

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

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|------------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | MB Docket No. 04-402 |
| FM Table of Allotments, |) | RM-11087 |
| FM Broadcast Stations. |) | |
| (Cheyenne and Encampment, Wyoming) |) | |
| |) | |

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: June 8, 2005

Released: June 10, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making* (“*Notice*”)¹, issued at the request of Mountain States Radio, Inc. (“*Petitioner*”),² proposing the allotment of Channel 285C2 at Encampment, Wyoming, as that community’s first local aural transmission service. In addition, *Petitioner* proposed to substitute FM Channel 229C2 for FM Channel 285C2 at Station KRRR(FM), Cheyenne, Wyoming, and to further substitute FM Channel 285C2 for vacant channel 229A at Cheyenne, Wyoming. *Petitioner* and *Dday*³ filed comments in response to the *Notice*. No other comments or expressions of interest were received in response to the *Notice*. After the record was closed, *Petitioner* filed a Motion to Dismiss in which it requested that the above-referenced rule making proceeding be dismissed.

2. As stated in the Appendix to the *Notice*, a showing of continuing interest is required before a channel will be allotted. It is the Commission’s policy to refrain from making a new allotment to a community absent a *bona fide* expression of interest. Therefore, we grant *Petitioner*’s request to dismiss the Cheyenne and Encampment rule making.⁴

3. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. Section 801(a)(1)(A), because this proposed rule is dismissed herein.)

4. Accordingly, IT IS ORDERED, That this rule making proceeding IS TERMINATED.

¹ *See Cheyenne and Encampment, Wyoming*, 19 FCC Rcd 20889 (MB 2004).

² Brahmin Broadcasting Corporation is the current licensee of Station KRRR(FM), Channel 285C2, Cheyenne, Wyoming, and replaces Mountain States Radio, Inc. as the *Petitioner* in this case.

³ *Dday* states that it is qualified to bid on FM Channel 258A, in FM Market FM357, Saratoga, Wyoming, in FM Auction 37. *Dday* argues that an allotment of FM Channel 285C2 at Encampment would lessen the value and commercial viability of Channel 258A, at Saratoga, Wyoming. The Commission does not rule on such matters. Rather, auction bidders are free to consider these matters if they so choose.

⁴ Pursuant to Section 1.420(j) of the Commission’s Rules, *Petitioner* provided a declaration stating that neither *Petitioner* nor any of its principals has received or will receive any consideration in connection with the withdrawal of its expression of interest in this proceeding.

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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