

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 91-259
Table of Allotments,)	RM-7309
FM Broadcast Stations.)	RM-7942
(Canovanas, Culebra, Las Piedras,)	RM-7943
Mayaguez, Quebradillas, San Juan,)	RM-7944
and Vieques, Puerto Rico, and)	RM-7948
Christiansted and Frederiksted,)	
Virgin Islands))	

ORDER TO SHOW CAUSE

Adopted: August 12, 1996

Released: August 19, 1996

By the Chief, Allocations Branch:

1. The Commission has before it the Petition for Reconsideration filed by Arso Radio Corporation ("Arso Radio") and a Petition for Reconsideration filed by Radio Station WKJB AM-FM, Inc. ("Radio WKJB"), both directed to the Report and Order in this proceeding, 10 FCC Rcd 6673 (1995). La Carpa Corporation ("La Carpa"), Carlos J. Colon Ventura ("Ventura"), and Jose J. Arzuaga ("Arzuaga") each filed an Opposition to Petitions for Reconsideration. Radio WKJB filed a Reply to Oppositions. For the reasons discussed below, we are issuing this Order to Show Cause directed to Radio WKJB and Arso Radio.

Background

2. At the joint request of Ventura, licensee of Station WSAN, Channel 255B, Vieques, Puerto Rico, and Arzuaga, licensee of Station WQQZ, Channel 252A, Quebradillas, Puerto Rico, the Notice of Proposed Rule Making and Order to Show Cause proposed the substitution of Channel 252A for Channel 255B at Vieques, the reallocation of Channel 252A from Vieques to Canovanas, Puerto Rico, and modification of the Station WSAN license to specify operation on Channel 252A at Canovanas. 6 FCC Rcd 5310 (1991). In order to accommodate this substitution and reallocation, the Notice also proposed the substitution of Channel 258A for Channel 252A at Quebradillas, and modification of the Station WQQZ license to specify operation on Channel 258A. The Channel 252A substitution at Vieques and reallocation to Canovanas also required channel substitutions at Mayaguez and San Juan, Puerto Rico. Therefore, we included the Order to Show Cause directed to Radio WKJB, licensee of Station WKJB-FM, Channel 256B, Mayaguez, Puerto Rico, and Arso Radio, licensee of WPRM-FM, Channel 253B, San Juan,

Puerto Rico. Specifically, Radio WKJB was directed to show cause why its Station WKJB-FM license should not be modified to specify operation on Channel 254B, and Arso Radio was directed to show cause why its Station WPRM-FM license should not be modified to specify operation on Channel 256B.

3. In response to the Notice, Ventura filed a counterproposal modifying its earlier proposal. Ventura proposed the same substitution of Channel 252A for Channel 255B at Vieques, but its reallocation to Las Piedras instead of Canovanas. Thereafter, we adopted a Further Notice of Proposed Rule Making requesting comment on the modified Ventura proposal and other proposals now being considered in this proceeding. 7 FCC Rcd 3324 (1992). The Further Notice did not include a new Order to Show Cause directed to Radio WKJB and Arso Radio.

4. It is our view that the net gain of over 500,000 persons receiving service from the proposed reallocation and a first local service to Las Piedras represent sufficient public interest benefits to justify modifying the licenses of Station WKJB-FM and WPRM-FM. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected station(s) of the proposed modification(s), the public interest reasons for the action, and afford at least 30 days to respond. The Order to Show Cause is mailed to the affected station by certified mail, return receipt requested. This procedure is now set forth in Section 1.87 of the Commission's Rules. See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act, 2 FCC Rcd 3327 (1987). In this instance, the original Order to Show Cause complied with these requirements. Specifically, Stations WKJB-FM and WPRM-FM will be required to change their respective channels in order to accommodate the proposed channel substitution at Vieques and its reallocation to Canovanas. The public interest would be furthered by a substantial gain in population receiving service and a first local service to Canovanas. Arso Radio and Radio WKJB were notified of this proposal by certified mail and afforded 30 days to respond. The counterproposal filed by Ventura proposed the reallocation to Las Piedras as a first local service in lieu of Canovanas. This required the same channel substitutions for Stations WKJB-FM and WPRM-FM and resulted in the same population gain. However, a new community of license represents a significantly different public interest benefit resulting from the proposed license modifications. Our action in modifying a license or construction permit must comport with both Section 316 of the Communications Act and Section 1.87 of the Commission's Rules. Radio WKJB and Arso Radio should have been afforded 30 days to respond to this new aspect of the Ventura proposal by an Order to Show Cause. We are doing so now. In the event either Radio WKJB or Arso Radio raises a substantial and material question of fact, Section 316 requires that we designate one or both of these modifications for hearing.

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Arso Radio Corporation, licensee of WPRM-FM, San Juan, Puerto Rico, and Radio Station WKJB AM-FM, Inc., licensee of Station WKJB-M, SHALL SHOW CAUSE why their respective licenses should not be modified to specify operation on

Channel 256B and Channel 254B.

6. Pursuant to Section 1.87 of the Commission's Rules, Arso Radio Corporation and Radio Station WKJB AM-FM, Inc. may, no later than September 23, 1996, file a written statement showing with particularity why its license should not be modified as proposed in this Order to Show Cause. The Commission may call upon either licensee to furnish additional information. If this party raises a substantial and material question of fact, a hearing may be required to resolve such question of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the party will be deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will be issued if the proposed modifications are found to be in the public interest.

7. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Arso Radio Corporation
c/o John P. Bankson, Jr.
Drinker, Biddle & Reath
901 15th Street, NW
Washington, D.C. 20005-2503

Radio Station WKJB AM-FM, Inc.
c/o John B. Kenkel
Kenkel & Associates
1901 L Street, NW
Washington, D.C. 20036

8. For further information concerning this proceeding, contact Robert Hayne, Mass Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division