

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 12-53
Table of Allotments,)	RM-11658
FM Broadcast Stations.)	
(Dermott, Arkansas, and Cleveland, Mississippi))	
)	
Station WIBT-FM, Indianola, Mississippi)	File No. BPH-20110913AAK

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 25, 2013

Released: April 26, 2013

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) a *Notice of Proposed Rule Making* (“*Notice*”) issued in response to a Petition for Rule Making (“*Petition*”) filed by Delta Radio Network, LLC (“*Petitioner*”), licensee of WIBT(FM), Indianola, Mississippi;¹ (2) the “hybrid” application (the “*Application*”) filed by the *Petitioner*;² (3) a Motion for an Order to Show Cause, filed by *Petitioner*, and a responsive opposition filed by Radio License Holding, LLC (“*RLH*”), licensee of Station WGKX(FM), Memphis, Tennessee; and (4) comments filed by the *Petitioner* in support of the proposal set forth in the *Notice*. For the reasons discussed below, we grant the *Petition* and the *Application*.

2. **Background.** The *Notice* proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commission’s Rules, by substituting Channel 224A for vacant Channel 289A at Dermott, Arkansas, and Channel 226C2 for vacant Channel 225C2 at Cleveland, Mississippi, as part of a contingently filed “hybrid” application and rule making petition. The purpose of the proposed channel substitutions is to accommodate the *Application* to upgrade WIBT(FM) at Indianola from Channel 288A to Channel 289C2.

3. *Petitioner* filed comments supporting the allotment change proposed in the *Notice*. No other comments were received.

4. Subsequent to expiration of the comment period, *Petitioner* submitted a filing designated as a Petition for Rule Making for Memphis, Tennessee.³ This submission did not propose a change in the FM Table of Allotments, but rather requested the issuance of an Order to Show Cause to facilitate the upgrade of Station WIBT(FM) to Channel 289C2. In that filing, *Petitioner* asks that we issue an order to *RLH* to show cause why the authorization for Station WGKX(FM) should not be changed from Channel

¹ *Dermott, Arkansas, and Cleveland, Mississippi*, Notice of Proposed Rule Making, 27 FCC Rcd 2223 (MB 2012) (“*Notice*”).

² See File No. BPH-20110913AAK.

³ This document was filed on June 21, 2012.

290C to Channel 290C0. In essence, Petitioner's filing is not a petition for rule making but rather a motion for an order to show cause, and we shall treat it as such in this Report and Order. RLH, the intended recipient of the requested Order to Show Cause, submitted an opposition to Petitioner's motion.⁴

5. Following the exchange of pleadings regarding an Order to Show Cause for Station WGKX(FM), Petitioner amended its application for WIBT. In an amendment to the Application submitted on September 18, 2012, Petitioner proposes to reduce Channel 289C2's Effective Radiated Power from 50 to 25 kW, to increase the transmitter height from 151 to 163 meters, and to change the reference coordinates to 33-39-26 NL and 90-42-18 WL. Our engineering analysis of the amended application has determined that there is no longer a conflict between WIBT(FM), Channel 289C2, Indianola, Mississippi, and WGKX(FM), Channel 290C, Memphis, Tennessee.⁵

6. **Discussion.** We believe that the proposed channel substitutions at Dermott, Arkansas, and Cleveland, Mississippi, will serve the public interest, because they will accommodate Petitioner's proposed channel upgrade for WIBT(FM), thus significantly increasing the number of the station's potential listeners, without any deleterious effect upon the service that can be made available using the vacant allotments at Dermott, Arkansas, and Cleveland, Mississippi, respectively. In addition, as a result of the technical amendments submitted by Petitioner, the proposed upgrade for WIBT(FM) is not mutually exclusive with the pledged improvement of FM Station WGKX(FM), Channel 290C, Memphis, Tennessee, to a full Class C facilities. Channel 224A can be allotted at Dermott with a site restriction of 3.5 km (2.2 miles) southeast of city reference coordinates. The reference coordinates for Channel 224A at Dermott are: 33-30-23 NL and 91-24-19 WL. Channel 226C2 can be allotted at Cleveland, Mississippi, with a site restriction of 25.4 km (15.8 miles) northwest of city reference coordinates. The reference coordinates for Channel 226C2 at Cleveland are: 33-55-25 NL and 90-53-40 WL.

7. 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.⁶

8. Accordingly, IT IS ORDERED, that effective June 10, 2013, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel Number</u>
Dermott, Arkansas	224A
Cleveland, Mississippi	226C2

9. IT IS FURTHER ORDERED, that the application of Delta Radio Network, LLC, for Station WIBT-FM, Channel 289C2, Indianola, Mississippi, File No. BPH-20110913AAK, IS GRANTED.

⁴ RLH captioned its pleading, filed July 3, 2012, "Motion to Dismiss Petition for Rule Making."

⁵ RLH intends to construct facilities to operate Station WGKX at full Class C level. See File No. BPH-20130311AEA.

⁶ See 5 U.S.C. § 801 (a)(1)(A).

10. IT IS FURTHER ORDERED, that the Motion for an Order to Show Cause (captioned “Petition for Rule Making”) submitted by Delta Radio Network, LLC, on June 21, 2012, IS DISMISSED as moot.

11. The window periods for filing applications for Channel 224A at Dermott, Arkansas, and for Channel 226C2 at Cleveland, Mississippi, will not be opened at this time. Instead, the issue of opening filing windows for these allotments will be addressed by the Commission in a subsequent order or orders.

12. IT IS FURTHER ORDERED, that this proceeding IS TERMINATED.

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

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
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Audio Division
Media Bureau