

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 95-7
Table of Allotments,	)	RM-8561
FM Broadcast Stations.	)	
(Coleman, Sebewaing and	)	
Tuscola, Michigan)	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: September 6, 1996**

**Released: September 13, 1996**

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the Notice of Proposed Rule Making and Order to Show Cause, 10 FCC Rcd 873 (1995), issued in response to a petition filed by Faircom Flint, Inc. ("Faircom"), requesting the substitution of Channel 268A for Channel 269A at Tuscola, Michigan, and modification of the license for Station WWBN to specify operation on Channel 268A.<sup>1</sup> Faircom also requested the substitution of Channel 269A for Channel 268A at Coleman, Michigan, and the substitution of Channel 281A for vacant Channel 267A at Sebewaing, Michigan, to accommodate the channel change at Tuscola. Thumb Broadcasting, Inc. ("Thumb Broadcasting"), Come Together Ministries, Inc. ("Come Together") and Faircom filed comments. Faircom filed reply comments.
2. Thumb Broadcasting, applicant for a new FM station on Channel 279C2 at Harbor Beach, Michigan, points out that the substitution of Channel 281A for Channel 267A at Sebewaing would significantly restrict the potential use of Channel 279C2 at Harbor Beach. Specifically, the area in which Thumb Broadcasting could locate its transmitter for Harbor Beach would be significantly restricted and would exclude the site proposed in Thumb Broadcasting's application for Channel 279C2 under the first come/first serve provision of Section 73.3573(g)(3). According to Thumb Broadcasting, Channel 231A is available for use at Sebewaing without a preclusive effect on the Harbor Beach allotment in the event an expression of interest in the Sebewaing allotment is filed.
3. Come Together, licensee of Station WPRJ(FM), Coleman, Michigan, opposes the

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<sup>1</sup> The Notice indicated the call sign WBBN rather than WWBN for the Tuscola station.

channel swap proposed by Faircom in order to permit Station WWBN to increase power to six kilowatts and move its transmitter site. According to Come Together, adoption of Faircom's proposal would disserve the public in that it would result in the loss of service from Station WWBN to listeners located in the eastern side of the station's present contour. Faircom attempts to justify its proposal on the basis of the claim that Station WWBN and WPRJ could increase power to six kilowatts if the channel swap takes place. Come Together believes Faircom could upgrade Station WWBN to six kilowatts on its present frequency if the station moved to a site 13.2 kilometers northwest of Tuscola. From that site, the station would still provide a city grade signal to Tuscola. Come Together argues that before it is subjected to the disruption of a channel swap, Faircom should demonstrate that a six kilowatt upgrade on its present frequency is impossible. In sum, Come Together believes it is blatantly unfair to cause Station WPRJ to suffer substantial disruption so that Station WWBN can compete in the Flint and Saginaw market with a format that Come Together finds reprehensible.

4. Faircom submitted comments supporting the substitution of Channel 268A for Channel 269A at Tuscola and substitution of Channel 268A for Channel 269A at Coleman. In reply comments Faircom responded to Come Together's objection to the channel swap. While Come Together argues that Station WWBN could increase to full power without a channel change and that for this reason alone it should not be inconvenienced, Faircom contends that the existing requirements for reimbursement and the lead time before actual implementation of the channel change is sufficient to offset any temporary inconvenience or audience loss. Further, Faircom points out that some fundamental public interest detriment would have to exist before the Commission could conclude that changes in the Table of Allotments should not be implemented. Faircom believes that Come Together's sole basis for objecting to the channel change is that it finds Station WWBN's programming format personally objectionable but makes no claim that the public interest would be adversely affected by WWBN's new format. Rather, Come Together appears to be motivated solely by a desire to influence the programming choice of another licensee. Faircom contends that Come Together's argument concerning the detriments of the changes contained in the Notice are either invalid or support the proposed allocation. Faircom points out that its proposal will serve the public interest by permitting both WWBN and WPRJ to increase their power to six kilowatts, providing extended service to Tuscola and Coleman. As reflected in its engineering statement, the population served by Station WWBN at Tuscola as a three kilowatt facility will increase from 106,605 people to 365,429 people as a six kilowatt facility on Channel 268A. As a comparison, Faircom points out that operation with six kilowatts from the Come Together site on Channel 269A would permit 60 dBu coverage to only 85,807 persons. Faircom believes a significant increase in the population served by WPRJ can also be expected on Channel 269A from its current site as a six kilowatt facility.

5. Based on the record before us, we believe the public interest would be served by substituting Channel 268A for Channel 269A at Tuscola, Michigan, and by substituting Channel 269A for Channel 268A at Coleman, Michigan, since it could enable Station WWBN, Tuscola, and Station WPRJ, Coleman, to expand their coverage areas. The Commission has held that the substitution of an existing station's channel at one community serves the public interest

where the substitution permits the provision of a new or expanded service at another community. See, e.g., Marietta, Ohio, and Ravenswood, WV, 2 FCC Rcd 4681 (1987), and Albany, NY et al., 2 FCC Rcd 4300 (1987), 3 FCC Rcd 4681 (1987). Since Faircom is moving its transmitter site, we recognize that there will be a gain and loss area. A Commission engineering analysis indicates the loss area at Tuscola contains 30,868 people. The gain area at Tuscola contains 254,975 people. This would produce a net gain of 224,107 people being served by Station WWBN at Tuscola. While we carefully evaluate any proposal that would result in the loss of existing service, the loss area of Channel 269A at Tuscola is completely covered by at least five full-time reception services and is, therefore, considered to be well served. Our analysis also indicates that Station WPRJ operating on Channel 269A at six kilowatts would be able to provide service to a larger listening area. Come Together has raised no facts that would lead to a conclusion that upgraded service would not serve the public interest. We also find that Come Together, licensee of Station WPRJ, has not raised a substantial and material question of fact which would require a hearing on the modification of its license to specify operation on Channel 269A. Faircom has stated its willingness to reimburse Come Together for the reasonable costs associated with the change of channel. The reimbursement of expenses, which is not limited solely to the costs of equipment changes, is governed by the guidelines set forth in Circleville, Ohio, 8 FCC Rcd 2d 159 (1967). It is expected that Faircom and Come Together will negotiate in good faith as to the extent of reimbursement to which Come Together is entitled. Come Together will be afforded a significant period of time before it will be required to change channels. As the Commission has stated "it is generally not necessary for the change to take place until utilization of the existing frequency actually prevents a newly authorized station from inaugurating service."<sup>2</sup> Since no comments were filed in response to the Notice supporting retention of a channel in Sebewaing, Michigan, we shall delete Channel 267A at Sebewaing to accommodate the allotment of Channel 268A at Tuscola.<sup>3</sup>

6. Channel 268A can be allotted to Tuscola, Michigan, in compliance with the Commission's spacing requirements at a site 10.4 kilometers (6.5 miles) southwest of the community.<sup>4</sup> Channel 269A can be allotted to Coleman, Michigan, in compliance with the Commission's spacing requirements at the licensed site for Station WPRJ.<sup>5</sup> We shall also modify the license for Station WWBN, Channel 269A, to specify operation on Channel 268A and the license for Station WPRJ, Channel 268A, to specify operation on Channel 269A.

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<sup>2</sup> See Albany, Buffalo, Ilion, and Utica, New York, and Boston, Massachusetts, 2 FCC Rcd 4300 (1987) and Broken Arrow and Bixby, Oklahoma, and Coffeyville, Kansas, 4 FCC Rcd 6981 (1989).

<sup>3</sup> Channel 280A was allotted to Sebewaing in MM docket No. 81-854, 47 FR 43697, October 4, 1982. Channel 267A was substituted for Channel 280A in MM Docket 89-38. See 4 FCC Rcd 8012 (1989). The construction permit held by Family Stations, Inc., for Station WWMI, was forfeited and the call sign deleted on July 3, 1989.

<sup>4</sup> The coordinates for Channel 268A at Tuscola are 43-16-02 and 83-45-34.

<sup>5</sup> The coordinates for Channel 269A at Coleman are 43-48-41 and 84-27-57.

Since the communities of Tuscola and Coleman are located within 320 kilometers (200 miles) of the U.S-Canadian border, concurrence of the Canadian government has been obtained for these allotments. The allotment of Channel 268A at Tuscola is a specially negotiated short-spaced allotment with respect to Channel 268A, Sarnia, Ontario, Canada.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **October 28, 1996**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Coleman, Michigan	269A
Sebewaing, Michigan	-----
Tuscola, Michigan	268A

8. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, the license of Station WWBN, Tuscola, Michigan, IS MODIFIED to specify operation on Channel 268A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in License BLH880404KC except for the channel as specified above. Any changes, except those specified require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with License BLH880404KC, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

9. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, the license of Station WPRJ, Coleman, Michigan, IS MODIFIED to specify operation on Channel 268A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in License BLH921120KC except for the channel as specified above. Any

changes except those specified require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with License BLH921120KC, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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