

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

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 01-110
Table of Allotments,) RM-9927
FM Broadcast Stations.) RM-10336
(Newberry and Simpsonville, South Carolina))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 12, 2001 ; Released: December 21, 2001

By the Chief, Allocations Branch:

1. At the request of Georgia-Carolina Radiocasting Company, LLC¹ (“petitioner”), permittee of Station WGVC(FM), Channel 292C3, Newberry, South Carolina, the Allocations Branch has before it the Notice of Proposed Rule Making, 16 FCC Rcd 9583 (2001), proposing the downgrade of Channel 292C3 to Channel 292A at Newberry, the reallocation of Channel 292A from Newberry to Simpsonville, South Carolina, and the modification of Station WGVC(FM)’s construction permit accordingly (RM-9927). Petitioner subsequently filed a counterproposal proposing the reallocation of Channel 292C3 from Newberry to Simpsonville, South Carolina, as the community’s first local aural transmission service (RM-10336).² Petitioner also filed a Motion to Expedite Uncontested Proceeding. In its counterproposal, petitioner affirms its intention to apply for Channel 292C3, if reallocated to Simpsonville. No other comments were received

2. The proposed reallocation was 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"). As stated in the Notice,

¹ Petitioner changed its name from Upstate-Carolina Broadcasting Company, LLC to Georgia-Carolina Radiocasting Company, LLC.

² The counterproposal was placed on Public Notice on November 21, 2001, Report No. 2515 (RM-10336).

Simpsonville is an incorporated community and has a 1990 U.S. Census population of 11,708 persons. It has its own city government (mayor and five city council members), school system, fire department, zip code, and a large number of commercial businesses.

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 Community, *supra*. Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.³ See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

4. In making this comparison, we find that the proposed arrangement of allotment triggers priority (3)--first local service. Under this priority, Simpsonville (population 14,352)⁴ would receive its first local aural transmission service, without depriving Newberry (population 10,580) of its sole local service.⁵ An engineering analysis has determined that the reallocation of Channel 292C3 to Simpsonville would result in a loss of service to an area of 3,776 square kilometers (1,457.9 square miles) containing 92,934 persons. Specifically, an area of 279 square kilometers (107.7 square miles) containing 4,239 persons would receive four full-time services, an area of 178 square kilometers (68.7 square miles) containing 832 persons would receive three full-time services, and an area of 15 square kilometers (5.8 square miles) containing 108 persons would receive two full-time services. While we are concerned by the substantial loss area, it is offset by new service to a gain area of 3,776 square kilometers (1,457.9 square miles) containing 458,716 persons, a net gain of 365,782 persons. More importantly, no gray or white areas would be created by the reallocation. Moreover, since the reallocation would provide a 70 dBu signal over only 9.4% of the Greenville, South Carolina Urbanized Area, a Tuck analysis is not necessary.⁶

5. We believe the public interest would be served by reallocating Channel 292C3 from Newberry to Simpsonville, since it would provide the community with its first local aural transmission service, and expand Station WGVC(FM)'s service area. An engineering analysis has determined that Channel 292C3 can be reallocated to Simpsonville in compliance with the Commission's minimum distance separation requirement with a site restriction of 15.8 kilometers (9.8 miles) southeast at petitioner's

³ 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 Population figures are taken from the 2000 U.S. Census unless otherwise specified.

⁵ Stations WKDK(AM) (full-time) WKMG(AM) (daytime) will remain licensed to the community.

⁶ 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).

requested site.⁷ In accordance with Section 1.420(i) of the Commission’s Rules, we modify Station WGVC(FM)’s construction permit to specify operation on Channel 293C3 at Simpsonville, South Carolina, as its new community of license.

6. 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, February 4, 2002, 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>City</u> | <u>Channel No.</u> |
|------------------------------|--------------------|
| Newberry, South Carolina | --- |
| Simpsonville, South Carolina | 292C3 |

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Georgia-Carolina Radiocasting Company, LLC, for Station WGVC(FM), Newberry, South Carolina, IS MODIFIED to specify operation on Channel 292C3 at Simpsonville, South Carolina in lieu of Newberry, South Carolina, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the permittee 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.

8. 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

⁷ The coordinates for Channel 292C3 at Simpsonville are 34-39-04 North Latitude and 82-07-12 West Longitude.

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, Georgia-Carolina Radiocasting Company, LLC, permittee of Station WGVC(FM), is required to submit a rule making fee addition to the fee required for the application to effect the change in community of license.

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

Georgia-Carolina Radiocasting Company, LLC
P. O. Drawer E
Toccoa, Georgia 30577

10. IT IS FURTHER ORDERED, That the petition for rule making filed on May 31, 2000 filed by Upstate-Carolina Broadcasting Company, LLC, IS DISMISSED.

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

12. 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