

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

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|--|---|---------------------|
| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | MB Docket No. 06-77 |
| Table of Allotments, |) | RM-11324 |
| FM Broadcast Stations. |) | RM-11334 |
| (Burkesville, Greensburg, Hodgenville, Horse Cave, |) | |
| Lebanon, Lebanon Junction, Lewisport, Louisville, |) | |
| Lyndon, New Haven, Springfield and St. Matthews, |) | |
| Kentucky, Edinburgh, Hope, Tell City and |) | |
| Versailles, Indiana, Belle Meade, Goodlettsville, |) | |
| Hendersonville, Manchester and Millersville, |) | |
| Tennessee) |) | |

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: October 11, 2006

Released: October 13, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding.¹ Elizabethtown CBC, CBC of Marion County, Inc., Washington County CBC, Inc., Newberry Broadcasting, Inc. and Cumulus Licensing LLC (“Joint Parties”) filed Comments and Reply Comments. CXR Holdings, LLC, (“CXR Holdings”) filed a Counterproposal and a Supplement. Indiana Community Radio Corporation (“Indiana Community”) filed a “Petition for Rulemaking Status Request and Reply Comments” a “Motion to Accept Late Filed Comments” and a “Motion to Correct Errors.” CXR Holdings and the Joint Parties filed a “Joint Opposition to Motion to Accept Late Filed Comments and Motion to Strike.” For the reasons discussed below, we are modifying the licenses of eight stations to specify a new community of license. This will result in first local service to four communities. To accommodate these actions, we are substituting channels at five communities.

2. **Background.** At the request of the Joint Parties, the *Notice* in this proceeding proposed nine city of license modifications. Included among those proposals was a request to reallocate Channel 274A from Springfield, Kentucky, to New Haven, Kentucky, and modify the Station WLSK to specify New Haven as the community of license. These requests were filed pursuant to Section 1.420(i) of the Commission’s Rules 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 a competing expression of interest.² In evaluating a proposal, we compare the existing versus the proposed arrangement of allotments using the FM allotment

¹ *Hodgenville, Horse Cave, Lebanon, Lebanon Junction, New Haven and Springfield, Kentucky, and Belle Meade, Goodlettsville, Hendersonville, Manchester and Millersville, Tennessee*, Notice of Proposed Rule Making, 21 FCC Rcd 3560 (MB 2006).

² See *Modification of FM and TV Authorizations to Specify a New Community of License (“Community of License”)*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

priorities set forth in *Revision of FM Assignment Policies and Procedures*.³

3. In response to the *Notice*, CXR Holdings, licensee of Station WRKA, Channel 276A, St. Matthews, Kentucky, filed a Counterproposal. In that Counterproposal, CXR Holdings proposed the substitution of Channel 276C2 for Channel 276A at St. Matthews, reallocation of Channel 276C2 to Lyndon, Kentucky, and modification of its Station WRKA license to specify operation on Channel 276C2 at Lyndon. In order to accommodate this reallocation and upgrade, CXR Holdings proposes a series of channel substitutions and reallocations involving eight communities in Indiana and Kentucky. Included among these proposals is the proposed substitution of Channel 274A for Channel 275C3 at Tell City, Indiana, reallocation of Channel 274A to Lewisport, Kentucky, and modification of the Station WLME license to specify operation on Channel 274A at Lewisport. The proposed Channel 274A reallocation to Lewisport conflicted with the proposed reallocation of Channel 274A to New Haven, Kentucky, as set forth in the *Notice*. In Reply Comments, Washington County CBC, Inc., licensee of Station WYSB, Channel 274A, Springfield, Kentucky, and one of the Joint Parties, withdrew its interest in pursuing the reallocation of Channel 274A to New Haven. As such, there is no longer any conflict between the Joint Parties' proposal and the CXR Counterproposal.

4. **Discussion.** As requested, we are substituting Channel 294C3 for Channel 294A at Belle Meade, Tennessee, reallocation of Channel 294C3 to Millersville, Tennessee, and are modifying the Station WNFN license to specify operation on Channel 294C3 at Millersville.⁴ This reallocation will result in a first local service to Millersville while Belle Meade will continue to receive local service from Station WRQQ. The population losing service will continue to be served by more than five services.⁵ Belle Meade and Millersville are both located in the Nashville-Davidson Urbanized Area. In this regard, we are concerned with the potential migration of stations from lesser-served rural areas to well-served urban areas. For this reason, we will not blindly apply a first local service preference of the FM allotment priorities when a station seeks to reallocate its channel to a suburban community in or near an Urbanized Area. In making such a determination, we apply existing precedents.⁶ In essence, we consider the extent the station will provide service to the entire Urbanized Area, the relative populations of the suburban and central city, and, most important of all, the independence of the suburban community. Because, in this situation, Belle Meade and Millersville are already located in the Nashville-Davidson Urbanized Area, this relocation does not implicate Commission

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

⁴ The reference coordinates for the Channel 294C3 allotment at Millersville, Tennessee, are 36-26-24 and 86-37-39.

