

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 97-22
Table of Allotments,)	RM-8953
FM Broadcast Stations.)	RM-9075
(Waelder and Yorktown, Texas) ¹)	
)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 10, 1997

Released: December 19, 1997

By the Chief, Allocations Branch:

1. At the request of Waelder Broadcasting Company ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 1795 (1997) proposing the allotment of Channel 242A to Waelder, Texas, as the community's first local FM service. Petitioner filed comments restating its intention to file an application for a construction permit to operate a new station at Waelder. Gonzales Communications ("Gonzales") filed a counterproposal.²

2. In its counterproposal, Gonzales requests the allotment of Channel 242A to Yorktown, Texas. Gonzales states that Yorktown with a population of 2,207 persons is three times larger than Waelder and has no local AM or FM service. It submits that the community's main resource of revenue is ranching and agriculture. Gonzales advises that Yorktown has two newspapers, four banks, an independent school system, fourteen churches representing various denominations, two city parks, a private golf club, two libraries, and a R.V. park. In addition, the community has a number of civic groups including the Lions, Masons, Knights of Columbus, and the Catholic Daughters. Gonzales argues that allotting Channel 242A to Yorktown is a more efficient use of the FM spectrum.

3. A review of the proposals indicates that Waelder and Yorktown are both deserving of an FM channel. In an effort to provide each community with its first local service, the engineering staff performed a channel search study to determine if any alternate channels were available to accommodate both proposals. However, neither the proponents nor the Commission's staff has been able to identify an alternate channel for allotment to either community. Therefore

¹ The community of Yorktown has been added to the caption.

² Gonzales' counterproposal was placed on Public Notice on April 16, 1997, Report No. 2189. (RM-9075).

we must make a decision based on the guidelines set forth in Revision of FM Assignment Policies and Procedures, 90 FCC Rcd 2d 88 (1982), which are:

- (1) First full-time aural service;
- (2) Second full-time aural service;
- (3) First local service; and
- (4) Other public interest matters.

[Co-equal weight given to priorities (2) and (3)]

Since adoption of either proposal would provide a first local aural transmission service to Waelder or Yorktown, fulfilling priority (3), our decision is based on which proposal would prevail under priority (4) of the allotment criteria, other public interest matters. This priority permits the Commission to compare the availability of reception services and relative populations of each community. In this regard, we find that the community of Yorktown (population 2,207 persons) has a larger population than Waelder (population 745 persons).³ We also find that both Yorktown and Waelder are considered well served with Waelder receiving 6 aural services and Yorktown receiving 8. Since each community is well served, we will grant the allotment of Channel 242A to Yorktown because it is the larger of the two communities. See Athens and Atlanta, Illinois, 11 FCC Rcd 3445 (1996) and Blanchard, Louisiana and Stephens, Arkansas, 8 FCC Rcd 7083 (1993).

4. Channel 242A can be allotted to Yorktown in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.4 miles) northeast in order to avoid short-spacing conflicts with the licensed operation of Station KSJL-FM, Channel 241C1, San Antonio, Texas, and with the construction permit for Station KHMC-FM, Channel 240C3, Goliad, Texas.⁴ Since Yorktown is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been obtained for this allotment.

5. 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 February 2, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Yorktown, Texas	242A

6. A filing window for Channel 242A at Yorktown, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the

³ The population figures are taken from the 1990 U.S. Census.

⁴ The coordinates for Channel 242A at Yorktown are 29-02-30 NL and 97-26-30 WL.

Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the petition for rule making (RM-8953) filed by Waelder Broadcasting Company to allot Channel 242A to Waelder, Texas, IS DENIED.

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

9. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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