

**Before the
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-152
Table of Allotments,)	RM-11204
FM Broadcast Stations.)	
(Clinton and Mayfield, Kentucky))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 23, 2005

Released: September 26, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* (“*Notice*”)¹ issued in response to a Petition for Rule Making filed by Bristol Broadcasting Company, Inc. (“*Petitioner*”), licensee of Station WLLE(FM) (“*WLLE*”), Channel 271C3, Clinton, Kentucky; Station WQQR(FM) (“*WQQR*”), Channel 234C2, Mayfield, Kentucky; and Station WLIE-FM, Channel 232A, Golconda, Illinois. *Petitioner* filed comments expressing its intent to implement its rulemaking requests. No counterproposals or other comments were filed. For the reasons stated below, we grant *Petitioner*’s rulemaking petition.

2. At the request of *Petitioner*, the *Notice* proposed that Channel 271C3, Station WLLE, be reallocated from Clinton to Mayfield, Kentucky, that Channel 271C3 be upgraded to Channel 271C2, and that Station WLLE’s license be modified accordingly. Since this proposal would remove the sole local aural transmission service from Clinton, the *Notice* proposed the reallocation of Channel 234C2 from Mayfield to Clinton, Kentucky and the modification of Station WQQR’s license accordingly. *Petitioner* made the foregoing requests pursuant to Section 1.420(i) of the Commission’s rules,² 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.³ In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments. This determination is based upon the FM allotment priorities.⁴ The *Notice* also proposed relocating the transmitter site of Station WLIE-FM, Channel 232A, to avoid short spacing to the proposed Channel 234C2 at Clinton, Kentucky.

3. We find that *Petitioner*’s overall proposal would result in a preferential arrangement of allotments under the FM allotment priorities because grant of those requests would result in additional

¹ *Clinton and Mayfield, Kentucky*, 20 FCC Rcd 6313 (MB 2005).

² 47 C.F.R. § 1.420(i).

³ 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).

⁴ See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service and (4) other public interest matters. Equal weight is given to priorities (2) and (3).

broadcast service over an area of 3,759 kilometers to 128,327 persons under priority (4) of the FM priorities (“other public interest matters”). We also observe that Petitioner’s reallocation requests would not deprive either Clinton or Mayfield of its sole local aural transmission outlet. Therefore, in accordance with the provisions of Section 1.420 (i) of the Commission’s rules,⁵ we will grant Petitioner’s reallocation requests. In addition, we shall condition the commencement of service by Station WLLE on Channel 271C2 at Mayfield on the commencement of service by Station WQQR on Channel 234C2 at Clinton, to avoid any disruption of local service to Clinton.⁶

4. Consistent with the technical requirements of the Commission’s rules, Channel 271C2 can be allotted to Mayfield, Kentucky, utilizing coordinates of 36-40-36 NL and 88-29-29 WL, with a site restriction of 14.9 kilometers (9.2 miles) southeast of Mayfield. Further, Channel 234C2 can be allotted to Clinton, Kentucky, utilizing coordinates of 36-45-51 NL and 88-39-55 WL, with a site restriction of 31.2 kilometers (19.4 miles) east of Clinton. Lastly, the transmitter site of Station WLIE-FM, Channel 232A, can be relocated to avoid a short spacing to the proposed transmitter site of Channel 234C2 and meet the Commission’s technical rules, utilizing coordinates of 37-14-18 NL and 88-29-40 WL, with a site restriction of 14.3 kilometers (8.9 miles) south of Golconda, Illinois.

5. 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).

6. 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 November 10, 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>
Clinton, Kentucky	234C2
Mayfield, Kentucky	271C2

7. IT IS FURTHER ORDERED, that the Petition for Rule Making filed by Bristol Broadcasting Company, Inc. IS GRANTED.

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Bristol Broadcasting Company, Inc., for Station WLLE(FM), Clinton, Kentucky, IS MODIFIED to specify operation on Channel 271C2 at Mayfield, Kentucky, 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

⁵ 47 C.F.R. § 1.420(i).

⁶ Mayfield has two AM Stations, WNGO and WYMC, in addition to Station WQQR(FM).

facility;

(b) Program tests in accordance with 47 C.F.R. Section 73.1620 by Station WLLE(FM) may not commence prior to the commencement of operations by Station WQQR(FM) as a Clinton, Kentucky station pursuant to grant of an application to change the community of license of Station WQQR(FM) from Mayfield to Clinton, Kentucky; 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.

9. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Bristol Broadcasting Company, Inc. for Station WQQR(FM), Mayfield, Kentucky, IS MODIFIED to specify operation on Channel 234C2 at Clinton, Kentucky, 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) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; 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.

10. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of the Commission's rules, Bristol Broadcasting Company, Inc., licensee of Stations WLLE(FM) and WQQR(FM), is required to submit a rule making fee in addition to the fee required for the application to effectuate the upgrade of Channel 271C3 to Channel 271C2, Station WLLE(FM) and to change the community of license for Station WLLE(FM) from Clinton, Kentucky, to Mayfield, Kentucky, and also for the application to effectuate the change in community of license for Station WQQR(FM), Channel 234C2, from Mayfield to Clinton, Kentucky at the time it submits its Form 301 applications.

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

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

FEDERAL COMMUNICATIONS COMMISSION

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Media Bureau