⁵ The Commission has considered five or more reception services to be "abundant." *Family Broadcasting Group*, Decision, 53 RR 2d 662, (Rev. Bd. 1983), *rev. denied*. FCC 83-559 (Comm'n Nov. 29, 1983); *see also LaGrange and Rollingwood, Texas*, Memorandum Opinion and Order, 10 FCC Rcd 3337 (1995).

⁶ *See e.g. Huntington Broadcasting Co. v. FCC*, 192 F. 2d 33 (D.C. Cir. 1951); *RKO General, Inc. (KFRC)*, Memorandum Opinion and Order, 5 FCC Rcd 3222 (1990); *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988).

policy with respect to the migration of stations from rural to urban areas.⁷ In any event, the Joint Parties have submitted a *Tuck* exhibit demonstrating that Millersville is independent of the Nashville-Davidson Urbanized Area and entitled to consideration as a first local service.

5. In order to accommodate Channel 294C3 at Millersville, we are substituting Channel 293A for Channel 294A at Horse Cave, Kentucky, and are modifying the Station WHHT license to specify operation on Channel 293A.⁸ Newberry Broadcasting, Inc., licensee of Station WHHT and one of the Joint Parties, has agreed to this channel substitution. To accommodate the Channel 293A substitution at Horse Cave, we are substituting Channel 297A for Channel 292A at Hodgenville, Kentucky, and are modifying the Station WKMO license to specify operation on Channel 297A.⁹ Elizabethtown Broadcasting, Inc., licensee of Station WKMO and one of the Joint Parties, has agreed to the channel substitution and change in transmitter site. In order to accommodate the Channel 297A substitution at Hodgenville, we are substituting Channel 257A for Channel 297A at Lebanon Junction, Kentucky, and are modifying the Station WTHX license to specify operation on Channel 257A.¹⁰ Elizabethtown Broadcasting, Inc. is also the licensee of Station WTHX and has again agreed to the channel substitution and change in transmitter site.

6. In order to replace the loss of the sole local service at Belle Meade, we are reallocating Channel 246C2 from Goodlettsville, Tennessee, to Belle Meade, and are modifying the Station WRQQ license to specify Belle Meade as the community of license.¹¹ This reallocation does not require a change in the Station WRQQ transmitter site. To avoid depriving Goodlettsville of its sole local service, we are reallocating Channel 221A from Hendersonville, Tennessee, to Goodlettsville and are modifying the Station WQQK license to specify Goodlettsville as the community of license.¹² This reallocation does not require relocation of the Station WQQK transmitter site. Cumulus Licensing LLC, licensee of Station WQQK and one of the Joint Parties, has agreed to the change in community of license. In order to avoid the loss of the sole local service at Hendersonville, we are substituting Channel 259C0 for Channel 259C at Manchester, Tennessee, reallocating Channel 259C0 to Hendersonville, and are modifying the Station WWTN license to specify operation on Channel 259C0 at Hendersonville.¹³ Manchester will continue to receive local service from Station WFTZ

⁷ See *Boulder and Lafayette, Colorado*, Notice of Proposed Rule Making, 11 FCC Rcd 3632 (MMB 1996); *East Los Angeles, Long Beach and Frazier Park, California*, Report and Order, 10 FCC Rcd 2864 (MMB 1995).

⁸ The reference coordinates for the Channel 293A allotment at Horse Cave, Kentucky, are 37-13-57 and 85-52-06.

⁹ The reference coordinates for the Channel 297A allotment at Hodgenville, Kentucky, are 37-40-34 and 85-40-57.

¹⁰ The reference coordinates for the Channel 257A allotment at Lebanon Junction, Kentucky, are 37-44-37 and 85-38-52.

¹¹ The reference coordinates for the Channel 246C2 allotment at Belle Meade, Tennessee, are 36-17-50 and 86-45-11.

¹² The reference coordinates for the Channel 221A allotment at Goodlettsville, Tennessee, are 36-17-50 and 86-45-11.

and Station WMSR. Cumulus Licensing LLC, licensee of Station WWTN, has agreed to the reclassification and change in community of license.

7. The *Notice* proposed the reallocation of Channel 274A from Springfield to New Haven, Kentucky, and modification of the Station WYSB license to New Haven as the community of license. To replace the loss of the sole local service at Springfield, the *Notice* also proposed the substitution of Channel 265A for Channel 265C3 at Lebanon, Kentucky, reallocation of Channel 265A to Springfield, and modification of the Station WLSK license to specify operation on Channel 265A at Springfield. Subsequently, Washington County CBC, Inc., licensee of Station WYSB, withdrew its interest in reallocation of its channel to New Haven. As a consequence, CBC of Marion County, Inc., licensee of Station WLSK, also withdrew its proposal. Both Washington County CBC, Inc. and CBC of Marion County, Inc. filed statements pursuant to Section 1.420(j) of the Rules certifying that they have not and will not receive any consideration for the withdrawals of their respective expressions of interest.¹⁴ As a result of the withdrawal of the proposed reallocation of Channel 274A to New Haven, there is no longer any impediment to consideration of the CXR Holdings Counterproposal.

8. As requested in the CXR Holdings Counterproposal, we are substituting Channel 276C2 for Channel 276A at St. Matthews, Kentucky, reallocation of Channel 276C2 to Lyndon, Kentucky, and are modifying the Station WRKA license to specify operation on Channel 276C2 at Lyndon.¹⁵ This will provide a first local service to Lyndon. Both St. Matthews and Lyndon are located in the Louisville Urbanized Area. As discussed earlier, since these communities are already located in the Urbanized Area, this reallocation does not implicate Commission policy with respect to the migration of stations from rural to urban areas. In any event, CXR Holdings has noted that Lyndon is an incorporated community with a 2000 U.S. Census population of 10,270 persons. Lyndon has its own local government as well as over 500 local businesses, civic organizations and churches. In order to accommodate the Channel 276C2 reallocation at Lyndon, we are substituting Channel 275A for Channel 276A at Versailles, Indiana, reallocation of Channel 275A to Hope, Indiana, and are modifying the Station WXCH license to specify operation on Channel 275A at Hope.¹⁶ Columbus Radio, Inc., licensee of Station WXCH, has agreed to this modification of its license. This will provide Hope with a first local service while Versailles will continue to receive local service from Station WKRY. While Hope is not located in any Urbanized Area, Station WXCH will provide a 70 dBu signal to 86 percent of the Columbus, Indiana Urbanized Area. Accordingly, CXR submitted a *Tuck* showing demonstrating that Hope is entitled to consideration as a first local service.¹⁷ Hope is an incorporated community with a 2000 U.S. Census population of 2,140 persons. This population represents approximately 5.5 percent of the population of

¹³ The reference coordinates for the Channel 259C0 allotment at Hendersonville, Tennessee, are 35-49-03 and 86-31-24.

¹⁴ 47 C.F.R. § 1.420(j).

¹⁵ The reference coordinates for the Channel 276C2 allotment at Lyndon, Kentucky, are 38-23-57 and 85-36-56.

¹⁶ The reference coordinates for the Channel 275A allotment at Hope, Indiana, are 39-19-29 and 85-53-41.

¹⁷ See *Headland, Alabama, and Chattochochee, Florida*, Report and Order, 10 FCC Rcd 10352 (MMB 1995) (required a *Tuck* showing when a 70 dBu signal was provided to more than 50 percent of the Urbanized Area).

Columbus, Indiana.¹⁸ Also, Hope is located fifteen miles from Columbus and Station WXCH operates on Channel 275A.¹⁹ CXR Holdings has also demonstrated that Hope is independent of Columbus. Hope has its own local government and elected town council. Hope has its own police and fire departments, city library and a water and sewage Department. There are three schools located in Hope as well as local churches and civic organizations. Finally, Hope has its own zip code, Post Office and local businesses.

9. In order to allot Channel 275A to Hope, we are substituting Channel 262A for Channel 275A at Edinburgh, Indiana, and are modifying the Station WYGB license to specify operation on Channel 262A.²⁰ Edinburgh Radio, licensee of Station WYGB, has agreed to this channel substitution and CXR Holdings has agreed to reimburse Edinburgh Radio for its reasonable expenses in changing the Station WYGB channel.

10. In order to accommodate the allotment of Channel 276C2 to Lyndon, Kentucky, we are substituting Channel 274A for Channel 275C3 at Tell City, Indiana, reallocating Channel 274A to Lewisport, Kentucky, and are modifying the Station WLME license to specify operation on Channel 274A at Lewisport.²¹ This will provide Lewisport with a first local service. Tell City will continue to receive local service from AM Station WTCJ. Hancock Communications, Inc., licensee of Station WLME, has agreed to the modification of its Station license as well as the change in transmitter site. The population losing service will continue to receive in excess of five aural services.

