

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.
(Charlotte and Grand Ledge, Michigan)
MB Docket No. 03-222
RM-10812

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 the Notice of Proposed Rule Making ("Notice") issued in response to a Petition for Rule Making filed on behalf of Rubber City Radio Group ("Petitioner"), licensee of Station WQTX(FM) ("WQTX"), Charlotte, Michigan. Petitioner seeks to substitute Channel 225A for Channel 224A at Station WQTX, to reallocate Channel 225A from Charlotte, to Grand Ledge, Michigan and to modify the license of Station WQTX accordingly. Petitioner filed Comments in which it reiterates its intent to effectuate its proposal. For the reasons stated below, we grant Petitioner's requests to substitute Channel 225A for Channel 224A, to reallocate Channel 225A from Charlotte, Michigan, to Grand Ledge, Michigan and to modify the Station WQTX license.

2. In a separate proceeding in MB Docket No. 05-35, we reallocated Channel 291B from Jackson to Charlotte, Michigan, and modified the license of Station WJXQ to specify Charlotte as the community of license. This reallocation of Channel 291B will facilitate the resolution of two related proposals now before the Commission. In the present docket, MB Docket No. 03-222, Petitioner has proposed to modify the license of Station WQTX, Channel 224A, Charlotte, Michigan, by specifying operation on Channel 225A and by changing Station WQTX's community of license from Charlotte to Grand Ledge, Michigan, thus providing Grand Ledge with its first local aural transmission service. In a related context, Christian

1 Charlotte and Grand Ledge, Michigan, 18 FCC Rcd 21867 (MB 2003).

2 Christian Broadcasting System, Ltd. ("Christian Broadcasting"), licensee of Station WLCM(AM), Charlotte, Michigan, and Petitioner filed several pleadings concerning Christian Broadcasting's desire to move its station to Holt, Michigan. If Christian Broadcasting moved its AM station to Holt and Petitioner moved its station to Grand Ledge, Charlotte would be without any local radio transmission service. This problem and the pleadings dealing with this problem were rendered moot by the Commission's action in Jackson and Charlotte, Michigan, 20 FCC Rcd 9719 (MB 2005), which allowed Petitioner to move its Channel 291B from Jackson, Michigan to Charlotte, Michigan, thus assuring that Charlotte would retain a local transmission service.

3 Jackson and Charlotte, Michigan, 20 FCC Rcd 9719 (MB 2005).

4 The FM allotment priorities are listed in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). The allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first

Broadcasting, licensee of AM Station WLCM, Charlotte, has filed an application to change its community of license from Charlotte to Holt, Michigan (File No. BMJP-20050114ADQ), which would provide Holt (2000 U.S. Census population 11,315 persons) with its first local service. Favorable action on both of these proposals would have resulted in the removal of local radio service from Charlotte. Our actions in MB Docket No. 05-35, and in this docket will ensure the continuation of local service at Charlotte.

3. Petitioner made the reallocation request in this docket pursuant to Section 1.420(i) of the Commission's rules,<sup>5</sup> which 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.<sup>6</sup> In this instance, the reallocation will allow the establishment of a first local transmission service by Petitioner at Grand Ledge, Michigan (2000 U.S. Census population of 7,813 persons). Provision of first local service falls under priority (3) of the FM priorities and is preferred to the providing of a second local service to Charlotte (2000 U.S. Census of 8,369 persons), which falls under priority (4) of the FM allotment priorities.<sup>7</sup> In light of all the relevant factors in this case, we find that changing the community of license of Station WQTX from Charlotte to Grand Ledge is in the public interest. Further, the allotment of Channel 225A to Grand Ledge would not deprive Charlotte of its sole local transmission outlet, because Charlotte will retain local service from FM Station WJXQ.

4. Since Grand Ledge is partially located with the Lansing, Michigan, Urbanized Area and Petitioner's proposal would place a 70 dBu contour over 82 percent of that urbanized area, Petitioner must demonstrate that Grand Ledge is sufficiently independent of the Lansing Urbanized Area that the Commission could award Grand Ledge a first local service preference under priority (3) of the FM allotment priorities.<sup>8</sup> Under *Tuck*, we examine such proposals by considering three criteria: (1) the signal population coverage, (2) the size and proximity of the proposed community to the central city of the urbanized area, and (3) the interdependence of the proposed community to the urbanized area.<sup>9</sup>

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local service and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

<sup>5</sup> 47 C.F.R. § 1.420(i).

<sup>6</sup> 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).

<sup>7</sup> See footnote 3, *supra*.

<sup>8</sup> See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995) and *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) ("Tuck"). See also *Huntington Broadcasting Co. v. FCC*, 192 F.2d 33 (D.C. Cir. 1951).

<sup>9</sup> In *Tuck*, the Commission set forth eight factors in assessing the independence of a specified community: (1) the extent to which community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own weekly newspaper or other media that cover the community's local needs and interests; (3) whether the community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facility and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection,

The interdependence factor is the most important criteria considered in making an allotment decision involving the proposed reallocation of a station to an urbanized area. With respect to the Lansing Urbanized Area, Grand Ledge is about 15.8 kilometers away from Lansing and Grand Ledge's 2000 U.S. Census population of 7,813 is 6.6 percent of the population of Lansing (2000 U. S. Census of 119,128). These figures are similar to those of other suburban communities granted a first local preference.<sup>10</sup>

5. Under criterion (3), which measures the relative independence of the suburban community (Grand Ledge) from the Lansing Urbanized Area, the evidence submitted pursuant to the eight *Tuck* factors demonstrates Grand Ledge's independence from the Lansing Urbanized Area. With respect to *Tuck* factor 1, the extent to which community residents work in the larger metropolitan area, rather than the specified community, 2000 U.S. Census data indicates that about 20.4 percent of Grand Ledge's employed residents work in Grand Ledge. This percentage is significant and justifies a favorable finding under *Tuck* factor 1.<sup>11</sup> Under *Tuck* factor 2, whether the smaller community has its own weekly newspaper or other media that cover the community's local needs and interests, the Grand Ledge Independent is a weekly newspaper published each Sunday that serves Grand Ledge. Grand Ledge also has its own webpage which contains much community information concerning city services, activities, and job opportunities. Evidence proffered pursuant to *Tuck* factor 3, whether the smaller community's leaders and residents perceive Grand Ledge as being separate from the Lansing Urbanized area, clearly supports a favorable finding for Grand Ledge under this factor. Thus, Grand Ledge was named and received its first post office in 1850 and was incorporated in 1871. Grand Ledge has its own unique identity and history. Under *Tuck* factors 4 and 8, Grand Ledge has its own local government and elected officials and provides many municipal services, including zoning, police, fire, waste water treatment, parks maintenance, trash pickup and a recycling center.

6. Under *Tuck* factor 5, Grand Ledge earns a favorable finding because it has its own zip code. Under *Tuck* factor 6, Grand Ledge has numerous commercial establishments and other facilities, including many businesses that use "Grand Ledge" in their names, as well as medical and dental offices. Thus, Grand Ledge receives a favorable finding under *Tuck* factor 6. Insofar as *Tuck* factor 7 is concerned, Grand Ledge deserves an affirmative finding because Grand Ledge residents may turn to a local weekly newspaper and a Grand Ledge webpage for local advertising and need not depend upon Lansing media. Thus, under all the *Tuck* factors, Grand Ledge deserves favorable findings. In conclusion, the reallocation of Channel 225A from Charlotte to Grand Ledge is not prohibited by *Tuck*. In light of all the relevant factors in this case, we find that changing the community of license of Station WQTX from Charlotte to Grand Ledge is in the public interest.

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schools and libraries. 3 FCC Rcd at 5378. The Commission has considered a community as independent when a majority of these factors demonstrate that the community is distinct from the urbanized area. *See Parker and St. Joe, Florida*, 11 FCC Rcd 1095 (M.M.Bur. 1996).

<sup>10</sup> See, e.g., *Chillicothe and Ashville, Ohio*, 18 FCC Rcd 22410 (MB 2003) (smaller community had less than one percent of the central city's population).

<sup>11</sup> The Commission has found that 16 percent of a community's workforce employed in the community is sufficient to support a favorable finding under *Tuck* factor 1. *See Anniston and Ashland, Alabama, and College Park, Georgia, et al.*, 16 FCC Rcd 3411 (MMB 2001).

7. Consistent with the technical requirements of the Commission's rules, Channel 225A can be allotted to Grand Ledge, Michigan, at Petitioner's specified site, utilizing coordinates of 42-42-17 NL and 84-37-20 WL, with a site restriction of 11.5 kilometers (7.2 miles) southeast of Grand Ledge. The Canadian Government has concurred in this allotment.

8. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

9. Accordingly, pursuant to the authority contained in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective October 3, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Charlotte, Michigan	291B
Grand Ledge, Michigan	225A

10. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by Rubber City Radio Group IS GRANTED.

11. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Rubber City Radio Group for FM Station WQTX, Charlotte, Michigan, IS MODIFIED to specify operation on Channel 225A at Grand Ledge, Michigan, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Program tests in accordance with 47 C.F.R. Section 73.1620 by Station WQTX may not commence prior to the commencement of operations by WJXQ as a Charlotte, Michigan station pursuant to grant of an application implementing MB Docket No. 05-35 to change the community of license of FM Station WJXQ from Jackson to Charlotte, Michigan; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

12. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l), Rubber City Radio Group, licensee of FM Station WQTX, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for FM Station WQTX, Channel 225A, from Charlotte, Michigan to Grand Ledge, Michigan at the time it submits its Form 301 application.

13. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

14. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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