

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 03-47
Table of Allotments,)	RM-10592
FM Broadcast Stations.)	
(Orange, Midlothian, and South Hill,)	
Virginia, and Reidsville, North Carolina))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: July 1, 2003

Released: July 3, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division issued a *Notice of Proposed Rulemaking* in response to a petition filed by Petition for Rule Making filed by Piedmont Communications, Inc. (“Piedmont”), licensee of Station WJMA-FM, Orange, Virginia, and Old Belt Broadcasting Corporation (“Old Belt”), licensee of Station WSKS-FM, South Hill, Virginia (together, “Joint Petitioners”).¹ Joint Petitioners’ request was filed pursuant to the provisions of Section 1.420(i) of the Commission’s Rules, which permits the modification of a station’s authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² The *Notice* proposed to change the community of license for Station WJMA-FM from Orange to Midlothian, Virginia. The *Notice* further proposed to change the corresponding channel allotment from Channel 255A to Channel 255B1. In order to permit the allotment of Channel 255B1 at Midlothian, the *Notice* proposed to substitute Channel 270A for Channel 255C3 at South Hill, Virginia, and to modify the license for Station WSKS-FM to specify operation on Channel 270A. Finally, to accommodate these changes, the *Notice* proposed to substitute Channel 271C0 for Channel 271C, Station WJMH-FM, Reidsville, North Carolina.³ Joint Petitioners represent that if their requests are granted, they will file applications for Channel 255B1 at Midlothian and Channel 270A at South Hill, and will construct their respective facilities if their applications are granted. Joint Petitioners filed

¹ *Orange, Midlothian, et. al.*, 18 FCC Rec. 2406 (M.Bur. 2003).

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).

³ An “Order to Show Cause” addressing this reclassification was issued on October 25, 2002, to Entercom Greensboro License, LLC (“Entercom”), the licensee of Station WJMH-FM, currently operating on Channel 271C at Reidsville. 17 FCC Rec. 21,180 (M.Bur. 2002). Entercom filed by letter a statement of its consent to the proposed reclassification. There is neither gain nor loss in service associated with the downgrade of Station WJMH-FM from Channel 271C to Channel 271C0. We therefore are amending the FM Table of Allotments to reflect a Channel 271C0 allotment at Reidsville.

comments supporting the changes proposed in the *Notice*. No other comments were received in response to the *Notice*.

2. Although Midlothian, Virginia, is not listed in the United States Census 2000, Joint Petitioners have established that Midlothian is a community for purposes of our FM allotment policies. In support of their proposal, Joint Petitioners stated that Midlothian has a population of 12,100 and is one of the fastest growing communities in Virginia. Joint Petitioners stated that county governmental officials in Chesterfield County, where Midlothian is located, project the population of Midlothian to be 16,700 by 2008. Midlothian has three ZIP codes (23112, 23113, and 23114) and three post offices. Joint Petitioners stated that Midlothian has a library, its own school system, a community college, several churches, numerous medical and dental clinics and practices, a volunteer fire department, and 753 businesses, including branch offices of several financial institutions.

3. Neither Orange nor Midlothian is located in an urbanized area. The existing 70 dBu signal for Station WJMA-FM at Orange does not cover any Urbanized Area, and the proposed 70 dBu contour of Station WJMA-FM at Midlothian will cover less than 50 percent of the Richmond Urbanized Area. Under the circumstances, no *Tuck* analysis is necessary to evaluate this change of community proposal.⁴

4. No white or gray areas (priorities one and two under the Commission's allotment priorities⁵) would result from adoption of the proposals advanced in this proceeding. If Channel 255B1 is reallocated to Midlothian as requested, Orange will continue to receive local service from AM Station WVCV, which is licensed to Orange, Virginia. Retention of Channel 255A at Orange thus would constitute only a priority level four, while allotment of Channel 255B1 as a first local service at Midlothian satisfies the standard for priority level three. Upgrade of Channel 255A to 255B1 and reallocation of Channel 255B1 at Midlothian therefore will result in a preferential arrangement of allotments, and will create a net gain of 2,286.8 square kilometers and 729,525 persons.⁶

5. Although the downgrade at South Hill will result in an overall diminution of service to the areas surrounding South Hill, most of the loss areas will continue to be well-served. The substitution of Channel 270A for Channel 255C3 at South Hill, Virginia, Station WSKS-FM, will create a net loss of 2,285.7 square kilometers and 39,412 persons. In the loss areas, the downgrade will remove a fourth service from an unpopulated area of 23.3 square kilometers, and will remove a fifth service from an area of 224.4 square kilometers with a population of 4,087 persons. The remaining loss area, consisting of

⁴ See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988), and *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10,352 (1995).

⁵ *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983).

⁶ In the loss area, the change of community will leave 2,470 persons in 135 square kilometers receiving two services, 10,720 persons in 77 square kilometers receiving three services, and 19,189 persons in 541 square kilometers receiving four services. In the gain area, the proposal will provide a fifth service to 252 persons in 56 square kilometers.

2,038 square kilometers containing 35,325 persons, will continue to be well-served by five or more aural broadcast services. Moreover, the interrelated components of the proposal in this proceeding, viewed as a whole, will produce a net gain of 690,113 persons.⁷ For all of the foregoing reasons, we conclude that the public interest would be served by upgrading Channel 255A to Channel 255B1 and reallocating Channel 255B1 at Midlothian, Virginia, and, correspondingly, by substituting Channel 270A for Channel 255C3 at South Hill, Virginia, and Channel 271C0 for Channel 271C at Reidsville, North Carolina.

6. Channel 255B1 can be allotted to Midlothian in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 12.7 kilometers (7.9 miles) northwest of Midlothian at coordinates 37-30-21 NL and 77-38-58 WL. Channel 270A can be substituted for Channel 255C3 at South Hill, Virginia, with a site restriction of 12.4 km (7.7 miles) northwest of South Hill at coordinates of 36-43-35 NL and 78-07-45 WL. Finally, Channel 271C can be downgraded to Channel 271C0 at Reidsville, North Carolina, at the existing licensed coordinates for Station WJMH-FM.

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), 0.283, and 1.420(i) of the Commission's Rules, IT IS ORDERED, That effective August 18, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED by removing Orange, Virginia, Channel 255A, and

8. IT IS FURTHER ORDERED, That effective August 18, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED as follows:

Community	Channel Number
Reidsville, North Carolina	271C0
Midlothian, Virginia	255B1
South Hill, Virginia	255A

9. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Piedmont Communications, Inc., for Station WJMA-FM, IS MODIFIED to specify operation on Channel 255B1 at Midlothian, Virginia, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in license BLH19880509KA, except the changes specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH19880509KA, except

⁷ The net effect on the total area served is negligible – approximately one square kilometer gain.

for the community and channel class as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

(c) Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(l), 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, Piedmont Communications, Inc., licensee of Station WJMA-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

10. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Old Belt Broadcasting Corporation for Station WKSK-FM, South Hill, Virginia, IS MODIFIED to specify operation on Channel 270A at South Hill, Virginia, subject to the conditions that:

(a) Nothing contained herein shall be construed as authorizing any change in license BLH19950119KC, except the change specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH19950119KC, except for the channel as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

11. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Entercom Greensboro License, LLC for Station WJMH-FM, Reidsville, North Carolina, IS MODIFIED to specify operation on Channel 271C0 at Reidsville, North Carolina, subject to the condition that nothing contained herein shall be construed as authorizing any change in license BLH19900412KB except the change specified above, and

12. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

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

14. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau,
(202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau