

**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. 01-121
FM Broadcast Stations.)	RM-10125
(Manning and Moncks Corner, South Carolina))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: January 23, 2002

Released: February 1, 2002

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a *Notice of Proposed Rule Making*¹ issued at the request of Cumulus Licensing Corp. (“Cumulus”), licensee of Station WHLZ (FM), Manning, South Carolina, proposing the reallocation of Channel 223C from Manning to Moncks Corner, South Carolina, and modification of the license of Station WHLZ to reflect the change of community. Cumulus filed comments reiterating its interest in the change of community and its successor in interest, Apex Communications² filed reply comments further stating its support for the reallocation and intention to file the necessary applications to effectuate the change of community.

2. In support of its petition, Cumulus stated that the community of Moncks Corner is incorporated and has a 1990 U.S. Census population of 5,607 persons. Since Moncks Corner currently has an AM Daytime-only station, Cumulus notes that this reallocation would provide the community with its first full-time station and first FM station.

3. In response to the *Notice*, Cumulus states in its comments that Moncks Corner is a community for allotment purposes. It is governed by a mayor and town council, which have offices in the town hall. It has its own police and fire departments and a post office. It is the county seat of Berkeley County, and the county government offices are located there. In addition, the Ninth Circuit Court for the State of South Carolina and the Berkeley County Court are located there. The Berkeley County Library and the Berkeley Museum are there. It has four elementary schools, two middle schools, and one high school. It has more than a dozen churches, including the First Baptist Church, Seventh Day Adventist Church and the Mepkin Abbey, as well as other religious establishments. In addition, the Roper Berkeley Day Hospital and Moncks Corner Medical Center are located in the community. Finally, there are many banks, financial institutions, hotels, motels, restaurants, and numerous retail establishments in the community.

4. We agree that the change of community will serve the public interest. Moncks Corner is

¹ 16 FCC Rcd 12000 (2001).

² See File No. BALH-20010730AB, granted on October 17, 2001, and consummated on October 31, 2001.

clearly a community for allotment purposes. We believe that this reallocation will result in a preferential arrangement of allotments because Moncks Corner is the larger community and will receive its first full-time transmission service, whereas Manning will still be served by its existing full-time AM station. Therefore, just as in our *Report and Order* in MM Docket No. 98-176 (Killeen and Cedar Park, Texas)³ we will allow this station to change its community of license even though there is a pre-existing short-spacing. In this case, Station WHLZ(FM) is a fully spaced station with respect to all stations except for Station WMYB(FM), Myrtle Beach, South Carolina. However, Station WMYB(FM), has been authorized to operate on a short-spaced basis with regard to Station WHLZ(FM) pursuant to Section 73.215 of our rules and provides contour protection to Station WHLZ(FM) as if it were a fully spaced station. As we stated in Killeen and Cedar Park, this licensee will be afforded the same opportunity to reallocate its channel as other stations in similar circumstances because Station WHLZ(FM) did not create the short spacing, and the change results in a preferential arrangement of allotments. In addition, no technical change is proposed by Station WHLZ(FM), no new short-spacings are created, and no existing short-spacings exacerbated.⁴

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective March 18, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Manning, South Carolina	-----
Moncks Corner, South Carolina	223C

6. Channel 223C can be allotted at Cumulus's existing site 37.7 kilometers (23.4 miles) north of the community.⁵ Since there is no change of transmitter site, there are no population gains or losses from this reallocation. Both communities are well served with well over five reception services each.

7. IT IS FURTHER ORDERED That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Apex Communications, for Station WHLZ(FM) IS MODIFIED to specify operation on Channel 223C at Moncks Corner, South Carolina, subject to the following conditions:

- A. Within 90 days of the effective date of the *Order*, the licensee of Station WHLZ(FM) 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; and

³ 15 FCC Rcd 1945 (2000); *see also Report and Order* in MM Docket No. 99-240 (Albemarle and Indian Trail, NC), 16 FCC Rcd 13876 (2001); *Report and Order* in MM Docket No. 99-330 (Kankakee and Park Forest, Illinois), 16 FCC Rcd 6768 (2001).

⁴ 15 FCC Rcd at 1949.

⁵ Coordinates for Channel 223C at Moncks Corner are 33-32-05 NL and 79-59-15 WL.

- 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 Sections 1.1404(1)(k) and (3)(m), any party seeking a change in community of license of a TV or FM allotment or an upgrade of an existing 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, Apex Communications, licensee of Station WHLZ(FM), is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license.

9. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

10. For further information regarding this proceeding, contact Victoria McCauley (202) 418-2180. For questions regarding the application filing process, contact the Audio Services Division, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

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