

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

In the matter of)
)
Amendment of Section 73.202(b))
FM Table of Allotments,)
FM Broadcast Stations)
(Junction, Texas)) MM Docket No. 01-263
) RM-10280
)
(Chino Valley, Arizona)) MM Docket No. 01-264
) RM-10281
)
(Arkadelphia, Arkansas)) MM Docket No. 01-265
) RM-10282
)
(Aspermont, Texas)) MM Docket No. 01-266
) RM-10283
)
(Cotulla, Texas)) MM Docket No. 01-267
) RM-10289

NOTICE OF PROPOSED RULE MAKING

Adopted: September 19, 2001

Released: September 28, 2001

Comment Date : November 19, 2001

Reply Comment Date: December 4, 2001

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a multiple docket Notice of Proposed Rule Making setting forth five separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner, Maurice Salsa (Junction Texas), Charles Crawford (Arkadelphia, Arkansas and Chino Valley, Arizona), and Jeraldine Anderson (Aspermont and Cotulla, Texas) states that it will file an application for construction permit at each locality and bid at auction if the channel is allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rulemaking number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions by avoiding duplicative actions. We request comments and/or counterproposals for the following proposals:

A. MM Docket No. 01-263, RM-10280

Petitioner: Maurice Salsa
 5615 Evergreen Valley Drive
 Kingwood, Texas 77345

Proposal: Allot Channel 292A at Junction, Texas as the community’s second commercial FM transmission service.¹

<u>Channel</u>		
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Junction, Texas	228C2	228C2, 292A

Coordinates: 30-29-21 NL and 99-46-18 WL.

Additional Information: Channel 292A can be allotted at Junction without a site restriction. Since this proposal is within 320 kilometers (200 miles) of the Mexican border, Mexican concurrence will be requested for this allotment.

FCC Contact: Victoria M. McCauley (202) 418-2180.

B. MM Docket No. 01-264, RM-10281

Petitioner: Charles Crawford
 4553 Bordeaux Ave.
 Dallas, Texas 75205

Proposal: Allot Channel 223A at Chino Valley, Arizona as the community’s second commercial FM transmission service.

<u>Channel</u>		
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Chino Valley, Arizona	280B	280B, 223A

Coordinates: 34-46-10 NL and 112-31-03 WL

Additional Information: Channel 223A can be allotted at Chino Valley at a site 6 kilometers (3.7 miles) west of the community.

FCC Contact: Victoria M. McCauley (202) 418-2180.

C. MM Docket No. 01-265, RM-10282

Petitioner: Charles Crawford
 4553 Bordeaux Ave.
 Dallas, Texas 75205

¹ We note that also pending are proposals to allot Channels 277C3, 239C2, 284A and 297A at Junction. In addition, vacant NCE Channel 212A is allotted at Junction and NCE Station KOOK (FM) is also licensed to the community.

Proposal: Allot Channel 228A at Arkadelphia, Arkansas, as the community’s second commercial FM transmission service.²

	<u>Channel</u>	
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Arkadelphia, Arkansas	265A	265A, 228A

Coordinates: 34-07-10 NL and 93-10-43 WL.

Additional Information: Channel 228A can be allotted at Arkadelphia with a site restriction of 11.5 kilometers (7.2 miles) west of the community.

FCC Contact: Victoria M. McCauley (202) 418-2180.

D. MM Docket No. 01-266, RM-10283

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 226C2 at Aspermont, Texas, as the community’s first local aural transmission service.

	<u>Channel</u>	
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Aspermont, Texas	----	226C2

Coordinates: 33-11-27 NL and 100-14-50 WL

Additional Information: Channel 226C2 can be allotted at Aspermont with a site restriction of 6.7 kilometers (4.1 miles). In support of the allotment, petitioner states that Aspermont has the indicia of a community for allotment purposes. It states that it is an incorporated city, the county seat of Stonewall County, has a population exceeding 1000 persons. It has a mayor, volunteer fire department, post office, school district and churches. We seek additional information on the community status of Aspermont.

FCC Contact: Victoria M. McCauley (202) 418-2180.

E. MM Docket No. 01-267, RM-10289

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 289A at Cotulla, Texas, as the community’s second local aural service.

² NCE Station KSWH-FM is also licensed to the community of Arkadelphia.

<u>Community</u>	<u>Channel</u>	
	<u>Present</u>	<u>Proposed</u>
Cotulla, Texas	242A	242A, 289A

Coordinates: 28-24-57 NL and 99-16-49 WL.

Additional Information: Channel 289A can be allotted at Cotulla with a site restriction of 5.0 kilometers (3.1 miles) southwest of the community. Since this proposal is within 320 kilometers (200 miles) of the Mexican border, Mexican concurrence will be requested for this allotment.

FCC Contact: Victoria M. McCauley (202) 418-2180.

3. Comments, reply comment, counterproposals and other pleadings filed in response to this multiple docket *Notice of Proposed Rule Making* should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rulemaking 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 in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before November 19, 2001, and reply comments on or before December 4, 2001, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Section 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).

6. For further information regarding a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rulemaking 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 review or by any staff 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 must be served by the person making the presentation upon the other parties to the proceedings unless the Commission specifically waives this service requirement. Any comment which has not been served on the petition 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 the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

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

Attachment: Appendix

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 protection. 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 proposals in the *Notice of Proposed Rule Making* to which this Appendix is attached, 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, 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 Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.