

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 16-68
Table of Allotments,)	RM-11762
FM Broadcast Stations.)	
(Maryville, Missouri))	
)	
)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 4, 2016

Released: August 5, 2016

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*,¹ issued in response to a Petition for Rule Making (Petition) filed by Michael Myers (Petitioner) to allot Channel 285C3 at Maryville, Missouri.² Petitioner filed late comments.³ No counterproposals or other comments were received in response to the *Notice*. For the reasons discussed below, we amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules,⁴ by allotting Channel 285C3 at Maryville, Missouri.

2. **Background.** The *Notice* proposed the allotment of Channel 285C3 at Maryville, Missouri, as a fourth local service.⁵ Maryville is an incorporated community with a 2010 U.S. Census population of 11,972 persons. Petitioner states that Maryville is deserving of a fourth local service to provide an additional diversity outlet for local residents.⁶ Petitioner filed late comments, reiterating its expression of interest in Channel 285C3 at Maryville, Missouri. Petitioner states that, if the frequency is allotted, it will prosecute its application; participate in any FM auction the allotment; and if it is the

¹ *Maryville, Missouri*, Notice of Proposed Rule Making, 31 FCC Rcd 1958 (MB 2014) (*Notice*).

² Petitioner's Petition and comments did not include a statement verifying that the information contained in the petition and comments was correct to the best of his knowledge. While the failure to comply with Section 1.52 of the Commission's Rules can result in the dismissal of the petition for rule making, we believe that it would be inappropriate to do so in this case since the Channel 285C3 can be allotted to Maryville without adversely affecting any other allotment or proposed allotment and no objection to this proposal has been received. *See e.g., Hutchinson, Kansas*, Report and Order, 12 FCC Rcd 20166, n. 1 (MMB 1997). Furthermore, in Petitioner's concurrently filed FCC Form 301 application, FCC File No. BNPH-20150128ACJ, Petitioner certified "I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations."

³ Petitioner's comments were late-filed. However, we will accept the comments for the purpose of expressing continuing interest since the allotment is unopposed and can be made without adversely affecting any other proposal. *See, e.g., Eldorado, Texas*, Report and Order, 17 FCC Rcd. 12806, n.2 (MB 2002).

⁴ 47 C.F.R. § 73.202(b).

⁵ Stations KNIM(AM), KVVV(FM), and KXCV(FM) are licensed at Maryville.

⁶ Petition at 1 (filed Feb. 2, 2015); Comments at 2 (filed July 1, 2016).

winning bidder, promptly construct the facilities authorized.⁷

3. **Discussion.** We find that the public interest would be served by allotting a fourth local service at Maryville, Missouri, under Priority (4).⁸ A staff engineering analysis indicates that Channel 285C3 at Maryville can be allotted consistent with the minimum distance separation requirements of the Commission's rules without a site restriction. The reference coordinates are 40-22-33 NL and 94-51-25 WL.

4. **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, September 19, 2016, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Maryville, Missouri	285C3

5. The window period for filing applications for 285C3 at Maryville, Missouri, will not be opened at this time. Instead, the issue of opening a filing window for this allotment will be addressed by the Commission in a subsequent order.

6. 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).

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

8. For further information concerning this proceeding, contact Adrienne Y. Denysyk, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau

⁷ *Id.*

⁸ The FM allotment priorities are: (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). *See Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982).