11. The modification of the Station WKRA license to specify Lyndon as the new community of license removes the sole local service from St. Mathews, Kentucky. In order to replace the loss of this sole local service, we are reallocating Channel 295B from Louisville, Kentucky, to St. Mathews, and modifying the Station WVEZ license to specify St. Mathews as the community of license.²² CXR Holdings is the licensee of Station WVEZ. This change in community of license does not require a change in channel or transmitter site.

12. In order to allot Channel 276C2 to Lyndon, we are also substituting Channel 289A for Channel 276A at Greensburg, Kentucky, and are modifying the Station WGRK-FM license to specify operation on

¹⁸ See e.g. *Kankakee and Forest Park, Illinois*, Report and Order, 16 FCC Rcd 6768 (MB 2001) (finding Park Forest independent of Chicago with a population 0.8 percent of the central city); *Ada, Newcastle and Watonga, Oklahoma*, Report and Order, 11 FCC Rcd 16896 (MMB 1996) (finding Newcastle independent of Oklahoma City with a population 0.9 percent of the central city).

¹⁹ See e.g. *Mullins and Briarcliffe Acres, South Carolina*, Report and Order, 14 FCC Rcd 10516 (MMB 1999) (finding Briarcliffe independent of the Myrtle Beach Urbanized Area with a four-mile separation); *Bon Air, Chester, Mechanicsville, Ruckersville, Williamsburg and Fort Lee, Virginia*, Report and Order, 11 FCC Rcd 5758 (MMB 1996) (finding Fort Lee independent of the Petersburg Urbanized Area with a three-mile separation).

²⁰ The reference coordinates for the Channel 262A allotment at Edinburgh, Indiana, are 39-15-37 and 86-06-21.

²¹ The reference coordinates for the Channel 274A allotment at Lewisport, Kentucky, are 37-47-44 and 86-50-58.

²² The reference coordinates for the Channel 295B allotment at St. Matthews, Kentucky, are 38-22-19 and 85-49-33.

Channel 289A.²³ Green County CBC, Inc., licensee of Station WGRK-FM, has agreed to this channel substitution, and CXR Holdings has agreed to reimburse Green County CBC, Inc. for the costs of changing its channel.

13. On August 7, 2006, after the May 30, 2006, comment date and June 13, 2006, reply comment date in this proceeding, Indiana Community filed a “Petition for Rulemaking Status Request and Reply Comments.” Indiana Community is the licensee of noncommercial educational FM Station WJCF, Channel 201A, Morristown, Indiana. In this pleading, Indiana Community refers to the dismissal of its Counterproposal in MB Docket No. 05-17.²⁴ In that proceeding, Indiana Community requested the modification of its Station WJCF license to specify operation on Channel 262A and have this allotment reserved for noncommercial educational use. We dismissed that proposal because it was contingent on the reallocation of Channel 262A from Connersville, Indiana, to Norwood, Ohio, and, as such, was not a valid counterproposal in that proceeding. We also noted that the proposed Channel 262A allotment would be short-spaced to the licensed site of Station WWKI, Channel 263B, Kokomo, Indiana. Indiana Community did not seek reconsideration of that action.²⁵ A Channel 262A allotment at Morristown does not conflict with any proposal in this proceeding and there is reason or basis to consider this proposal in connection with our resolution of this docket. Subsequently, Indiana Community filed a “Motion to Correct Errors.” Again, this pleading was not served on the other parties in either this proceeding or MB Docket No. 05-17. This *ex parte* presentation will not be considered in the context of resolving this proceeding.²⁶

14. 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).

15. Accordingly, pursuant to 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 November 27, 2006, the FM Table of Allotments, Section 73.202(b) of the Commission’s Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

| <u>City</u> | <u>Channel No.</u> |
|-------------|--------------------|
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²³ The reference coordinates for the Channel 289A allotment at Greensburg, Kentucky, are 37-14-09 and 85-27-56.

²⁴ *Connersville, Madison and Richmond, Indiana, Erlanger and Lebanon, Kentucky, and Norwood, Ohio; and Lebanon, Lebanon Junction, New Haven and Springfield, Kentucky*, Report and Order, 20 FCC Rcd 18871 (MB 2005).

²⁵ Instead, after the release of the *Report and Order*, Indiana Community filed an “amendment” to its proposal requesting that the Station WJCF community of license be changed to Shelbyville, Indiana. The specification of a new community in a rulemaking proceeding must be filed by the comment deadline. Accordingly, this counterproposal is grossly untimely in contravention of Section 1.420(d) of the Commission’s Rules which requires that counterproposals be filed by the comment date.

²⁶ In this pleading, Indiana Community references eight pending FM translator applications. A translator is a secondary service and may not cause interference to any primary station. In the event a final rulemaking proceeding impacts a pending translator application, the applicant may file a minor amendment to that application.

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|----------------------------|--------------------------------|
| Edinburgh, Indiana | 262A |
| Hope, Indiana | 275A |
| Greensburg, Kentucky | 289A |
| Hodgenville, Kentucky | 297A |
| Horse Cave, Kentucky | 293A |
| Lebanon Junction, Kentucky | 257A |
| Lewisport, Kentucky | 274A |
| Louisville, Kentucky | 248C1, 259B, 263C2, 272A, 280A |
| Lyndon, Kentucky | 276C2 |
| St. Matthews, Kentucky | 295B |
| Belle Meade, Tennessee | 246C2 |
| Goodlettsville, Tennessee | 221A |
| Hendersonville, Tennessee | 259C0 |
| Manchester, Tennessee | 268A |
| Millersville, Tennessee | 294C3 |

16. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Cumulus Licensing LCC for Station WNFN, Channel 294A, Belle Meade, Tennessee, IS MODIFIED to specify operation on Channel 294C3 at Millersville, Tennessee, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit and commencement of operation by Station WRQQ as a Belle Meade facility, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

17. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Newberry Broadcasting, Inc. for Station WHHT, Channel 294A, Horse Cave, Kentucky, IS MODIFIED, to specify operation on Channel 2293A, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

18. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Elizabeth Broadcasting, Inc. for Station WKMO, Channel 292A, Hodgenville, Kentucky, IS MODIFIED, to specify operation on Channel 297A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

19. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Elizabeth Broadcasting Inc. for Station WTHX, Channel 297A, Lebanon Junction, Kentucky, IS MODIFIED, to specify operation on Channel 257A, 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 (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

20. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Cumulus Licensing LLC for Station WRQQ, Channel 246C2, Goodlettsville, Tennessee, IS MODIFIED, to specify Belle Meade, Tennessee, as the community of license, 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 (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit and commencement of operation by Station WQQK as a Goodlettsville facility, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

21. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Cumulus Licensing LLC for Station WQQK, Channel 221A, Hendersonville, Tennessee, IS MODIFIED, to specify Goodlettsville as the community of license, 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 (FCC Form 301), specifying the new facility;

(b) Upon grant of the construction permit and commencement of operation by Station WWTN as a Hendersonville facility, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

22. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Cumulus Licensing LLC for Station WFTZ, Channel 259C, Manchester, Tennessee, IS MODIFIED, to specify operation on Channel 259C0 at Hendersonville, Tennessee, 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 (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from

environmental processing.

24. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of CXR Holdings, L.L.C. for Station WRKA, Channel 276A, St. Matthews, Kentucky, IS MODIFIED, to specify operation on Channel 276C2 at Lyndon, Kentucky, 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 (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

25. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Columbus Radio, Inc. for Station WXCH, Channel 276A, Versailles, Indiana, IS MODIFIED, to specify operation on Channel 275A at Hope, Indiana, 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 (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;
- (c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

26. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Edinburgh Radio for Station WYGB, Channel 275A, Edinburgh, Indiana, IS MODIFIED, to specify operation on Channel 262A, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance

with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

27. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Hancock Communications, Inc. for Station WLME, Channel 275C3, Tell City, Indiana, IS MODIFIED, to specify operation on Channel 274A at Lewisport, Kentucky, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

28. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of CXR Holdings, L.L.C. for Station WVEZ, Channel 295B, Louisville, Kentucky, IS MODIFIED, to specify St. Matthews, Kentucky, as the community of license, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

29. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Green County CBC, Inc., for Station WGRK-FM, Channel 276A, Greensburg, Kentucky, IS MODIFIED to specify operation on Channel 289A, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (FCC Form 301) specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's rules;

(c) Nothing contained herein shall be construed to authorize a change in transmitter site or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

30. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's Rules, any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rulemaking fee when filing the application to implement the change in community of license and/or upgrade. As a result of this proceeding, the licensees receiving an upgrade and/or change in community of license are required to submit a rulemaking fee in addition to the fee required for the application to affect the upgrade and/or change in community of license.

31. 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).

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

33. 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

