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In re: **SSR Communications, Inc.**
Proposed Channel 284A
Bruce, Mississippi
File No 0000185026

**Petition for Rulemaking and
Application**

Dear Applicant:

We have before us the Petition for Rulemaking (Petition) and Application¹ filed by SSR Communications, Inc. (SSR) proposing the allotment of Channel 284A at Bruce, Mississippi, as the community's second local service.² For the reasons discussed below, we dismiss both the Petition and the Application.

Background. In the Petition, SSR proposes to amend the FM Table of Allotments, section 73.202(b) of the Commission's rules,³ by allotting Channel 284A to Bruce, Mississippi, as a second local and first competing FM service.⁴ SSR states that Bruce is an incorporated community, generally

¹ File No 0000185026.

² *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). 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).

³ 47 CFR § 73.202(b).

⁴ Channel 233A currently is assigned to Bruce, Mississippi. SSR was the winning bidder in the Commission's Auction 109 for a construction permit for a new FM station on Channel 233A in Bruce, Mississippi. *Auction of AM and FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 109*, AU Docket No. 21-39, Public Notice, DA 21-983 (OEA/MB Aug. 12, 2021) (*Auction 109 Closing Public Notice*). SSR has a pending minor modification application to change the new FM station community of license on Channel 233A from Bruce, Mississippi, to Taylor, Mississippi. See File No. 0000157466.

sufficient for allotment purposes, with a 2020 United States Census population of 1,707 persons. SSR claims that Channel 284A can be allocated to Bruce, Mississippi at a reference site of 34-02-51 NL and 89-11-41 WL. SSR certifies that it will participate in a future Commission FM spectrum auction for a new permit at Bruce, and if it is the winning bidder, will build the station promptly.

Discussion. We find that SSR’s proposal to cover Bruce, Mississippi with new reception service in the form of a “backfill” allotment is unavailing.

As a preliminary matter, based on a staff engineering analysis, we have determined that the Petition and the Application are technically defective for Channel 284A at Bruce, Mississippi. Based on uniform terrain, we conclude that the proposed 70 dBu contour would not provide 100 percent city-grade coverage to Bruce as required by section 73.315(a) of the Commission’s rules.⁵ Therefore, we dismiss the Petition and the Application.

On alternative and independent grounds, we find that petitioner’s proposal to use this vacant allotment as a backfill to prevent the removal of first local service at Bruce, MS violates the Commission’s established backfill policy. In the *Second Order on Reconsideration* in the *Rural Radio* proceeding, the Commission clarified what constitutes “reception service” for purposes of gain and loss analysis of areas and populations in the context of a community of license change.⁶ The Commission explicitly rejected the use of “potential services” such as vacant allotments in gain and loss calculations holding that: “[F]or purposes of [gain and loss] calculations applicants should not count vacant FM allotments. . . . [O]ur increased scrutiny of reception service in gain and loss areas requires that we evaluate actual, rather than hypothetical service.”⁷ The Commission decided to include unbuilt construction permits but to exclude vacant allotments.⁸ The Commission explained this decision by noting that, “in recent FM auctions a number of vacant allotments have gone unsold, calling into question whether such allotments may realistically be considered as future service.”⁹ Petitioner, as an auction winner, may not use this proposed vacant allotment as a backfill, as proposed by it.

⁵ 47 CFR § 73.315(a). *See also, Bruce, Mississippi*, Report and Order, 29 FCC Rcd 8377 (MB 2014)(determining upon further staff engineering review based on uniform terrain the proposed 70 dBu contour would not provide 100 percent city-grade coverage on Channel 284A to Bruce as required by section 73.315 of the Commission’s rules.).

⁶ *See Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Second Order on Reconsideration, 27 FCC Rcd 12829, 12839 (2012) (“*Second Order*”).

⁷ *Id.*

⁸ *Id.* at 12839 (¶ 17).

⁹ *Id.*

Accordingly, the Petition and Application, File No. 0000185026, ARE HEREBY DISMISSED.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau