

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	
FM Broadcast Stations.)	MB Docket No. 02-199
(Magnolia, Arkansas and Oil City,)	RM-10514
Louisiana))	
)	

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 2004

Released: January 30, 2004

By the Assistant Chief, Audio Division:

1. Before the Audio Division is a Petition for Reconsideration and Motion for Stay of the *Report and Order*¹ in this proceeding, filed by Access.1 Communications-Shreveport, LLC ("Access.1"). Columbia Broadcasting Company, Inc. ("Columbia"), licensee of Station KVMA-FM, Magnolia, Arkansas, filed an opposition to both pleadings and Access.1 filed a response. After the pleading cycle ended, various other pleadings were filed.²

2. **Background.** The *Report and Order* substituted Channel 300C2 for 300C1 at Magnolia, Arkansas, reallocated Channel 300C2 from Magnolia to Oil City, Louisiana, as the community's first local transmission service, and modified Station KVMA's authorization to specify Oil City as the community of license. It addressed opposition comments filed by Access.1 and concluded that contrary to those arguments, the reallocation would serve the public interest. The *Report and Order* held that this proposal would result in a preferential arrangement of allotments because Oil City would gain a first local aural transmission service and Magnolia would not be left unserved, as argued by Access.1, because daytime-only Station KVMA(AM) would continue to serve Magnolia.³ The *Report and Order* also found that the reallocation would result in a net gain of over 100,000 listeners residing within the station's 60 dBu contour. Although the relocation would result in approximately 2,000 persons losing a fifth service, the *Report and Order* concluded that this loss area is relatively minor. It rejected Access.1's claim that the loss involves

¹ *Magnolia, Arkansas and Oil City, Louisiana*, 18 FCC Rcd 8542 (2003) ("*Report and Order*").

² Access.1 submitted two Supplements to its Petition for Reconsideration. The first was filed on September 23, 2003, and the second on January 28, 2004. The second challenges, for the first time, Columbia's *Tuck* showing, filed on July 29, 2003. Access.1 requested leave to file the first Supplement, but not the second. The second Supplement is not authorized under Section 1.429(d) and has not been accepted. In any event, we have determined that the second Supplement contains no new information of decisional significance.

³ AM daytime-only stations are considered to be local aural transmission service under the FM Allotment priorities. See *Grants, Milan and Shiprock, New Mexico*, 16 FCC Rcd 20323 (2001).

gray area.⁴

3. The *Report and Order* also held that this reallocation did not constitute a move-in to an urbanized area, which Access.1 alleged. Oil City is not listed in the Shreveport Urbanized Area in the 2000 U.S. Census, and Station KVMA-FM's city-grade signal from the proposed reference coordinates at Oil City would only cover 0.3 percent of the Urbanized Area, well below the 50 percent coverage that would trigger our consideration of the community's independence of the larger community based on the factors delineated in *Faye and Richard Tuck* ("Tuck").⁵ The *Report and Order* rejected as speculative Access.1's argument that the parties intended to relocate into the urbanized area.

4. **Petition for Reconsideration.** In its Petition for Reconsideration, Access.1 raises the identical arguments that it raised in its comments.⁶ We will not reconsider the issues regarding first local service or number of remaining services at Magnolia. They were addressed fully in the *Report and Order* and no error or change of circumstance has been alleged that would warrant reconsideration.⁷

5. We will, however, address the issue of whether this should be treated as a move-in into the Shreveport Urbanized Area because of changed circumstances.⁸ Columbia has filed an application to effectuate its reallocation from Magnolia to Oil City at a site other than the reference site in the *Report and Order*. In addition, our analysis shows that from the application site, Station KVMA-FM would be able to cover all of the Shreveport Urbanized Area with a 70 dBu signal.⁹ Columbia argues that consideration of this issue is premature and speculative.¹⁰ We disagree. The filing of the application warrants our reconsideration of this issue at this juncture. In its responsive pleading, Columbia has also filed a showing to demonstrate that Oil City is independent of the Shreveport Urbanized Area. We will consider this showing pursuant to *Tuck*.

⁴ Gray area is an area in which listeners are able to receive reception service from only one station.

⁵ See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988); *Headland, Alabama, and Chatahoochee, Florida*, 10 FCC Rcd 10352 (Allocations Br. 1995).

