

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 03-74
Table of Allotments,	)	RM-10676
FM Broadcast Stations.	)	
(Eden, Texas)	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: January 4, 2006**

**Released: January 6, 2006**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division issued a *Notice of Proposed Rulemaking* in response to a Petition for Rule Making filed by Linda Crawford (“Crawford”).<sup>1</sup> The *Notice* proposes the allotment of Channel 294A at Eden, Texas, as a second local FM service. Crawford filed comments supporting the allotment of Channel 294A at Eden, and reaffirmed her intention to apply for the channel if it is allotted and, if authorized, to build and operate a station on that channel.

2. A counterproposal was submitted by Katherine Pyeatt (“Pyeatt”), proposing the allotment of Channel 294A at Melvin, Texas, and the allotment of Channel 294A at Cross Plains, Texas, in lieu of the allotment of Channel 294A at Eden, Texas. Pyeatt indicated that her counterproposal was contingent upon the dismissal of a pending cut-off proposal in another proceeding, with which Pyeatt’s counterproposal was mutually exclusive.<sup>2</sup> In allocation proceedings, both counterproposals and initial rulemaking proposals are deemed defective if they are in conflict with, or contingent upon, a cut-off proposal or a non-final decision in another pending proceeding.<sup>3</sup> Counterproposals, which are subject to comment deadlines, must be technically correct and substantially complete when filed, and capable of being effectuated upon the date of filing.<sup>4</sup> Pyeatt’s counterproposal, referencing a pending motion to dismiss a mutually-exclusive, cut-off proposal pending in another proceeding, was defective on its face and will not be considered in this proceeding.

<sup>1</sup> *Silverton, Texas, Leedey, Oklahoma, Eden, Texas, and Memphis, Texas*, 18 FCC Rcd 4560 (MB 2003) (“*Notice*”).

<sup>2</sup> In a statement affirming compliance with the Commission’s FM channel separation rules, Pyeatt noted the filing of a motion by Jeraldine Anderson, the petitioner in MM Docket No. 01-261, seeking to dismiss her petition in that proceeding for the allotment of Channel 294A at Early, Texas.

<sup>3</sup> See *Amboy, Baker, and Desert Center, California, et al.*, 19 FCC Rcd 12,405 (MB 2004), and cases cited therein.

<sup>4</sup> *Id.* See *Cloverdale, Alabama*, 12 FCC Rcd 2090, 2093 (MMB 1997), *app. for rev. denied*, 15 FCC Rcd 11,050 (2000); *Pinewood, South Carolina*, 5 FCC Rcd 7609 (1990); *Kaukauna, Wisconsin*, 6 FCC Rcd 7142 (MMB 1991); and *Taccoa, Georgia*, 16 FCC Rcd 21, 191 (MMB 2001).

3. Eden, an incorporated community with a population in excess of 1,675 persons, is a community for allotment purposes and is deserving of a second local FM service. We therefore find that the public interest would be served by the allotment of Channel 294A at Eden, Texas. Channel 294A can be allotted at Eden with a site restriction of 11.4 kilometers (7.1 miles) southwest of Eden, at the following reference coordinates: 31-10-00 North Latitude and 99-57-01 West Longitude. Concurrence in the allotment by the Government of Mexico is required because the proposed allotment is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Although Mexican concurrence has been requested, notification has not been received. If a construction permit for Channel 294A at Eden, Texas, is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: "Operation with the facilities specified herein for Eden, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico."

4. 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.<sup>5</sup>

5. Accordingly, IT IS ORDERED, That effective February 21, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel Number</u>
Eden, Texas	283A, 294A

6. IT IS FURTHER ORDERED, that the counterproposal of Katherine Pyeatt is DISMISSED.

7. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this Order to the following:

Linda Crawford  
3500 Maple Avenue, #132  
Dallas, Texas 75219

Katherine Pyeatt  
6655 Aintree Circle  
Dallas, Texas 75214

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<sup>5</sup> See 5 U.S.C. 801 (a)(1)(A).

8. A filing window period for Channel 294A at Eden, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent *Order*.

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

10. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072. Questions related to the application filing process for Channel 294A at Eden, Texas, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John Karousos  
Assistant Chief  
Audio Division  
Media Bureau