

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

In the Matter of )
)
Amendment of Section 73.202(b), )
Table of Allotments, ) MM Docket No. 00-9
FM Broadcast Stations. ) RM-9256
(Beaumont and Dayton, Texas) )
)
)
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 17, 2005

Released: August 19, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) a Notice of Proposed Rule Making issued at the request of KXTJ License, Inc. ("KXTJ"); (2) Comments filed by KXTJ; (3) Comments filed by ComCorp of Lafayette License Corp.; and (4) a Withdrawal of Expression of Interest and Request for Dismissal of Rule Making, filed by Liberman Broadcasting of Houston License Corp. ("Liberman"), successor in interest to KXTJ.

2. The NPRM proposed the reallocation and change of community of license for Station KQQK (FM) (formerly KXTJ(FM)), Channel 300C, from Beaumont to Dayton, Texas, pursuant to Section 1.420(i) of the Commission's Rules. After the pleading cycle ended, Liberman acquired Station KQQK(FM)

3. Liberman withdraws the rulemaking petition submitted by its predecessor in interest, KXTJ, seeking reallocation of Station KQQK(FM) from Beaumont to Dayton and the expression of interest in applying for the Dayton allotment. Liberman requests that the Commission dismiss the underlying petition for rulemaking and terminate the proceeding. Liberman also submits a Declaration from one of its principals, stating that there is no agreement, written or oral, with any entity regarding the instant withdrawal and request for dismissal and that neither Liberman nor any of its principals has received or will receive any money or other consideration for the dismissal.

4. We approve Liberman's withdrawal of the rulemaking petition in this proceeding and the expression of interest in Channel 300C at Dayton. The withdrawal of the rulemaking petition and the expression of interest comply with Section 1.420(j) of the Commission's rules because neither Liberman

1 Beaumont and Dayton, TX, 15 FCC Rcd 777 (MMB 2000) ("NPRM").

2 This rule permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.

3 See BALH-20020426AAI, granted July 9, 2002, and consummated on October 11, 2002.

4 RM-9526.

nor any of its principals is receiving any money or other consideration in return for the withdrawal.

5. As stated in the Appendix to the *NPRM*, a continuing interest is required before a channel will be allotted. Because the rulemaking petition and expression of interest in the proposed allotment at Dayton have been withdrawn, no allotment at Dayton or change of community of license will be made.

6. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this *Report and Order* to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. Section 801(a)(1)(A) because the proposed rule is dismissed herein.)

7. Accordingly, IT IS ORDERED, That this rulemaking proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Andrew J. Rhodes, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
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Audio Division  
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