

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

In the Matter of)	
)	
Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations.)	
)	
(Bogata, Texas))	MB Docket No. 14-236 RM-11739
)	
(Wright City, Oklahoma))	MB. Docket No. 14-257 RM-11743
)	

REPORT AND ORDER

Adopted: June 9, 2016

Released: June 10, 2016

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) a Notice of Proposed Rule Making issued in MB Docket No. 14-236, in response to a Petition for Rule Making filed by Charles Crawford (Crawford), proposing the allotment of FM Channel 247A at Bogata, Texas, as a first local service, and a corresponding application;¹ (2) a Notice of Proposed Rule Making issued in MB Docket No. 14-257, in response to a Petition for Rule Making filed by Crawford, proposing the allotment of FM Channel 295A at Wright City, Oklahoma, as a first local service, and a corresponding application;² (3) supporting comments filed by Crawford in both proceedings; and (4) comments (Comments) filed by Liberman Broadcasting of Dallas Licensee LLC (“LBDL”) in both proceedings. For the reasons explained below, we dismiss as moot LBDL’s comments, and we allot Channels 247A and 295A at Bogata, Texas, and Wright City, Oklahoma.

2. **Background.** In both of the above-captioned proceedings, Crawford filed a petition for rulemaking proposing the allotment of a Class A FM channel as a first local service at the designated community. Crawford filed comments in each of the two proceedings, stating that the community is deserving of a first local service, based upon population and various indices of community status.³ Crawford also re-stated his intention to participate in the auction for the channels and, if chosen, to construct the facilities.

¹ See *Bogata, Texas*, Notice of Proposed Rulemaking, 30 FCC Rcd 44, (MB 2015) (*Bogata Notice*), issued in response to the Bogata Petition; and File No. BNPH-20141103ABS (Bogata Application).

² See *Wright City, Oklahoma*, Notice of Proposed Rule Making, 29 FCC Rcd 15502 (MB 2014) (*Wright City Notice*), issued in response to the Wright City Petition; and File No. BNPH-20141031ABD (Wright City Application).

³ See *Bogata Notice*, 30 FCC Rcd at 44, ¶ 2, and *Wright City Notice*, 29 FCC Rcd at 15502 ¶ 2.

3. LBDL submitted comments in both proceedings, raising identical issues in each filing. Initially, LBDL states that it is also a party to a proceeding involving a rulemaking proposal to allot Channel 286A as a first local service at Grant, Oklahoma.⁴ The *Grant Notice* was issued in response to a petition for rulemaking (Grant Petition) submitted by Katherine Pyeatt (“Pyeatt”). The Grant Petition was mutually exclusive with an application for upgrade filed by LBDL for Station KZMP-FM, Channel 285C0, Pilot Point, Texas.⁵ LBDL states that, immediately after Pyeatt filed her Grant Petition, LBDL identified two potential channels that could be used to resolve the conflict between the Grant Petition and the KZMP Application: FM Channels 295A and 247A. LBDL notes that, within a matter of three business days after Pyeatt’s filing of the Grant Petition, Crawford filed his Wright City and Bogata Petitions to allot FM Channels 295A and 247A, respectively.

4. LBDL alleges that Crawford’s Wright City and Bogata Petitions, and Pyeatt’s Grant Petition, all are part of a single coordinated plan to lock up three otherwise available channels, and to frustrate LBDL’s upgrade for KZMP. LBDL submits that the three rulemakings⁶ should be consolidated for resolution, in order to encourage the parties to negotiate engineering solutions to resolve their mutual exclusivity. Crawford did not submit reply comments.

5. Subsequently, Pyeatt and LBDL entered into a settlement agreement in the Grant/Pilot Point Proceeding. To effectuate that agreement, Pyeatt requests permission to withdraw her petition for rulemaking with prejudice.⁷ As part of the settlement agreement, Pyeatt also agreed not to take any action to prevent, impede, or delay the grant of the construction permit or the covering license application for LBDL’s upgrade application for KZMP at Pilot Point. For its part, LBDL agreed to reimburse Pyeatt in the amount of her legitimate and prudent expenses to date, as specified in Exhibit A to the settlement agreement.⁸

6. **Discussion.** The LBDL and Pyeatt settlement agreement moots the issue raised in the LBDL Comments. We consolidate the Bogata and Wright City rulemakings, because both cases involve the same parties and identical issues.

7. We find that the public interest would be served by allotting FM Channel 295A at Wright City, Oklahoma, and FM Channel 247A at Bogata, Texas, both as first local services. FM Channel 247A can be allotted at Bogata, Texas at the following reference coordinates: 33-33-21 NL and 95-18-28 WL. FM Channel 295A can be allotted at Wright City, Oklahoma, at the following reference coordinates: 34-04-44 NL and 94-51-15 WL

⁴ *Grant, Oklahoma*, Notice of Proposed Rulemaking, 30 FCC Rcd 7233 (MB 2015) (*Grant Notice*). The proceeding will be referenced herein as the “*Grant/Pilot Point Proceeding*.”

⁵ See FCC File No. BPH-20141028AAK (KZMP Application). LBDL had a construction permit for Channel 285C at Pilot Point, but did not construct upgrade facilities during the pendency of the construction permit, which was about to expire. LBDL therefore submitted the KZMP Application, and on the following business day, Pyeatt filed her mutually exclusive petition for rulemaking to allot FM Channel 286A as a new channel at Grant.

⁶ The rulemaking dockets are MB Docket Nos. 14-236, 14-257, and 15-167, associated with the Bogata, Wright City, and Grant/Pilot Point proceedings, respectively.

⁷ “Request for Approval of Withdrawal,” filed by Katherine Pyeatt (Dec. 17, 2015).

⁸ “Certification Regarding Withdrawal,” filed on behalf of Liberman Broadcasting of Dallas License LLC (Dec. 18, 2015). See 47 C.F.R. 1.420(j) (specifying requirements

8. **Ordering Clauses.** 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) and 0.283, IT IS ORDERED, That effective, July 25, 2016, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

Community	Channel
Wright City, Oklahoma	295A
Bogata, Texas	247A.

9. The window periods for filing applications for Channel 295A at Wright City, Oklahoma, and for FM Channel 247A at Bogata, Texas, will not be opened at this time. Instead, the issue of opening these allotments for filing will be addressed by the Commission in subsequent order(s).

10. The Commission will send a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

11. IT IS FURTHER ORDERED, That the comments filed by Liberman Broadcasting of Dallas Licensee LLC in MB Dockets 14-236 and 14-257 ARE DISMISSED AS MOOT.

12. IT IS FURTHER ORDERED, That these proceeding ARE TERMINATED.

13. For further information concerning this proceeding, contact Nazifa Sawez, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau