

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

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 01-249
Table of Allotments,) RM-10272
FM Broadcast Stations.)
(Telluride and Norwood, Colorado))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 30, 2002

Released: February 8, 2002

By the Chief, Allocations Branch:

1. The Commission considers herein the Notice of Proposed Rule Making (“Notice”), 16 FCC Rcd 16937 (2001), issued in response to a petition filed on behalf of Rocky II Investments, Inc. (“petitioner”), licensee of Station KRYD, Channel 285C1, Telluride, Colorado, proposing the reallocation of Channel 285C1 to Norwood, Colorado, as that incorporated community’s first local aural transmission service, and modification of its license accordingly. Petitioner filed supporting comments in response to the Notice. No other comments were received.

2. As stated in the Notice, petitioner’s proposal, filed pursuant to the provisions of Section 1.420(i) of the Commission’s Rules, would reallocate Channel 285C1 from Telluride (pop. 1,309),¹ to Norwood (pop. 438).² The Notice advised that petitioner’s requested reallocation, which is mutually exclusive with its existing authorization at Telluride,³ would enable it to provide a first local aural transmission service to Norwood, and would not leave Telluride devoid of local broadcast service.⁴

3. The Notice also advised that Station KRYD was authorized pursuant to Section 73.215 of the Commission’s Rules. In recognition of the Commission’s policy against the use of contour protection at the allotment level, petitioner provided an alternate, fully-spaced allotment reference site, located 0.4 km (0.2 mi.) southeast of its current location, for proposed Channel 285C1 at Norwood, which complies with the technical requirements of the Commission’s Rules. See Princeton and Elk

¹ Population figures given herein were taken from the 1990 U.S. Census Reports.

² See 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).

³The distance between the petitioner’s authorized transmitter site for Station KRYD at Telluride at coordinates 37-59-57 NL and 107-57-42 WL, and its specified transmitter site at Norwood at coordinates 38-00-05 NL and 107-57-53 WL is 0.4 kilometers, whereas a minimum distance of 245 kilometers is required in this instance.

⁴ Station KOTO, Channel 219C3 is licensed at Telluride.

River, Minnesota, 13 FCC Rcd 22806 (1998). Further, the Notice advised that due to terrain conditions in that area of Colorado, petitioner reported that locating Channel 285C1 in Norwood proper would not provide maximum service of a C1 facility due to the necessity for an extremely tall tower at that location.⁵

4. In light of the above, we believe that the public interest would be served by reallocating Channel 285C1 from Telluride to Norwood, Colorado, as it would result in a preferential arrangement of allotments consistent with the Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).⁶ In making our comparison the first two allotment priorities are not applicable as no white or gray areas are involved.⁷ Rather, Norwood will be provided with its first local aural transmission service (priority (3)), and is favored over retaining Channel 285C1 at Telluride, which will continue to receive local transmission service (priority (4)). As the reallocation request specifies only a minor change in Station KRYD's transmitter site, the predicted 60 dBu contour will not change significantly, and only a negligible population gain and loss will result from the reallocation. In consideration of the foregoing, and in accordance with the provision of Section 1.420(i) of the Commission's Rules, we will modify the license of Station KRYD to specify Norwood, Colorado, as its community of license.

6. Channel 285C1 can be allotted to Norwood, in conformity with the minimum distance separation requirements set forth in Section 73.207(b)(1) of the Commission's Rules, at the petitioner's specified allotment reference site located 32.1 kilometers (19.9 miles) southeast of the community at coordinates 38-00-05 NL and 107-57-53 WL.

7. Accordingly, pursuant to the authority contained 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 March 25, 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>City</u>	<u>Channel No.</u>
Norwood, Colorado	285C1
Telluride, Colorado	--

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Rocky III Investments, Inc. (File No. BLH-20000919ABX)

⁵ However, as stated in the Notice, if the reallocation proposal is granted, petitioner intends to apply for Channel 285C1 at Norwood specifying the existing site for Station KRYD.

⁶ 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 is afforded priorities (2) and (3).]

⁷ For FM allotment purposes, a white area is a geographical area that is not served by any full-time aural service and a gray area is one that is served by only one full-time aural service.

for Station KRYD, IS MODIFIED to specify operation on Channel 285C1 at Norwood, Colorado, in lieu of Telluride, Colorado, subject to the following conditions:

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

9. Pursuant to Commission Rule Section 1.1104(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, Rocky III Investments, Inc., licensee of Station KRYD, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license at Norwood, Colorado.

10. IT IS FURTHER ORDERED, That the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Rocky III Investments, Inc.
c/o KKCO-TV
2325 Interstate Avenue
Grand Junction, CO 81505

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

12. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180

FEDERAL COMMUNICATIONS COMMISSION

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