

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

In the Matter of)	
)	
Amendment of Section 72.202(b),)	MB Docket No. 18-43
Table of Allotments,)	RM-11797
FM Broadcast Stations.)	
(Connerville, Oklahoma))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: July 5, 2018

Released: July 6, 2018

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 The Chickasaw Nation (Petitioner), proposing to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules,² by allotting FM Channel 247A at Connerville, Oklahoma, as a Tribal Allotment and a first local Tribal-owned service to the community.³ Petitioner filed comments.⁴ No other comments were received. For the reasons discussed below, we grant the Petition and allot Channel 247A at Connerville, Oklahoma, to the FM Table of Allotments as a Tribal Allotment.

2. **Background.** In *Rural Radio*,⁵ the Commission concluded that the public interest would be served by establishing a Section 307(b) priority in favor of Tribes and Tribal Entities proposing the allotment of FM channels to serve Tribal Lands.⁶ The Commission instituted several eligibility criteria to

¹ *Connerville, Oklahoma*, Notice of Proposed Rule Making, 33 FCC Rcd 1778 (MB 2018) (*Notice*).

² 47 CFR § 73.202(b).

³ Petitioner filed an associated FCC Form 301 application. FCC File No. BNPH-20171201AMM.

⁴ Petitioner filed comments on April 9, 2018.

⁵ *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Notice of Proposed Rule Making, 24 FCC Rcd 5239 (2009) (*NPRM*); First Report and Order, 25 FCC Rcd 1583 (2010) (*First R&O*); Second Report and Order, 26 FCC Rcd 2556 (2011) (*Second R&O*); *Third Report and Order*, 26 FCC Rcd 17642 (2011) (*Third R&O*) (collectively, *Rural Radio*).

⁶ *First R&O*, 25 FCC Rcd at 1596-97; *NPRM*, 24 FCC Rcd at 5248, n.29 (defining "Indian Tribe[s]" and "Federally-Recognized Indian Tribes"), and n.30 (defining "Tribal Lands").

qualify for a Tribal Allotment.⁷ Petitioner, a federally-recognized Tribe,⁸ certifies that its proposal meets the requirements established in *Rural Radio* for a Tribal Priority.⁹ Specifically, Petitioner states that (1) more than fifty percent of the proposed station's principal community contour is over the boundaries of The Chickasaw Nation Tribal Lands;¹⁰ (2) Connerville, the proposed community of license, is located on The Chickasaw Nation Tribal Lands;¹¹ and (3) the proposed facility will be the first local Tribal-owned commercial transmission service at Connerville.¹² Petitioner further states that Connerville, Oklahoma, is a community for allotment purposes.¹³ Connerville is a census-designated place (CDP) in Oklahoma,¹⁴ with its own zip code,¹⁵ and post office. Moreover, our independent research confirms that Connerville, as a CDP, is a community for allotment purposes.

3. **Discussion.** We find that Petitioner's proposal satisfies the requirements for a Tribal Allotment and the public interest will be served by the allotment of Channel 247A at Connerville, Oklahoma, as a Tribal Allotment. The facts presented by Petitioner demonstrate that allotting Channel 247A at Connerville, Oklahoma, as a Tribal Allotment will serve the public interest by providing vital radio service to Connerville and to surrounding Chickasaw Nation Tribal Lands and by enabling the Petitioner to set its own communications priorities and goals with respect to this new service. The allotment will also further the public interest by providing a first local Tribal-owned transmission service at Connerville, Oklahoma. A staff engineering analysis confirms that Channel 247A can be allotted to Connerville consistent with the minimum distance separation requirements of the Commission's rules with a site restriction of 9.40 km (5.84 miles) southwest of the community at reference coordinates 34-25-0 NL and 96-43-53 WL.

4. **Conclusion.** Accordingly, IT IS ORDERED, that effective August 20, 2018, the FM Table of Allotments, 47 CFR Section 73.202(b), IS AMENDED as follows:

⁷ In order to satisfy the prerequisites for a Tribal Allotment, the following eligibility criteria must be met: "(A) The applicant is either a federally recognized Tribe or Tribal consortium, or an entity 51 percent or more of which is owned or controlled by a Tribe or Tribes . . . ; (B)(1) At least 50 percent of the area within the proposed principal community contour is over that Tribe's Tribal Lands, or (2) the proposed principal community contour (a) encompasses 50 percent or more of that Tribe's Tribal Lands, (b) serves at least 2,000 people living on Tribal Lands, and (c) the total population on Tribal Lands residing within the proposed station's service contour constitutes at least 50 percent of the total covered population . . . ; (C) The proposed community of license must be located on Tribal Lands; and (D) The proposed service must constitute first or second aural (reception) service, or first local Tribal-owned commercial transmission service at the proposed community of license." (Tribal Allotment Criteria). *Third R&O*, 26 FCC Rcd at 17646-47, para. 8. See also *First R&O*, 25 FCC Rcd at 1596-97, paras. 26-27; *Second R&O*, 26 FCC Rcd at 2561-63, 2586-87, paras. 9-11, 59; 47 CFR § 73.3573, Note 5.

⁸ Petition at 1 (filed December 1, 2017).

⁹ *Third R&O*, 26 FCC Rcd at 17646-47; *First R&O*, 25 FCC Rcd at 1596-97; *Second R&O*, 26 FCC Rcd at 2585-87.

¹⁰ 93 percent of the area within the proposed station's principle community contour is over The Chickasaw Nation Tribal Lands. Petition at Attachment B.

¹¹ *Id.*

¹² Petition at 1.

¹³ *Id.* at 2.

¹⁴ The 2016 five-year population estimate is 46 people for Connerville, Oklahoma. United States Census Bureau, American Fact Finder, searchable at http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml# (last visited June 26, 2018).

¹⁵ The zip code is 74836.

<u>Community</u>	<u>Channel Number</u>
Connerville, Oklahoma	247A ¹⁶

5. 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.¹⁷ The Commission will release in the near future a public notice announcing a Threshold Qualifications Window. Any qualifying applicant may file an FCC Form 301 for this channel during the window.¹⁸

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

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

FEDERAL COMMUNICATIONS COMMISSION

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Media Bureau

¹⁶ This channel is reserved as a Tribal Allotment.

¹⁷ 5 U.S.C. § 801 (a)(1)(A).

¹⁸ *Third R&O*, 26 FCC Rcd at 17645-46; *Second R&O*, 26 FCC Rcd at 2588-90. Should no applicant meeting threshold qualifications file an FCC Form 301 during the Threshold Qualifications Window (and should the proponent request that its already-filed Form 301 application not be immediately processed), the Tribal Allotment will be included in the inventory for a broadcast auction at a later date. In that event, only threshold qualified applicants, including the original proponent, would be permitted to participate in the auction. *Third R&O*, 26 FCC Rcd at 17649.