

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

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 99-58
Table of Allotments,)	RM-9461
FM Broadcast Stations.)	RM-9611
(Strattanville and Farmington Township,)	
Pennsylvania))	

MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)

Adopted: April 10, 2002

Released: April 19, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a Petition for Reconsideration of a Report and Order, 15 FCC Rcd 23848 (2000) in this proceeding. For the reasons discussed below, we deny the Petition for Reconsideration.

2. The Notice of Proposed Rule Making (“Notice”) in this proceeding, 14 FCC Rcd 2877 (1999) proposed the allotment of FM Channel 267A at Strattanville, Pennsylvania, as the community’s first local aural transmission service (RM-9461). Strattan Broadcasting, Inc. (“Strattan Broadcasting”), licensee of Station WMKX(FM), Brookville, Pennsylvania, submitted an “Opposition” to the Notice, that was filed prior to the deadline for filing comments in this proceeding. We shall construe that pleading as “comments. In that pleading, Strattan Broadcasting claimed that Strattanville has a population of only 490 people, “is in very dire economic condition,” and did not constitute a “community” for allotment purposes. A counterproposal was filed by Clarion County Broadcasting, Inc. (“Clarion County”), licensee of Stations WCCR-FM and WWCH-AM, Clarion, Pennsylvania, proposing the allotment of Channel 267A at Farmington Township, Pennsylvania as that community’s first local aural transmission service (RM-9611). Clarion County also opposed the allotment of Channel 267A at Strattanville, claiming that Strattanville did not constitute a community for allotment purposes and that it was doubtful that a station licensed to Strattanville would be economically viable. The Report and Order determined that both Strattanville and Farmington Township constituted “communities” for allotment purposes, pursuant to Section 307(b) of the Communications Act, as amended by the Telecommunications Act of 1996, and allotted Channel 267A to Strattanville and Channel 291A to Farmington Township.

3. The Report and Order states that Clarion County and Strattan Broadcasting had attempted to raise economic issues concerning Strattanville that were not relevant in either a licensing or an

allotment context, citing the Commission's Report and Order in Policies Regarding Detrimental Effects of Proposed new Broadcast Stations on Existing Stations, 3 FCC Rcd 638 (1988), affirmed, 4 FCC Rcd 2276 (1989). Strattan Broadcasting filed a Petition for Reconsideration of the Report and Order in this proceeding, stating that the Commission's action therein "exacerbates the already dire economic conditions in the market," in which Strattan Broadcasting claims that nine radio stations are serving both Strattanville and Farmington Township. Thus, Strattan Broadcasting alleges, "There are just too few businesses in the market to support two additional stations."

4. Strattan Broadcasting has attempted to raise an issue under what used to be called the Carroll doctrine.¹ Prior to the issuance of the referenced Report and Order in Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations, if an existing licensee offered proof of detrimental economic effect from a proposed new broadcasting station that was likely to result in a net loss of service to the public, the Commission had to consider such evidence and if it was substantial, conduct a hearing and make findings on the issue. The referenced rulemaking decision abolished the Carroll doctrine. Thus, the Media Bureau is precluded from considering such evidence as that proffered by Strattan Broadcasting. The referenced rulemaking proceeding was based on the Commission's experience in implementing the Carroll doctrine and the UHF impact policy and "the intervening growth of the electronic media which lead us to conclude that the public interest is no longer served by their retention."²

5. Accordingly, IT IS ORDERED that the foregoing Petition for Reconsideration filed by Strattan Broadcasting, Inc. IS DENIED.

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

7. For further information concerning this proceeding, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Office of Broadcast License Policy

¹ This doctrine was imposed on the Commission by the United States Court of Appeals for the D.C. Circuit in Carroll Broadcasting Co. v. FCC, 258 F. 2d 440 (D.C. Cir. 1958).

² 3 FCC Rcd at 638.

Media Bureau