

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-316
Table of Allotments,)	RM-11294
FM Broadcast Stations.)	
(Arnold and City of Angels, California))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 3, 2006

Released: May 5, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* (“Notice”) ¹ issued in response to a Petition for Rule Making filed on behalf of KBYN, Inc. (“Petitioner”), licensee of FM Station KBYN, Channel 240A, Arnold, California. Petitioner seeks to reallocate Channel 240A from Arnold to City of Angels, California, and to modify Station KBYN’s license accordingly. Petitioner filed comments in which it reiterates its intent to effectuate its proposal. No other comments or counterproposals have been filed. For the reasons stated below, we grant Petitioner’s rulemaking requests.

2. Petitioner made the reallocation request in this docket pursuant to Section 1.420(i) of the Commission’s Rules,² 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 competing expressions of interest.³ In this instance, the reallocation will allow the establishment of a first local aural transmission service by Petitioner at City of Angels, California (2000 U.S. Census population of 3,004 persons). Petitioner has submitted sufficient information to demonstrate that City of Angels is a community to which an FM channel may be allocated. Provision of first local service falls under priority (3) of the FM priorities and is preferred to providing a second local service to Arnold, which falls under priority (4) of the FM allotment priorities.⁴ In light of all the relevant factors in this case, we find that changing the community of license of Station KBYN from Arnold to City of Angels, California, is in the public interest. Further, the allocation of Channel 240A to City of Angels would not deprive Arnold of its sole local transmission outlet, because Arnold will retain local service from FM Station KCFA.

¹ *Arnold and City of Angels, California*, Notice of Proposed Rule Making, 20 FCC Rcd 18831 (MB 2005).

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 listed in *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). The allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

3. Consistent with the technical requirements of the Commission's rules, Channel 240A can be allotted to City of Angels, California, utilizing coordinates of 38-05-32 NL and 120-27-22 WL, with a site restriction of 8.6 kilometers (5.3 miles) east of City of Angels.

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, *see* 5 U.S.C. 801(a)(1)(A).

5. Accordingly, pursuant to the authority contained 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 June 19, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Arnold, California	291B1
City of Angels, California	240A

6. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by KBYN, Inc. IS GRANTED.

7. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of KBYN, Inc. for FM Station KBYN, Arnold, California, IS MODIFIED to specify operation on Channel 240A at City of Angels, California, 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 a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

8. Pursuant to 47 C.F.R. Section 1.1104(3)(1), KBYN, Inc., licensee of FM Station KBYN, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for FM Station KBYN, Channel 240A, from Arnold, California, to City of Angels, California, at the time it submits its Form 301 application.

9. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

10. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau