

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Port Norris, New Jersey, Fruitland, Princess)	MM Docket No. 04-409
Anne, Willard, Maryland, Chester, Lakeside, and)	RM-11108
Warsaw, Virginia) ¹)	RM-11233

ORDER TO SHOW CAUSE

Adopted: June 8, 2005

Released: June 10, 2005

Comment Date: July 25, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a counterproposal filed by CXR Holdings, Inc. (“CXR”), licensee of Station WDYL(FM), Chester, Virginia, requesting the substitution of Channel 265B1 for Channel 266A at a new transmitter site, reallocate Channel 265B1 from Chester to Lakeside, Virginia as the community’s first local aural service, and modify Station WDYL’s license to reflect the changes. This counterproposal was timely filed following the release of the *Notice of Proposed Rule Making* (“*Notice*”) in this proceeding.² To accommodate the allotment of Channel 265B1 at Lakeside, CXR proposes the substitution of Channel 298A for Channel 265A at Warsaw, Virginia, and the modification of Station WNNT-FM’s license to reflect the channel substitution. No agreement has been submitted between CXR and Northern Neck and Tidewater Communications, Inc. (“Northern Neck”), licensee of Station WNNT-FM, Warsaw, Virginia. The modification at Warsaw requires the substitution of Channel 299B1 for Channel 298A at Fruitland, Maryland at a new transmitter site, the reallocation of Channel 299B1 from Fruitland to Willards, Maryland, and the modification of the license of Station WKHI(FM) to reflect the changes. Great Scott Broadcasting, licensee of Station WKHI, has consented to these changes. In order to prevent the loss of the sole local service at Fruitland, Station WOLC(FM) has consented to the reallocation of its channel, Channel 273B, from Princess Anne, Maryland, to Fruitland at its current transmitter site. CXR has pledged to reimburse all parties for their expenses in changing channels and transmitter sites. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Northern Neck, licensee of Station WNNT-FM, Warsaw, Virginia.

2. In order to proceed with our analysis, we must first issue this *Order to Show Cause* directed to Northern Neck, licensee of Station WNNT-FM, Warsaw, Virginia, to show cause why its Station WNNT-FM license should not be modified to specify operation on Channel 298A in lieu of Channel 265A at Warsaw. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify the license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected station of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission’s

¹ Fruitland, Princess Anne, and Willard, Maryland, Chester, Lakeside, Warsaw, Virginia have been added to the caption. See *Public Notice*, Report No. 2704, released April 22, 2005.

² See *Port Norris, New Jersey*, 19 FCC Rcd 22010 (MB 2004).

Rules.³ The substitution of Channel 298A for Channel 265A at Warsaw, would accommodate the proposed allotment of Channel 265B1 at Lakeside. We consider this allotment at Lakeside to have sufficient public interest benefits to justify the issuance of a show cause order since it could provide that community with its first local aural transmission service.

3. The license of Station WNNT-FM at Warsaw, Virginia can be modified to specify operation on Channel 298A at its current authorized transmitter site.⁴ The CXR has agreed to reimburse Northern Neck for the reasonable costs incurred in connection with the proposed change of Station WNNT-FM's channel.

4. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communication Act of 1934, as amended, Northern Neck and Tidewater Communications, Inc., licensee of Station WNNT-FM, Warsaw, Virginia, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 298A in lieu of Channel 265A.

5. Pursuant to Section 1.87 of the Commission's Rules, Northern Neck and Tidewater Communications, Inc. may, no later than July 25, 2005, file a written statement showing with particularity why its construction permit should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises any substantial and material questions of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this *Order to Show Cause* and a final Order will be issued if the modification is found to be in the public interest.

6. IT IS FURTHER ORDERED, that a copy of this *Order to Show Cause* shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Northern Neck & Tidewater Communications, Inc.
P.O. Box 877
Warsaw, Virginia 22572

Mark J. Prak, Esq.
Brooks, Pierce, McLendon, Humphrey
& Leonard, LLP
P.O. Box 1800
Raleigh, North Carolina 27602

7. For further information concerning this proceeding, contact Victoria McCauley, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

³ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

⁴ The site coordinates for Channel 298A at Warsaw, Virginia are 37-56-39 NL and 76-45-05 WL.