

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	MM Docket No. 01-37
FM Broadcast Stations.)	RM-10065
(Houston and Anchorage, Alaska))	

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

Adopted: January 31, 2001

Released: February 9, 2001

Comment Date: April 2, 2001

Reply Comment Date: April 17, 2001

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a petition for rule making filed by Chester P. Coleman ("petitioner"), licensee of Station KADX(FM), Houston, Alaska, requesting the substitution of Channel 234C1 for Channel 234C2 at Houston, Alaska, and the modification of Station KADX's license to reflect the change. To accommodate the change at Houston, petitioner also requests the substitution of Channel 286C1 for Channel 287C1 at Anchorage, Alaska, and the modification of the license of Station KNIK(FM), Anchorage, to specify the new channel.

2. In support of its petition for rulemaking, petitioner states that its proposed channel substitution at Anchorage would not only allow Station KADX to upgrade facilities, it also would eliminate the IF spacing requirement between Stations KADX and KNIK. In addition, since it proposes the substitution of Channel 286C1 for 287C1 at Anchorage at Station KNIK's existing site, no gains or losses in area or population would result from that substitution. It notes, however, that the proposal for Station KADX at Houston, while involving no change in transmitter site, would involve an upgrade in channel and thus a gain in area and population served. In this regard, petitioner states that the present Channel 234C2 provides 60dBu service to 8,558 square kilometers with a population of 262,117 persons, while the proposed Channel 234C1 would provide 60 dBu service to 16,417 square kilometers encompassing 264,240 persons, a net increase of 7,859 square kilometers and 2,123 persons. Petitioner pledges to reimburse the licensee of Station KNIK-FM for the reasonable costs of changing its channel to accommodate Station KADX's upgrade.

Technical Summary

3. An engineering analysis has determined that Channel 234C1 can be allotted at Houston, Alaska, at petitioner's requested site 17.2 kilometers (10.7 miles) south of the community, if Channel 286C1 is substituted for Channel 2887C1 at Anchorage, Alaska.¹ Channel 286C1 can be allotted at

¹ The coordinates for Channel 234C1 at Houston, Alaska are 61-29-03 NL and 149-45-52 WL.

Anchorage, Alaska, at Station KNIK-FM's licensed site 2.8 kilometers (1.8 miles) south of the community.²

4. 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:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Houston, Alaska	221A, 234C2, 241A, 242A	221A, 234C1, 241A, 242A
Anchorage, Alaska	225C, 229C2, 247C1, 251C1, 255C1, 263C2, 267C2, 271C3, 276C1, 281C1, 287C1, 293C1, 298C1	225C, 229C2, 247C1, 251C1, 255C1, 263C2, 267C2, 271C3, 276C1, 281C1, 286C1, 293C1, 298C1

5. Accordingly, IT IS ORDERED That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Ubik Corporation, licensee of Station KNIK-FM, Anchorage, Alaska, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 286C1 as proposed herein instead of the present Channel 287C1.

6. Pursuant to Section 1.87 of the Commission's Rules, Ubik Corporation, may not later than April 2, 2001, file a written statement showing with particularity why its individual license should not be modified as proposed in the *Order to Show Cause*. The Commission may call on Ubik Corporation to furnish additional information. If Ubik Corporation raises a substantial and material question of fact, a hearing may be required in order 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 station is filed by the date referred to above, Ubik Corporation will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modification ultimately is found to be in the public interest.

7. 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:

Ubik Corporation
3700 Woodland Drive
Suite 700
Anchorage, AK 99517
(Licensee of Station KNIK-FM)

8. Comments, reply comments, 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

² The coordinates for Channel 286C1 at Anchorage, Alaska are 61-11-33 NL and 149-54-01 WL.

filing pertains. 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 in paragraph 2 of the Appendix before a channel will be allotted.

9. All interested parties may file comments on or before April 2, 2001, and reply comments on or before April 17, 2001, and are advised to read the Appendix for the proper procedure. Comments should be filed with the Secretary, Federal Communications Commission, Washington, DC 20554. Additionally, a copy of any filing should be served on the petitioner, or its counsel or consultant, as follows:

David Tillotson
4606 Charleston Terrace, N.W.
Washington, DC 20007
(Counsel to petitioner)

10. 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).

11. For further information concerning a proceeding listed above, contact Victoria M. McCauley at (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 in the applicable docket 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 any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket 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 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 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 Office of 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.