

**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. 01-151
FM Broadcast Stations.)	RM-10167
(Eminence, Potosi, Rolla, Lebanon and)	RM-10567
Linn, Missouri))	
)	
)	
)	

REPORT AND ORDER

Adopted: November 23, 2005

Released: November 25, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding proposing the allotment of Channel 276C3 to Eminence, Missouri.¹ Four Him Enterprises, L.L.C. (“Four Him”), licensee of Station KHZR (formerly KHCR), Channel 249C3, Potosi, Missouri, filed a Counterproposal. Jeraldine Anderson, Ozark Broadcasting, Inc. and KDAA-KMOZ, LLC filed Comments. Four Him and Ozark Broadcasting filed a Joint Petition for Approval of Agreement and KDAA-KMOZ filed an Opposition to this Joint Petition. Four Him and Jeraldine Anderson filed a Joint Petition for Approval of Agreement and KDAA-KMOZ and Four Him also filed a Joint Petition for Approval of Agreement. For the reasons discussed below, we are substituting Channel 249C2 for Channel 249C3 at Potosi, Missouri, and are modifying the Station KHZR to specify operation on Channel 249C2. To accommodate this upgrade, we are substituting channels at Rolla, Linn and Lebanon, Missouri.

Background

2. At the request of Ozark Broadcasting, the *Notice* proposed the allotment of Channel 276C3 to Eminence, Missouri, as a first local service. In response to the *Notice*, Four Him filed a Counterproposal proposing the substitution of Channel 249C2 for Channel 249C3 at Potosi, and modification of its Station KHZR license to specify operation on Channel 249C2. In order to accommodate this upgrade, Four Him proposes the substitution of Channel 276A for Channel 248A at Rolla, Missouri, and modification of the Station KDAA license to specify operation on Channel 276A. To accommodate Channel 276A at Rolla, Four Him proposes the substitution of Channel 248A for vacant Channel 276A at Linn, Missouri, and the reclassification of Station KJEL Channel 279C, Lebanon, Missouri, to specify operation on Channel 279C0. Finally, Four Him proposes the allotment of Channel 281A at Eminence, Missouri.

3. As requested, we are substituting Channel 249C2 for Channel 249C3 at Potosi, Missouri, and are modifying the Station KHZR license to specify operation on Channel 249C2.² This will result in a net

¹ *Eminence, Missouri*, 16 FCC Rcd 13915 (MMB 2001).

² The reference coordinates for the Channel 249C2 allotment at Potosi, Missouri, are 37-58-30 and 90-48-30.

gain in service to 111,322 persons. In order to accommodate this upgrade, we are substituting Channel 276A for Channel 248A at Rolla, Missouri, and are modifying the Station KDAA license to specify operation on Channel 276A.³ KDAA-KMOZ, licensee of Station KDAA, has agreed to this channel substitution.⁴ This Channel 276A allotment at Rolla conflicts with the proposed Channel 276C3 allotment at Eminence set forth in the *Notice*. To remove this conflict and provide a first local service to Eminence, we are allotting Channel 281A to Eminence in lieu of Channel 276C3.⁵ Ozark Broadcasting and Jeraldine Anderson, the proponents for the originally proposed Channel 276C3 allotment at Eminence, have withdrawn their respective expressions of interest in the proposed Channel 276C3 allotment and have agreed to the alternate Channel 281A allotment. To accommodate Channel 276A at Rolla, we are substituting Channel 248A for vacant Channel 276A at Linn, Missouri.⁶

4. In order to accommodate Channel 276A at Rolla, we are also substituting Channel 279C0 for Channel 279C at Lebanon, Missouri, and are modifying the Station KJEL license to specify operation on Channel 279C0.⁷ In this regard, we note that in a separate proceeding we returned a Petition for Rule Making filed by Four Him proposing an upgrade of Station KHZR to Channel 249C2.⁸ That upgrade also required the reclassification of Station KJEL to specify operation on Channel 279C0. Thereafter, we denied a Petition for Reconsideration filed by Four Him directed to that action.⁹ Both actions were premised on the fact that Ozark Broadcasting, licensee of Station KJEL, had filed an application proposing minimum Class C facilities.¹⁰ Subsequently, Four Him filed a Petition for Reconsideration based on “changed circumstances.” In that Petition for Reconsideration, Four Him refers to the agreement with Ozark Broadcasting under which Ozark Broadcasting will dismiss its application proposing minimum Class C facilities and consent to the Class C0 reclassification of Station KJEL. To this end, we are dismissing that application. In view of our action upgrading Station KHZR and reclassifying Station KJEL in this proceeding, we are dismissing the Four Him Petition for Reconsideration.

5. Accordingly, 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, IT IS ORDERED, That effective January 9, 2006, the FM Table of Allotments, Section 73.202(b) of the Commission’s rules, IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Eminence, Missouri	281A
Lebanon, Missouri	279C0, 300C2

³ The reference coordinates for the Channel 276A allotment at Rolla, Missouri, are 37-57-50 and 91-45-54.

⁴ This agreement, along with separate agreements between Four Him and Jeraldine Anderson and Ozark Broadcasting were timely filed pursuant to the Public Notice, *Window Announced for Universal Settlements of Pending Rulemaking Proceedings to Amend FM Table of Allotments*, 20 FCC Rcd 10801 (MB 2005), which waived the reimbursement limitation set forth in Section 1.420(j) of the rules.

⁵ The reference coordinates for the Channel 281A allotment at Eminence, Missouri, are 37-14-30 and 91-26-00.

⁶ The reference coordinates for the Channel 248A allotment at Linn, Missouri, are 38-29-06 and 91-51-06.

⁷ The reference coordinates for the Channel 279C0 allotment at Lebanon, Missouri, are 37-41-06 and 92-41-40.

⁸ *Letter from John A. Karousos, Assistant Chief, Audio Division, to A. Wray Fitch, III (August 1, 2003)*.

⁹ *Lebanon, Missouri*, 20 FCC Rcd 10889 (MB 2005).

¹⁰ File No. BPH-20030401ABZ.

Linn, Missouri	248A
Potosi, Missouri	249C2
Rolla, Missouri	276A

6. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Four Him Enterprises, L.L.C. for Station KHZR, Channel 249C3, Potosi, Missouri, IS MODIFIED to specify operation on Channel 249C2, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for 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.

7. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of KDAA-KMOZ, LLC for Station KDAA, Channel 248A, Rolla, Missouri, IS MODIFIED to specify operation on Channel 276A, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for 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.

8. IT IS FURTHER ORDERED, That pursuant to 47 C.F.R. Section 316(a), the license of Ozark Broadcasting, Inc. for Station KJEL, Channel 279C0, Lebanon, Missouri, IS MODIFIED to specify operation on Channel 279C0.

9. IT IS FURTHER ORDERED, That the application filed by Ozark Broadcasting, Inc. (File No. BPH-20030401ABZ) specifying minimum Class C facilities for Station KJEL, Lebanon, Missouri, IS HEREBY DISMISSED.

10. IT IS FURTHER ORDERED, That the aforementioned Petition for Reconsideration filed by Four Him Enterprises, LLC directed to the *Memorandum Opinion and Order* released June 24, 2005, IS HEREBY DISMISSED.

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

12. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau