

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 07-163
Table of Allotments,)	RM-11385
FM Broadcast Stations.)	RM-11416
(Markham, Ganado, and Victoria,)	
Texas) ¹)	
)	
)	

ORDER TO SHOW CAUSE

Adopted: April 15, 2009

Released: April 17, 2009

Comment Date: June 1, 2009

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) a *Notice of Proposed Rule Making*² issued at the request of Katherine Pyeatt (“Petitioner”); (2) supporting comments filed by the Petitioner; (3) comments and a counterproposal filed by Fort Bend Media Broadcasting Company (“Fort Bend”), licensee of Station KHTZ(FM), Ganado, Texas;³ and (4) reply comments filed by Fort Bend.

2. The *NPRM* proposed the allotment of FM Channel 235A at Markham, Texas, as a second local service. In response to the *NPRM*, Fort Bend filed a counterproposal, requesting the upgrade of its Station KHTZ (FM), Ganado, Texas, from Channel 284C2 to Channel 235C and the modification of its license to specify operation on non-adjacent Channel 235C, pursuant to Section 1.420(g) of the Commission’s Rules.⁴ To accommodate the proposed upgrade at Ganado, Fort Bend also requests the substitution of Channel 284C3 for Channel 236C3 at Victoria, Texas, and the associated modification of the license for Station KVIC(FM).

3. Section 316(a) of the Communications Act of 1934, as amended,⁵ permits us to modify the license or construction permit if such action is in the public interest. The Act requires that we notify the affected station of the proposed action, the public interest reasons for the action, and afford at least 30

¹ Ganado and Victoria, Texas, have been added to the caption. See *Public Notice*, Report No. 2849, released January 24, 2008.

² *Markham, Texas*, Notice of Proposed Rule Making, 22 FCC Rcd 15125 (MB 2007) (“*NPRM*”).

³ The station’s call letters were formerly KULF(FM) and were changed to KHTZ(FM) on September 10, 2008.

⁴ 47 C.F.R. § 1.420(g). Although Fort Bend’s counterproposal was previously placed on *Public Notice* as set forth in note 1, *supra*, we are concurrently with the release of this *Order to Show Cause* issuing an additional *Public Notice* to provide an opportunity for interested parties to express an interest in non-adjacent Channel 235C at Ganado, Texas, in compliance with Section 1.420(g).

⁵ 47 U.S.C. § 316(a) (the “Act”).

days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.⁶ We find that Fort Bend's counterproposal has sufficient public interest benefits to justify the issuance of a show cause order. Therefore, we are issuing this *Order to Show Cause* directed to Victoria RadioWorks, Ltd., licensee of Station KVIC(FM), Victoria, Texas, to show cause why its station's channel should not be modified as proposed herein.

4. An engineering analysis confirms that Channel 284C3 can be allotted to Victoria in compliance with the Commission's minimum distance separation requirements at Station KVIC(FM)'s licensed transmitter site.⁷ Further, Fort Bend has acknowledged a responsibility to reimburse the licensee of Station KVIC(FM) for the reasonable expenses incurred in making the requested channel change, pursuant to Commission policy.⁸

5. Although Victoria RadioWorks, Ltd., is provided an opportunity to object to the proposed channel change, this *Order* does not afford an additional opportunity to comment on the merits of either the proposal set forth in the *NPRM* or the counterproposal advanced by Fort Bend.⁹

6. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Victoria RadioWorks, Ltd., licensee of Station KVIC(FM), Victoria, Texas, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 284C3 in lieu of Channel 236C3.

7. Pursuant to Section 1.87 of the Communications Rules, the above affected licensee may, no later than June 1, 2009, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the affected licensee herein to furnish additional information. If the affected licensee raises any substantial and material questions of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to the respective modification as proposed in this *Order to Show Cause* and a final Order will be issued if the modification is found to be in the public interest.

8. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following: Victoria RadioWorks, Ltd., 8023 Vantage Drive, Suite 840, San Antonio, Texas 78230 (Licensee of Station KVIC(FM)); Harry C. Martin, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 North 17 Street, 11th Floor, Arlington, VA 22209 (Counsel to Victoria RadioWorks, Ltd.); Katherine Pyeatt, 3500 Maple Avenue, #1350, Dallas, Texas 75219 (Petitioner); Robert J. Buenzle, Esq., 11710 Plaza America Drive, Suite 2000, Reston, Virginia 20190 (Counsel for Fort Bend Media Broadcasting Company); and Gene Bechtel, Esq. 1050 17th Street, N.W., Suite 600, Washington, DC 20036 (Counsel for Petitioner).

⁶ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

⁷ The licensed coordinates for Station KVIC(FM) at Victoria are 28-46-55 NL and 96-56-29 WL.

⁸ See *Circleville, Ohio*, 8 FCC 2d 159 (1967).

⁹ See, e.g., *Angola, Indiana, et al.*, Request for Supplemental Information and Order To Show Cause, 5 FCC Rcd 2000 (MMB 1990).

9. For further information concerning this proceeding, contact Andrew J. Rhodes, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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