⁶ Access.1 also requests that the Commission institute a procedure requiring a petitioner for a change of community of license specifying a community outside of an urbanized area to certify it will not relocate its site to serve the urbanized area. We decline to address this issue in this adjudicatory proceeding. This request should be submitted to the Commission as a petition for rulemaking.

⁷ See 47 C.F.R. §1.429.

⁸ *Id.*

⁹ We note that the application filed by Columbia to implement the change of community specifies a site that is 46 kilometers away from the original reference coordinates allotted in the *Report and Order* (See File No. BPH-20030610 ADI). This *Order* has no bearing on the processing of that application.

¹⁰ At the time it filed its comments on July 29, 2003, Columbia had already filed its amendment proposing its site 46 kilometers from the community (amendment filed on July 17, 2003). In these circumstances, we reject, as frivolous, Columbia's characterization of the issue of urbanized area coverage as "speculative and untimely." Notwithstanding this characterization, Columbia submitted a *Tuck* showing on reconsideration.

6. According to Columbia's showing, 22 percent of Oil City's working population (84 of 388 persons) work in the community (Factor 1). There are no local Oil City newspapers, but *The Inquisitor* is published in Caddo Parish, of which Oil City is a part. *Caddo Citizen* is published in the neighboring community of Vivian. Both of these daily papers include local advertising and information of interest to Oil City (Factor 2). The community has a distinct history and was incorporated in 1945. It has annual events, the Caddo-Pine Island Oil and Historical Museum, as well as the proposed Louisiana State Oil and Gas Museum, and Ferry Lake No. 1, the "First Over-Water Oil Well" (Factor 3). Oil City has an elected mayor and five-member district council who work part-time and serve four-year terms (Factor 4). The community has its own zip code and post office (Factor 5). There are numerous businesses, including several oil and gas companies, stores, deli, bank, churches and private airport, many of which identify themselves with the name Oil City. However, there are no medical facilities or mass transportation system (Factor 6). Oil City is part of the Shreveport advertising market, but advertisers also have other local marketing outlets including *The Inquisitor* and the *Caddo Citizen* (Factor 7). Oil City has its own housing authority, zoning board, sewer services, business permit and licensing services, library and public elementary school, but not a middle school or high school. It has a town clerk, attorney and police department. Oil City also houses Caddo Fire District 7 of the Caddo Parish volunteer fire department which offers fire and EMS protection, and the community has its own sheriff substation. (Factor 8).

7. Columbia's showing demonstrates that Oil City (2000 U.S. Census population 1,219 persons) is an independent community from the Shreveport Urbanized Area (2000 U.S. Census population 275,213 persons). The community is 37.8 kilometers (23.5 miles) from Shreveport and is outside the Shreveport Urbanized Area as defined by the 2000 U.S. Census. While the number of persons working in the community is small, it is substantial enough to establish that Oil City has its own employment opportunities. The community has no local newspaper or telephone book, but there are alternate local papers other than the Shreveport paper to serve the local needs. Columbia did not include any affidavits or statements of local citizens regarding their perception of the community, but the community is incorporated and it does appear to have a distinct identity based on local history. There is an independent local government and municipal services. The existence of a zip code and post office are additional factors in favor of independence. The community is not entirely dependent on Shreveport for jobs. It has businesses which provide jobs for local citizens. The community is not within the Shreveport public transportation system, either. However, Oil City has no local medical service and thus citizens must go to surrounding cities or Shreveport for this service. Other than the small newspapers, the community appears to be within the Shreveport media advertising market. A community need not meet all of the factors, but can be deemed independent if it meets a majority of the factors.¹¹ We find that Oil City meets a majority of the *Tuck* factors and therefore we can determine that it deserves a first local service under the FM Allotment priorities.

8. Accordingly, the Petition for Reconsideration and Motion for Stay filed by Access.1 Communications-Shreveport, LLC IS DENIED.

9. IT IS ORDERED, That the Secretary of the Commission shall send by Certified

¹¹ See *Tuck* 3 FCC Rcd at 5378.

Mail Return Receipt Requested, a copy of this *Order* to the following:

Mark N. Lipp, Esq.
J. Thomas Nolan, Esq.
Vinson & Elkins, LLP
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(Counsel to Columbia Broadcasting
Company, Inc.)

James L. Winston, Esq.
Steven J. Stone, Esq.
Rubin, Winston, Diercks,
Harris & Cooke, LLP
1155 Connecticut Avenue, N.W.
Washington, D.C. 20036
(Counsel to Access.1
Communications-Shreveport, LLC)

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

11. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau