broadcasting, Inc. and/or Fort Bend Broadcasting will be deemed to have consented to the modifications as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

8. IT IS FURTHER ORDERED, That the Secretary Shall Send by Certified Mail, Return Receipt Requested, a copy of this Notice of Proposed Rule Making and Order to Show Cause to the following:

Lake Michigan Broadcasting, Inc.
Station WKLA

Fort Bend Broadcasting Company
Station WSRQ

⁸ Channel 242A was allotted to Ludington, Michigan, in MM Docket No. 00-143. See 16 FCC Rcd 741 (2001).

215 Harbor Drive
Ludington, Michigan 49431

P. O. Box 948
Houston, Texas 77001

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

10. Interested parties may file comments on or before October 1, 2001, and reply comments on or before October 9, 2001, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D. C., 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

Harry C. Martin
Jennifer Dine Wagner
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

12. For further information concerning this proceeding contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement.

Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation

and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

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

APPENDIX

1. Pursuant to 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 PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments: Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

Comments should be filed with the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D, C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Information Reference Center (Room CY-A257) at its headquarters, 445 12th Street, S.W., Washington, D. C. 20554.