

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 05-282
Table of Allotments,	)	RM-11229
FM Broadcast Stations.	)	RM-11333
(Rockmart, Aragon, and Ringgold, Georgia;	)	RM-11337
Anderson, South Carolina; and Chattanooga,	)	
Decatur, Harrison, Lynchburg, Spring City, and	)	
Wartrace, Tennessee)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: June 13, 2007**

**Released: June 15, 2007**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Notice of Proposed Rule Making<sup>1</sup> issued in response to a Petition for Rule Making filed by Woman's World Broadcasting, Inc. ("WWB"), licensee of Station WTSH-FM, Channel 296C2, Rockmart, Georgia. Pursuant to Section 1.420(i) of the Commission's rules.<sup>2</sup> WWB proposes to upgrade the facilities of WTSH-FM to Channel 296C1, to change the station's community of license from Rockmart to Aragon, Georgia, and to modify the license of WTSH-FM to operate on Channel 296C1 at Aragon. The proposed allotment of Channel 296C1 at Aragon, which would provide a first local service to Aragon, is mutually exclusive with the current allotment of Channel 296C2 at Rockmart. In order to accommodate the proposed allotment, WWB requests the substitution of Channel 230A for vacant Channel 296A at Lynchburg, Tennessee.<sup>3</sup> If its petition is granted, WWB states that it will file an application for Channel 296C1 at Aragon, and will construct the facilities if its application is granted.

<sup>1</sup> *Rockmart and Aragon, Georgia, and Lynchburg and Chattanooga, Tennessee*, Notice of Proposed Rule Making, 20 FCC Rcd 16,259 (MB 2005) ("Notice").

<sup>2</sup> 47 C.F.R. §§ 1.420(g) and (i).

<sup>3</sup> In its petition, WWB also requested the reclassification of Station WSKZ(FM), Chattanooga, Tennessee, to Class C0. We issued an order requiring Citadel Broadcasting Company ("Citadel") to show cause why its authorization should not be modified to specify operation on Channel 293C0 in lieu of Channel 293C. *See Reclassification of License of Station WSKZ(FM), Chattanooga, Tennessee*, Order to Show Cause, 20 FCC Rcd 7601 (MB 2005). Citadel did not submit a response. For that reason, we shall order the modification of the authorization of Station WSKZ(FM) to specify operation on Channel 293C0, Chattanooga, Tennessee.

2. **Background.** WWB filed comments supporting the changes proposed in the *Notice*. In addition, two counterproposals were filed. In the first counterproposal, Bart Walker (“Walker”) proposes the allotment of Channel 230A at Wartrace, Tennessee. In the second counterproposal, J.L. Brewer Broadcasting of Cleveland, LLC, licensee of Station WAYA(FM), Channel 230C3, Spring City, Tennessee, and J.L. Brewer Broadcasting, LLC, licensee of Station WMPZ(FM), Channel 229A, Ringgold, Georgia (together, “Brewer”) propose changes of community for both of those stations. Brewer proposes to change the community of Station WAYA(FM), Channel 230C3, from Spring City, to Decatur, Tennessee, and to modify the license for Station WAYA(FM) accordingly. Channel 230C3 would provide a first local service at Decatur. Brewer also proposes to change the community of Station WMPZ(FM), Channel 229A, from Ringgold, Georgia, to Harrison, Tennessee, to substitute Channel 228A for Channel 229A, and to modify the license for Station WMPZ(FM) accordingly. Channel 228A would provide a first local service at Harrison. In order to accommodate the allotment of Channel 228A at Harrison, Brewer proposes a channel substitution for Station WLJA-FM, Ellijay, Georgia, from Channel 228A to Channel 266A. Finally, in order to accommodate the substitution of Channel 266A for Channel 228A at Ellijay, Georgia, Brewer proposes a consensual downgrade for Station WROQ(FM), Anderson, South Carolina, from Channel 266C0 to Channel 266C1.

3. Walker submitted reply comments, reiterating his interest in the allotment of Channel 230A at Wartrace, Tennessee. Walker argues that the proposed allotment of Channel 296C1 at Aragon would not provide line-of-sight service to the community of Aragon. With respect to Brewer’s counterproposal, Walker states that reallocation of Channel 230C3 from Spring City to Decatur, Tennessee, would cause Spring City to lose its only local nighttime radio service. Finally, Walker criticizes Brewer’s proposal because it would result in a predicted loss of 16,257 persons within the current service area of Station WMPZ(FM), Channel 229A, Ringgold, Georgia.

4. WWB and Brewer submitted joint reply comments and a settlement agreement. In their comments, they state that a slight change in the reference coordinates for the re-allotment of Channel 230C3 at Decatur, Tennessee, would remove the conflict between WWB’s petition for rule making and Brewer’s counterproposal. Pursuant to this settlement agreement, Brewer agrees to amend its proposed reference coordinates for Channel 230C3 at Decatur, Tennessee,<sup>4</sup> and WWB agrees to pay Brewer an amount not to exceed its legitimate and prudent expenses incurred in conjunction with the specification of the revised Decatur reference coordinates.

5. Tri-State Communications, Inc. (“Tri-State”), the licensee of Station WLJA-FM, Channel 228A, Ellijay, Georgia, also submitted reply comments. Tri-State objects to Brewer’s proposal to change the channel for Station WLJA-FM. In opposition to Brewer’s counterproposal, Tri-State argues that Station WMPZ(FM) will be unable to provide line-of-sight coverage to the entire community of Harrison, Tennessee, from the reference coordinates specified by Brewer. Tri-State also argues that Harrison, a census designated place, is not independent of Chattanooga.

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<sup>4</sup> The amended reference coordinates proposed by WWB and Brewer for the allotment of Channel 230C3 at Decatur, Tennessee, are: 35-27-30 NL and 84-42-18 WL.

6. We gave public notice of both the Walker and the Brewer counterproposals.<sup>5</sup> Walker filed comments in response to the public notice of his counterproposal, reiterating his interest in the proposed allotment of Channel 230A at Wartrace, Tennessee. We also issued, in response to Brewer's counterproposal, an Order to Show Cause ("Show Cause Order") to Tri-State Communications, Inc. ("Tri-State"), licensee of Station WLJA-FM, Channel 228A, Ellijay, Georgia.<sup>6</sup> In that order, we directed Tri-State to show cause why Station WLJA should not be required to change to Channel 266A at its current site. Tri-State filed comments in response to the public notice of Brewer's counterproposal and an opposition to our Show Cause Order. In both filings, Tri-State reiterated its earlier-stated objections to Brewer's counterproposal.<sup>7</sup>

7. **Discussion.** In determining whether to approve a change of community, we compare the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.<sup>8</sup> With respect to WWB's proposal, retention of Channel 296C2 at Rockmart would satisfy only the fourth allotment priority, "other public interest matters," whereas the proposed reallocation at Aragon would satisfy the third allotment priority, "first local service."<sup>9</sup>

8. Neither Rockmart nor Aragon is located within an urbanized area, but both the existing and proposed allotment would provide 100 percent 70 dBu signal coverage to the Rome, Georgia, Urbanized Area. In addition, the proposed allotment would cover 73.7 percent of the Dalton, Georgia, Urbanized Area, and would increase coverage of the Atlanta, Georgia, Urbanized Area.<sup>10</sup> Under the circumstances,

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<sup>5</sup> Public Notice, Report No. 2773 (June 16, 2006), and Public Notice, Report No. 2781 (July 20, 2006), respectively.

<sup>6</sup> *Rockmart, Aragon, and Ellijay, Georgia, Lynchburg, Chattanooga, Decatur, Harrison, and Wartrace, Tennessee, and Anderson, South Carolina*, Order to Show Cause, 21 FCC Rcd 8633 (MB 2006).

<sup>7</sup> We will not grant Brewer's motion to strike Tri-State's comments. While Tri-State's repetition of identical arguments in multiple pleadings is not a practice that we wish to encourage, each such pleading was timely and relevant to issues raised in this proceeding. As to WWB's "Supplement to Reply Comments" and Brewer's "Response to Reply Comments," we will not accept these untimely and unauthorized submissions. 47 C.F.R. § 1.415(d). See *Cherry Valley and Cotton Plant, Arkansas*, Report and Order, 14 FCC Rcd 13543, 13544, n.6 (MMB 1999) (late-filed reply comments not considered); *Berlin, DeForest, Markesan, and Wautoma, Wisconsin*, Report and Order, 10 FCC Rcd 7733, n.3 (MMB 1995) (late-filed reply comments were unauthorized and not accepted).

<sup>8</sup> *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983). The FM 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).

<sup>9</sup> If WWB's proposed reallocation is adopted, Rockmart will continue to be served by Station WZOT(AM), Rockmart, Georgia, and Channel 296C1 would provide a first local service at Aragon, Georgia.

<sup>10</sup> Station WTSH-FM currently provides service to 0.5 percent of the Atlanta, Georgia, Urbanized Area. That coverage would increase to 5.6 percent, if WWB's proposal is adopted.

we requested that WWB provide a *Tuck* analysis.<sup>11</sup> WWB has supplied a *Tuck* analysis demonstrating that Aragon meets at least five of the eight *Tuck* factors.<sup>12</sup> We therefore find that Aragon is a separate and distinct community, and that it is deserving of its own local transmission service, giving the proposed reallocation of Channel 296C1 preference over the current allotment of Channel 296C2 at Rockmart.

9. As a result of reference coordinate changes pursuant to the WWB-Brewer settlement agreement, Brewer's counterproposal is no longer mutually exclusive with WWB's proposal nor with Walker's counterproposal. We therefore proceed to address the only remaining conflict by comparing the WWB and Walker proposals.<sup>13</sup> WWB's proposal would provide a first local service to Aragon, Georgia, an incorporated city of 1,039 persons, and Walker's proposal would provide a first local service to Wartrace, Tennessee, a town of 548 persons. Both Aragon and Wartrace currently are well-served with five or more reception services. Under these circumstances, a new FM service at Aragon, the larger community, should be preferred over a new FM service at Wartrace.<sup>14</sup> Moreover, the total gain in population served will be 861,694 persons for the WWB proposal, versus 94,271 for Walker's counterproposal. We therefore find that the public interest would be served by adoption of the allotment changes proposed by WWB, including the upgrade to Channel 296C1 and reallocation from Rockmart to Aragon, the substitution of Channel 230A for vacant Channel 296A at Lynchburg, Tennessee, and the consensual downgrade of Station WROQ(FM), Chattanooga, Tennessee, from Channel 293C to Channel 293C0.

10. Although the WWB-Brewer settlement agreement removed the mutual exclusivity between their two proposals, we still must compare the existing versus the proposed arrangement of allotments in evaluating the changes proposed by Brewer. Brewer seeks a change of community for Station WAYA(FM), Channel 230C3, Spring City, Tennessee, proposing reallocation of Channel 230C3 at Decatur, Tennessee, as that community's first local service. Under the Commission's allotment priorities, the proposed reallocation of Channel 230C3 should be preferred over retention of Channel 230C3 at Spring City, which would continue to receive local service from Station WXQK(AM), Spring City, Tennessee. Because Decatur is not located within an urban area and Station WAYA(FM) would not provide signal coverage to more than

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<sup>11</sup> *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988) ("Tuck").

<sup>12</sup> In its comments, WWB supplies evidence demonstrating that Aragon has its own post office and zip code (30104); its own local government and elected officials; and numerous commercial establishments (including health care facilities). Moreover, WWB establishes that Aragon residents are unlikely to work in Dalton, which is more than 50 miles distant from Aragon, and that the residents of Aragon perceive Aragon as being a separate and independent community. See *Tuck, supra* (setting forth eight factors for evaluation). See also *Memphis and Arlington, Tennessee, and St. Florian, Alabama*, Report and Order, 21 FCC Rcd 1144 (MB 2006) (*Tuck* analysis not required, where station's signal already covered 100 percent of urbanized area, and new community was not located within urbanized area).

<sup>13</sup> The Walker and Brewer counterproposals are not mutually exclusive.

<sup>14</sup> *Revision of FM Assignment Policies and Procedures*, cited *supra*; *Blanchard, Louisiana, and Stephens, Arkansas*, Memorandum Opinion and Order, 10 FCC Rcd 9828 (1995); and *Rose Hill, Trenton, Aurora and Ocracoke, North Carolina*, Report and Order, 11 FCC Rcd 21,223 (MMB 1996), *aff'd*, Memorandum Opinion and Order, 15 FCC Rcd 10,739 (MMB 2000), *rev. denied*, Memorandum Opinion and Order, 16 FCC Rcd 15610 (2001).

50 percent of any urbanized area, this proposed change of community does not require a *Tuck* analysis.

11. In order to accommodate the allotment of Channel 230C3 at Decatur, Brewer proposes a change of community for its Station WMPZ(FM), Channel 229A, Ringgold, Georgia. Brewer proposes that Station WMPZ(FM) be relocated to Harrison, Tennessee, substituting Channel 228A for Channel 229A at Harrison as that community's first local service. Because both Ringgold and Harrison are located in the Chattanooga, Tennessee, Urbanized Area, concern about the migration of radio stations from rural to suburban and urban areas is lessened.<sup>15</sup> Nonetheless, Brewer supplies a *Tuck* analysis demonstrating that Harrison meets at least seven of the eight *Tuck* factors.<sup>16</sup> We therefore find that Harrison is a separate and distinct community, and, under the Commission's allotment priorities, the proposed allotment of Channel 228A at Harrison should be preferred over retention of Channel 229A at Ringgold, which would continue to receive local service from Station WTUN(FM), Ringgold, Georgia.

12. Brewer's counterproposal will result in first local services to both Decatur and Harrison, Tennessee, providing benefits that outweigh the retention of a second competitive and first nighttime service at Spring City, Tennessee, and a second local FM service at Ringgold, Georgia.<sup>17</sup> Moreover, despite Walker's focus upon the predicted loss of 16,257 persons due to the removal of Channel 229A at Ringgold, Brewer's counterproposal, as a whole, will produce a net gain of 12,254 persons. In addition, all of the loss areas created by adoption of Brewer's proposal will continue to be well-served with five or more reception services. We therefore find that the public interest will be served by granting Brewer's counterproposal.

13. For all of the foregoing reasons, we find that it would serve the public interest to grant both WWB's proposal and Brewer's counterproposal. Based on our engineering analysis, we find that WWB's proposed site for Channel 296C1 at Aragon, Georgia,<sup>18</sup> would provide the required city-grade 70 dBu contour coverage to the entire community of Aragon. Our engineering analysis further finds that Brewer's

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<sup>15</sup> *Ardmore, Brilliant, Brookwood, Gadsden, Hoover, Moundville, New Hope, Pleasant Grove, Russellville, Scottsboro, Troy, Tuscaloosa, and Winfield Alabama, Okolona and Vardaman, Mississippi, and Liden, McMinnville, Pulaski, and Walden, Tennessee*, Report and Order, 17 FCC Rcd 16,332 (MB 2002), *pet. for recon. denied*, Memorandum Opinion and Order, 18 FCC Rcd 6390 (MB 2003).

<sup>16</sup> Brewer demonstrates that Harrison has its own post office and zip code (37341); its own local government and elected officials; schools, fire department, and other municipal services; numerous commercial establishments (including health care facilities). In addition, WWB establishes that Harrison is a separate and distinct advertising and media market from Chattanooga; relies upon radio and print media not licensed to or located in Chattanooga; and that the residents of Harrison perceive Harrison as being a separate and independent community.

<sup>17</sup> With respect to Station WXQK(AM), Spring City, Tennessee, the Commission considers both daytime and fulltime AM stations to be local aural transmission services. See *Morganfield and Corydon, Kentucky*, Report and Order, citing *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).

<sup>18</sup> Channel 296C1 can be allotted at Aragon, Georgia, at the following reference coordinates: 34-22-02 NL and 84-58-33 WL, at a site 36.4 km (22.6 miles) north of Aragon.



proposed sites for Channel 230C3 at Decatur, Tennessee,<sup>19</sup> and Channel 228A at Harrison, Tennessee,<sup>20</sup> would provide the required city-grade 70 dBu contour coverage to the entire communities of Decatur and Harrison, Tennessee, respectively.

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 the authority found 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), 0.283, and 1.420(i), IT IS ORDERED, That effective July 30, 2007, the Media Bureau's Consolidated Data Base System will reflect for the following stations and allotments in Georgia, Tennessee, and South Carolina: (1) Channel 296C1 at Aragon, Georgia, as the reserved assignment for Station WTSH-FM, in lieu of Channel 296C2 at Rockmart, Georgia; (2) Channel 230A as the vacant allotment at Lynchburg, Tennessee, in lieu of Channel 296A; (3) Channel 230C3 at Decatur, Tennessee, as the reserved assignment for Station WAYA(FM), in lieu of Channel 230C3 at Spring City, Tennessee; (4) Channel 228A at Harrison, Tennessee, as the reserved assignment for Station WMPZ(FM), in lieu of Channel 229A at Ringgold, Georgia; (5) Channel 266A at Ellijay, Georgia, as the reserved assignment for Station WLJA-FM, in lieu of Channel 228A; (6) Channel 293C0 at Chattanooga, Tennessee, as the reserved assignment for Station WSKZ(FM), in lieu of Channel 293C; and (7) Channel 266C1 at Anderson, South Carolina, as the reserved assignment for Station WROQ(FM), in lieu of Channel 266C0.

16. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Woman's World Broadcasting, Inc., for Station WTSH-FM, Channel 296C2, Rockmart, Georgia, IS MODIFIED to specify operation on Channel 296C1 at Aragon, Georgia, 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.

17. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), Woman's World Broadcasting, Inc., licensee of Station WTSH-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

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<sup>19</sup> Channel 230C3 can be allotted at Decatur, Tennessee at the following reference coordinates, as revised pursuant to the WWB-Brewer settlement agreement: 35-27-30 NL and 84-42-18 WL.

<sup>20</sup> Channel 228A can be allotted at Harrison, Tennessee at the following reference coordinates: 35-07-06 NL and 85-14-29 WL.

18. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of J.L. Brewer Broadcasting of Cleveland, LLC, for Station WAYA(FM), Channel 230C, Spring City, Tennessee, IS MODIFIED to specify operation on Channel 230C at Decatur, 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 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.

19. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), J.L. Brewer Broadcasting of Cleveland, LLC, licensee of Station WAYA(FM), is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

20. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of J.L. Brewer Broadcasting, LLC, for Station WMPZ(FM), Channel 229A, Ringgold, Georgia, IS MODIFIED to specify operation on Channel 228A at Harrison, 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 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.

21. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), J.L. Brewer Broadcasting, LLC, licensee of Station WMPZ(FM), is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

22. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Tri-State Communications, Inc., for Station WLJA-FM, Channel 228A, Ellijay, Georgia, IS MODIFIED to specify operation on Channel 266A, 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.

23. 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:

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(Counsel for Tri-State Communications, Inc.)

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



25. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
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