

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

In the Matter of )
)
Amendment of Section 73.202(b) ) MB Docket No. 14-69
FM Table of Allotments, ) RM-11716
FM Broadcast Stations. )
(McCall, Idaho) )

NOTICE OF PROPOSED RULEMAKING

Adopted: May 1, 2014

Released: May 2, 2014

Comments Date: June 23, 2014

Reply Comments Date: July 8, 2014

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a Petition for Rule Making filed by Ashley A. Bruton ("Petitioner"), proposing the allotment of Channel 280A at McCall, Idaho, as the community's eighth local service. In compliance with Commission procedures, Petitioner has concurrently filed an FCC Form 301 application for Channel 280A at McCall, Idaho, and the necessary filing fees.

2. Background. Petitioner claims that McCall, Idaho is an incorporated city with a 2010 U.S. Census population of 2,991 persons, and that the proposed allotment site is fully-spaced and provides city-grade coverage to the entire community. Petitioner states that, if the channel is allotted, she would participate in the auction, and if Petitioner is the winning bidder, she will promptly construct the facilities as authorized.

3. Discussion. We find that the Petitioner's proposal warrants consideration because it could provide McCall, Idaho with an eighth local transmission service. A staff engineering analysis confirms that Channel 280A can be allotted to McCall, Idaho consistent with the minimum distance separation requirements of the Rules with a site restriction 0.4 kilometers (0.2 miles) southwest of the community. The reference coordinates are 44-54-30 NL and 116-06-00 WL. Accordingly, we will solicit comments on the proposed amendment to the FM Table of Allotments, Section 73.202(b), with respect to McCall, Idaho, as set forth below:

1 NCE Stations KGSY, KAVY, KBSK, KBSQ, KBSM, and FM Stations KUJJ and KDZY are assigned to McCall, Idaho.

2 Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services, Report and Order, 21 FCC Rcd 14212, 14223 ¶ 18 (2006).

3 See File No. BNP-20140128AFM.

| Community     | Channel No.   |          |
|---------------|---|----------|
|               | Present   | Proposed |
| McCall, Idaho | 228C3, <sup>4</sup> 238C3, <sup>5</sup><br>276C3, <sup>6</sup> 293C3 <sup>7</sup> | 280A     |

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached *Appendix* and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the *Appendix* before a channel will be allotted.

5. Interested parties may file comments on or before June 23, 2014, and reply comments on or before July 8, 2014, and are advised to read the *Appendix* for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of such comments should be served on Petitioner, as follows:

Ashley A. Bruton  
25 Campbell Road  
Walla Walla, Washington 99362

6. Parties must file an original and four paper copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at the Commission's headquarters building located at 445 12<sup>th</sup> Street, S.W., Room TW-A325, Washington, D.C. 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554. **All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

<sup>4</sup> Station KHNO, the community of license and channel were changed from Channel 228C3, McCall, Idaho, to Channel 228C1, Huntington, Oregon. See File No. BMPH-20121002ACH. Therefore, we are removing Channel 228C3, McCall, Idaho from the FM Table of Allotments.

<sup>5</sup> We are removing Channel 238C3, McCall, Idaho from the FM Table of Allotments because the channel is no longer considered a vacant allotment. Station KUJJ is licensed on Channel 238C3 at McCall. See File No. BLH-20131227ADB.

<sup>6</sup> Station KVBL, Channel 276C3, the community of license was changed from McCall, Idaho, to Union, Idaho. See File Nos. BNPH-20110624ADA and BLH-20120627ABD. Therefore, we are removing Channel 276C3, McCall, Idaho from the FM Table of Allotments.

<sup>7</sup> We are removing Channel 293C3, McCall, Idaho from the FM Table of Allotments because the community of license and channel were changed from Channel 293C3, McCall, Idaho, to Channel 294C1, Huntington, Oregon. See File No. BNPH-20091019AAS.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules.<sup>8</sup> This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

8. For further information concerning this proceeding, contact Rolanda F. Smith, (202) 418-2700. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioners constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez  
Assistant Chief  
Audio Division  
Media Bureau

Attachment: Appendix

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<sup>8</sup> *See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Makings to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549 (February 9, 1981).

## APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this *Appendix* is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this *Appendix* is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is required to file comments expressing the proponent's continuing interest in the proposed allotment and restating its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this *Appendix* is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C.