

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

MM Docket No. 87-121

In the Matter of

Amendment of Part 73
of the Commission's Rules
to Permit Short-Spaced FM
Station Assignments by
using Directional Antennas.

RM-6015

ORDER

Adopted: April 30, 1992;

Released: May 8, 1992

By the Chief, Mass Media Bureau:

1. Upon review of the Petition for Further Reconsideration (Further Petition) submitted by du Treil, Lundin & Rackley, Inc. (dLR) on October 17, 1991, we conclude that it is repetitious and should be dismissed.¹ The Further Petition requests that the distance separation table in Section 73.215(e) ("short-spaced table") be reconsidered (and deleted), based on the misapprehension that it was adopted in the *Memorandum Opinion and Order (Reconsideration Order)* which disposed of the initial Petitions for Reconsideration in the subject rulemaking proceeding.²

2. Contrary to dLR's supposition, the short-spaced table, in fact, was adopted on December 12, 1988 in the *Report and Order* in this proceeding.³ The table was based directly on minimum distance separations for the next lower class of station required by Table A of Section 73.207.⁴ The *Reconsideration Order* affirmed the validity of the short-spaced table and merely updated it by reflecting minor alterations made to Table A of Section 73.207 since 1988. The underlying premise of the short-spaced table remained intact. Therefore, the decision to adopt the short-spaced table is not now open to reconsideration.⁵

3. We find that the Further Petition is repetitious because it does not address the modifications made in the *Reconsideration Order*, but simply reargues dLR's original

objections to the short-spaced table,⁶ which we denied when we acted on the initial Petitions for Reconsideration.

4. Accordingly, pursuant to the authority contained in Section 1.429(i) of the Rules, IT IS ORDERED that the Petition for Further Reconsideration IS DISMISSED as repetitious.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

¹ Comments opposing the Further Petition were filed by National Association of Broadcasters (NAB). Those comments also requested that the FCC reassess the second adjacent channel protection ratio modified by the *Reconsideration Order*. NAB's request is procedurally deficient because it was not timely filed as a petition for reconsideration and will not be considered.

² See *Memorandum Opinion and Order* in MM Docket No. 87-121, 6 FCC Rcd 5356 (1991).

³ See *Report and Order* in MM Docket No. 87-121, 4 FCC Rcd 1681 (1989).

⁴ The short-spaced table permits modest flexibility and serves as a safety threshold to minimize possible interference by proscribing minimum distance separations for short-spaced FM stations operating on co-channels and the first three adjacent channels.

⁵ Section 1.429(i) of the Rules reads: "The Commission may

grant the petition for reconsideration in whole or in part or may deny the petition. Its order will contain a concise statement of the reasons for the action taken. Any order disposing of a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modifications, subject to reconsideration in the same manner as the original order. Except in such circumstances, a second petition for reconsideration may be dismissed by the staff as repetitious." (emphasis added) 47 CFR §1.429(i).

⁶ See Issue A, Petition for Reconsideration submitted by Du Treil, Lundin & Rackley, Inc. on April 10, 1989.

⁷ See *Reconsideration Order, supra* at 5359.