

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-146
FM Table of Allotments,)	RM-11213
FM Broadcast Stations.)	
(Caliente and Moapa, Nevada))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 24, 2006

Released: May 26, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. Before the Audio Division for consideration is a *Notice of Proposed Rule Making*¹ issued at the request of Aurora Media, LLC (“Petitioner”), permittee of an unbuilt station for Channel 233C, Caliente, Nevada. Petitioner proposes to reallocate Channel 233C from Caliente to Moapa, Nevada, and modify the construction permit authorization to specify the new community at its current coordinates. Petitioner filed comments reiterating its intention to file an application for a construction permit to effectuate the change of community if Channel 233C is reallocated. No counterproposals or other comments were received.

2. Petitioner filed its proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission’s Rules,² which permits the modification of a station’s license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.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.⁴

¹ *Mercer and Hermitage, Pennsylvania, et al.*, Notice of Proposed Rule Making, 20 FCC Rcd 6271 (MB 2005) (“*Notice*”) (This was a multiple docket *Notice* setting forth separate proposals while the instant Report and Order pertains only to the docket specified above.).

² 47 C.F. R. § 1.420(i).

³ See *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

⁴ The FM allotment priorities are: (1) First full-time aural reception service; (2) Second full-time aural reception service; (3) First local aural transmission service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 91 (1988).

3. We recognize that the loss of a potential service does not raise the same level of concern as that of an existing service.⁵ However, we cannot make the requisite finding that the proposed reallocation would result in a preferential arrangement of allotments.⁶ Since the proposed reallocation of Channel 233C to Moapa and the retention of the channel at Caliente would provide each community with its first local service under Priority Three, the tie-breaking mechanism is population. The proposal would provide a first local service to a smaller population at Moapa, a 2000 U.S. Census population of 928 persons, in comparison to the retention of a first local service at Caliente, a 2000 U.S. Census population of 1,123 persons.⁷ Thus, the public interest is better served by retaining Channel 233C at Caliente.⁸

4. Accordingly, IT IS ORDERED, That the petition for rule making filed by Aurora Media, LLC, IS DENIED.

5. IT IS FURTHER ORDERED, That this proceeding is TERMINATED.

6. For additional information concerning this proceeding, contact Helen McLean, Media Bureau (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁵ See *Pelham and Meigs, Georgia*, Report and Order, 18 FCC Rcd 12187 (MB 2003); *Chatom and Grove Hill Alabama*, Report and Order, 12 FCC Rcd 7664 (MMB 1997).

⁶ See *New Community of License*, 4 FCC Rcd at 4873 (“If adoption of the proposed allotment plan would result in a net service benefit for the communities involved (that is, if the plan would result in a preferential arrangement of allotments), we will adopt the proposal. We conclude that the best way to ensure a preferential arrangement of allotments is to apply the relevant FM or television allotment priorities and policies.”).

⁷ See *e.g. Meeker and Craig, Colorado*, Report and Order, 15 FCC Rcd 23858 (MB 2000) (denying change of community of unbuilt station under priority two where fewer persons served than original community under priority three).

⁸ Although we deny Petitioner’s request for a change of community, we will subsequently make an editorial change to the FM Table to reflect the current construction permit authorization (FCC File No. BNPH-20050103AFD, Facility ID No. 164097), at Caliente as Channel 233C.