

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 01-218
Table of Allotments,)	RM-10237
FM Broadcast Stations.)	
(Mangum and Erick, Oklahoma))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 2, 2004

Released: April 5, 2004

By the Assistant Chief, Audio Division:

1. In response to a petition filed by Jeraldine Anderson (“Petitioner”), the Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*¹ proposing the allotment of Channel 259C2 at Mangum, Oklahoma, as the community’s second local FM transmission service. Petitioner filed comments supporting the allotment of Channel 259C2 at Mangum, Oklahoma.

2. Erick Broadcasting Company (“EBC”) filed comments and a counterproposal proposing the allotment of Channel 259C2 at Erick, Oklahoma, rather than at Mangum, Oklahoma. In its counterproposal, EBC states that the city of Erick is an incorporated community with a 2000 U.S. Census population of 1,023 persons. Erick has its own volunteer fire department, police department, post office, and local public library. It also has its own grade school, high school, and eight local churches. Erick has numerous businesses and commercial establishments, including several that incorporate “Erick” within their business names. Erick is served by a local gas company and electric utility company, both of which are located within the community of Erick.

3. EBC points out that the allotment of Channel 259C2 to Erick would provide the community with its first local transmission service, whereas the community of Mangum has an existing allotment for Channel 249A. In addition, EBC represents that the proposed new FM station at Erick would provide a 60 dBu signal to the entire community of Mangum as well as the immediately surrounding area. EBC argues, therefore, that the allotment of Channel 259C2 to Erick, rather than Mangum, would better serve the public interest because it would both provide a first local transmission service to Erick as well as provide a new FM service to Mangum. EBC states that, in the event that Channel 259C2 is allotted to Erick, Oklahoma, EBC will file an application for a construction permit for the new station, and, if its application is granted, will promptly construct and operate the new facility.

¹ *Hollis, Oklahoma, Mangum, Oklahoma, Rule, Texas, and Santa Anna, Texas*, 16 FCC Rcd 15,995 (MM 2001).

4. In resolving conflicts between mutually exclusive FM allotments, we normally rely on the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.² After careful review of the entire record in this proceeding, we conclude that Channel 259C2 should be allotted to Erick, Oklahoma, rather than Mangum, Oklahoma. As EBC correctly points out, allotment of the channel at Mangum would satisfy only the fourth allotment priority, other public interest matters, whereas allotment at Erick would satisfy the third allotment priority, first local service. Erick is a community for allotment purposes, deserving of a local FM transmission service. Under the circumstances, the public interest would be served by allotting Channel 259C2 to Erick, Oklahoma. Channel 259C2 can be allotted to Erick in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 15.9 kilometers (9.9 miles) south of Erick at coordinates 35-04-01 NL and 99-52-52 WL for the above channel.

5. A filing window for Channel 259C2 at Erick, Oklahoma, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

6. Accordingly, IT IS ORDERED, 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, That effective May 20, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Erick, Oklahoma	259C2

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

8. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202)418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

² 90 F.C.C. 2d 88 (1982). The FM allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Equal weight is given to priorities (2) and (3).