

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

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 04-84
Table of Allotments,) RM-10879
FM Broadcast Stations.)
(Willcox, Arizona))

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: July 26, 2006

Released: July 28, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making*¹ issued at the request of Calvary Chapel of Tucson (“Petitioner”) proposing the reservation of vacant Channel 223C3 at Willcox, Arizona for noncommercial educational (“NCE”) use. Petitioner and Starboard Media Foundations, Inc., (“Starboard Media”) filed comments. Desert West Air Ranchers Corporation (“Desert West”) filed opposing comments.

2. **Background.** In 2002, the Commission established revised reservation criteria by which a rulemaking proponent may reserve an FM allotment for NCE use.² Under the expanded criteria, a proponent must demonstrate that it is technically precluded from using a reserved channel (Channels 201 through 220) and the proposal would provide a first and/or second NCE radio service to at least 10 percent of the population within the 1 mV/m (60 dBu) contour of the proposed station, such population must exceed 2,000 persons.³ Initially, this reservation process was limited to future allotment proceedings. The Commission later extended the expanded criteria to existing vacant FM allotments for which a *Notice of Proposed Rule Making* had been released prior to August 7, 2000, the effective date of the *NCE Report and Order*.⁴ In a *Public Notice* released September 30, 2003, we invited petitions for rule making to reserve vacant FM allotments for NCE use pursuant to the *NCE Second Report and Order*.⁵

3. As stated in the *Notice*, the Petitioner filed a proposal requesting the reservation of vacant Channel 223C3 at Willcox, Arizona for NCE use. The *Notice* also provided an opportunity for an opposing party to file rebuttal comments identifying a site at which a reserved channel could be assigned with facilities fully equivalent to the proposed reserved allotment. Such an alternate reserved channel

¹ *Willcox, Arizona, Notice of Proposed Rule Making*, 19 FCC Rcd 5333 (MB 2004) (“*Notice*”).

² *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd 7386 (2000) (“*NCE Report and Order*”). Previously, the Commission would only reserve a channel in the non-reserved FM band (Channels 221 through 300) if the petitioner demonstrated that no reserved channel could be used without causing prohibited interference to a Channel 6 TV station or to a foreign allotment.

³ 47 C.F.R. § 73.202(a)(1)(ii).

⁴ *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Second Report and Order, 18 FCC Rcd 6691 (2003) (“*NCE Second Report and Order*”).

⁵ *Media Bureau Opens Window to Permit Noncommercial Educational Reservation Showings for Certain Vacant FM Allotments*, Public Notice, 18 FCC Rcd 19600 (MB 2003) (“*Public Notice*”).

proposal also must satisfy the first and/or second NCE radio service criterion. Alternatively, a party may file comments demonstrating that the reservation proposal would not, in fact, provide a first and/or second NCE radio service to ten percent of the population within the 1 mV/m (60 dBu) contour of the proposed station.

4. Comment Summary. Petitioner filed comments restating its interest in the NCE reservation of vacant Channel 223C3 at Willcox, Arizona. Starboard Media filed comments supporting the proposal, stating that it would file an NCE application for vacant Channel 223C3 at Willcox, if reserved for NCE use.

5. Desert West filed comments opposing the NCE reservation of Channel 223C3 at Willcox, stating that the NCE reservation request does not meet the threshold requirement that all NCE reserved channels are technically precluded from operating at Willcox. Desert West argues that the Petitioner's engineering study erroneously rejected all twenty NCE channels due to the perceived interference caused by KUAT-TV, Tucson, Arizona. Therefore, the quick rejection of all twenty reserved channels arbitrarily ignores the possibility that an allotment could be made within the reserved band in compliance with Section 73.525(c) of the Commission's rules. Moreover, Desert West states that the Petitioner failed to provide a detailed analysis of the interference caused to the reception of the TV Channel 6 Station KUAT-TV signal from the proposed facility. Desert West suggests that Channel 218C3 is available at Willcox at the east site location at reference coordinates 32-16-25 NL and 109-24-05 WL (the "Willcox East Site").

6. Discussion. The distance separation between Station KUAT-TV and the Willcox East Site is 124.6 kilometers. Thus, a proposed Channel 218C3 allotment at the Willcox East Site is subject to the TV Channel 6 protection requirements of Section 73.525.⁶ The predicted interference area, however, contains fewer than 3,000 persons, permitted under the rules.⁷ Moreover, the Willcox East Site facility would provide a first and/or second NCE service to the entire population (2,492 persons) who reside within this proposed station's service area. However, the proposed Channel 218C3 allotment at the Willcox East Site, using a maximum 60 dBu contour, would not cover at least 50 percent of the area or population of Willcox, as required by Section 73.515 of the Commission's Rules.⁸ Therefore, we will reserve Channel 223C3 at Willcox for NCE use.⁹ Based on allotment's reference coordinates and maximum class facilities, this reserve allotment would provide a first and/or second NCE service to one hundred percent of the total population of 11,534 persons.

7. 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).

8. Accordingly, pursuant to the authority found 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 September 11, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

⁶ See 47 C.F.R. § 73.525(a).

⁷ See 47 C.F.R. § 73.525(c).

⁸ See 47 C.F.R. § 73.515, *see also Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Second Report and Order, 18 FCC Rcd 6691,6704 (2003).

⁹ Channel *223C3 can be allotted to Willcox in compliance with the Commission's minimum distance spacing requirements at reference coordinates 32-16-22 NL and 109-48-14 WL.

Community

Willcox, Arizona

Channel No.

*223C3, 285C2

9. The window period for filing applications for Channel *223C3 at Willcox will not be opened at this time. Instead, the Commission will address the issue in a subsequent Public Notice.

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

11. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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