

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

In the Matter of	)	
	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MB Docket No. 04-258
FM Broadcast Stations.	)	RM-11000
(Boulder Town, Levan, Mount Pleasant and	)	RM-11149
Richfield, Utah) <sup>1</sup>	)	

**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 a *Notice of Proposed Rule Making and Order to Show Cause*<sup>2</sup> issued at the request of Micro Communications, Inc. (“Petitioner”), licensee of Station KCFM(FM), Channel 244C, Levan, Utah, proposing to substitute Channel 229C for Channel 244C at Levan and modify the license for Station KCFM accordingly. To accommodate its proposal, Petitioner proposes to substitute Channel 244C for Channel 229C at Richfield, Utah, and modify the license of Station KCFM accordingly. Mid-Utah Radio, Inc. (“Mid-Utah”), licensee of Station KCFM, was ordered to show cause why its license should not be modified.

2. Both Petitioner and Mid-Utah responded to the *Notice*. Mid-Utah opposed the proposal, requesting that the *Notice* be rescinded. It states that although Channel 244C could be allotted to Richfield at the site specified in an outstanding Station KCFM construction permit,<sup>3</sup> Channel 244C would be short-spaced to two vacant channels, Channel 246A at Beaver, Utah, and Channel 244C at Mesquite, Nevada based on Station KCFM’s currently licensed site.<sup>4</sup> Mid-Utah argues that under the Commission’s policy in *Cut and Shoot, Texas*,<sup>5</sup> an allotment proposal must protect both the license site and construction permit site under Section 73.208(a) of the Commission’s Rules.

3. Mid-Utah also filed a counterproposal requesting the allotment of Channel 231C at Boulder Town, Utah, and the reallocation of Channel 229C from Richfield to Mount Pleasant, Utah. In response to the counterproposal, Petitioner stated that Channel 244C would also work at Mount Pleasant, and suggested that alternate Channel 284C be allotted at Boulder Town so that both the counterproposal and the original proposal could be adopted. It reiterated that it would proceed with the proposal if adopted and file the necessary applications.

4. We agree with Mid-Utah that the petition for rule making was defective when filed under our

<sup>1</sup> The communities of Boulder Town and Mount Pleasant, Utah, have been added to the caption.

<sup>2</sup> *Levan and Richfield, Utah*, Notice of Proposed Rule Making, 19 FCC Rcd 13103 (MB 2004)

<sup>3</sup> See File No. BPH-20030304AAQ.

<sup>4</sup> See File No. BLH-20050803AAF

<sup>5</sup> See *Cut and Shoot, Texas*, Memorandum Opinion and Order, 11 FCC Rcd 16383 (MMB 1996).

policy in *Cut and Shoot, Texas*.<sup>6</sup> Our engineering analysis confirms that the petition for rule making failed to protect the Station KCYQ license site as required by Section 73.208 of the rules. At the time of filing, Channel 244C at Richfield at Station KCYQ's license site was short-spaced to both Channel 246A at Beaver, Utah and Channel 244C at Mesquite Utah. In the interest of administrative efficiency, rule making proponents are required to protect both the license and the construction permit site of stations at the time of filing.

5. We will deny Mid-Utah's counterproposal for Channel 229C at Mount Pleasant.<sup>7</sup> Our analysis shows that the counterproposal proposes a site which is inside the Manti-La Sal National Forest and will create a white area of 512 square kilometers with a population of 1,103 persons, and a gray area of 450 square kilometers with a population of 1,057 persons. This would not be in the public interest and would not result in a preferential arrangement of allotments. With respect to Petitioner's alternate suggestion to use Channel 244C at Mount Pleasant, we note that the site they propose is also located in Manti-La Sal National Forest. Neither party mentioned that its transmitter's location would be in the National Forest, or that it received permission from the National Park Service to use a site in a National Forest. We do not presume that authority to build there would be granted. Accordingly, neither the counterproposal nor the suggested solution can be granted.

6. We will dismiss the petition for rulemaking and deny the counterproposal.

7. Accordingly, IT IS ORDERED That the petition for rulemaking filed by Micro Communications, Inc. IS DISMISSED.

8. IT IS FURTHER ORDERED That the counterproposal filed by Mid-Utah Radio, Inc., IS DENIED in part.

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

10. 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>6</sup> *Id.*

<sup>7</sup> The portion of the counterproposal proposing the allotment of Channel 231C at Boulder Town is not mutually exclusive with any part of the original proposal and can stand on its own. With Mid-Utah's expression of interest, we can propose this as a separate proposal. Accordingly, we will issue a separate Notice of Proposed Rule Making for this proposal.