

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

In the Matter of	)	
	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 05-155
Table of Allotments,	)	RM-11226
FM Broadcast Stations.	)	
(Denver City, Texas)	)	

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

**Adopted: March 15, 2006**

**Released: March 17, 2006**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rulemaking* issued at the request of Ramar Communications II, Ltd., ("Petitioner"), licensee of Station KSTQ-FM, Plainview, Texas. Petitioner proposes to delete vacant and unapplied for Channel \*248C2 at Denver City, Texas, or, in the alternative, modify the site restriction for Channel \*248C2 to accommodate Petitioner's pending application to modify Station KSTQ-FM's operation. Petitioner filed comments in support of the proposal. No other comments were filed.

2. **Background.** At the time that the application for the construction permit underlying Station KSTQ-FM's licensed facility was filed, the proposed facility complied with the minimum distance separation requirements of Section 73.207 of the rules. On December 22, 2000, the construction permit for Channel 248C2 at Denver City expired.<sup>1</sup> That allotment reverted to the status of vacant and unapplied for, and the original allotment reference coordinates for that channel were reinstated.<sup>2</sup> As a consequence, Station KSTQ-FM became short-spaced to that vacant allotment by 17 kilometers. In addition, Station KSTQ-FM cannot avail itself of the contour protection pursuant Section 73.215 of the rules because of the extent of the short-spacing.

3. **Discussion.** We will retain Channel \*248C2 at Denver City to afford any party interested in that channel an opportunity to file an application for it when a window opens in the future. However, in accordance with Commission policy, we will modify the coordinates for Channel \*248C2 at Denver City since Petitioner requested that the Commission consider this alternative relief.<sup>3</sup> We will dismiss the petition for rulemaking because the site modification for Channel \*248C2 at Denver City does not require a change to the Table of Allotments.

4. The site for Channel \*248C2 can be modified to Petitioner's suggested site 13.6

<sup>1</sup> At the request of American Family Association and Starboard Media Foundation, Inc., Channel 248C2 was subsequently reserved for noncommercial educational use at the allotment site. See *Denver City Texas*, 19 FCC Rcd 15418 (MB 2004).

<sup>2</sup> The original allotment coordinates for Channel 248C2 at Denver City are 33-01-53 NL and 102-48-47 WL.

<sup>3</sup> See *Fair Bluff, North Carolina*, 11 FCC Rcd 12662 (MMB 1996); *Silverton, Colorado*, 9 FCC Rcd 4097 (MMB 1994).

kilometers (8.5 miles) west of Denver City.<sup>4</sup> This site conforms with the minimum distance separation requirements set forth in Section 73.207 (b)(1) of the rules and the requirements for reservation of commercial channels for noncommercial educational use set forth in Section 73.202 (1)(a)(ii) of the rules. This modification will allow Station KSTQ-FM to make modifications to its facilities to improve service to Plainview, Texas. Station KSTQ-FM presently operates a directional facility on Channel 247C1 at Plainview, Texas.<sup>5</sup> The modification of Channel \*248C2 at Denver City will permit Petitioner to modify its directional facilities to operate omnidirectionally and thereby substantially improve its service to Plainview. It has pending an application to permit Station KSTQ-FM to operate omnidirectionally.<sup>6</sup> It states that if that application is dismissed, it will file a replacement application to operate omnidirectionally upon the approval of the revised allotment.

5. We are also taking this opportunity to clarify the processing procedures regarding rulemaking proposals involving either the deletion, reservation (or dereservation) for NCE use, of a vacant allotment that has not been subject to auction or a filing window. The rulemaking proponent will be expected to serve a copy on the original petitioner for that vacant allotment.

6. IT IS ORDERED That the petition for rulemaking filed by Ramar Communications II, Ltd, IS DISMISSED.

7. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Victoria M. McCauley, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

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<sup>4</sup> The modified coordinates for Channel \*248C2 at Denver City are 32-55-57 NL and 102-58-10 WL.

<sup>5</sup> See File No. BLH-20030605ADW.

<sup>6</sup> See File No. BPH-20040721ACL.