

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Connersville, Madison, and Richmond, Indiana,)	MB Docket No. 05-17
Erlanger and Lebanon, Kentucky, and Norwood,)	RM-11113
Ohio; and Lebanon, Lebanon Junction, New)	RM-11114
Haven, and Springfield, Kentucky))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: November 23, 2005

Released: November 25, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making and Order to Show Cause*¹ involving two interrelated proposals. A Petition for Rulemaking was filed by Rodgers Broadcasting Corporation (“Rodgers Broadcasting”), licensee of FM Stations WIFE, Channel 262B at Connersville, Indiana and WFMG, Channel 267B, Richmond, Indiana. Washington County CBC, Inc., licensee of Station WAKY-FM, Channel 274A, Springfield, Kentucky, Elizabethtown CBC, Inc., licensee of Station WTHX, Channel 297A, Lebanon Junction, Kentucky and CBC of Marion County, Inc., licensee of Station WLSK, Channel 265C3, Lebanon, Kentucky (collectively “Joint Petitioners”) also filed a Petition for Rulemaking. Rodgers Broadcasting filed comments. The Joint Petitioners, Newberry Broadcasting, Inc., licensee of Station WHHT(FM), Channel 294A, Horse Cave, Kentucky, and Cumulus Licensing LLC, licensee of Stations WNFN(FM), Channel 294A, Belle Meade, Tennessee, WRQQ(FM), Channel 246C2, Goodlettsville, Tennessee, WQQK(FM), Channel 221A, Hendersville, Tennessee, and WWTN(FM), Channel 259C, Manchester, Tennessee (collectively “Joint Parties”) filed ‘Comments and Amended Proposal’ (“Amended Proposal”).² Blue Chip Broadcasting Licenses II, Ltd. (“Blue Chip”), licensee of FM Station WIZF, Channel 265A, Erlanger, Kentucky, filed ‘Response to Order to Show Cause’ (“Response”) to which Rodgers Broadcasting filed reply comments. Indiana Community Radio Corporation (“Indiana Community”), licensee of noncommercial educational (“NCE”) Station WJCF, Channel 201A, Morristown, Indiana filed a counterproposal to which Hoosier Public Radio Corporation (“Hoosier Public”), filed supportive comments and a request to modify the license of Station WFCI, Channel 208A, Franklin, Indiana to specify operation on Channel 201A at Greenfield, Indiana.³ Rodgers Broadcasting filed reply comments to the counterproposals and ‘Reply Comments and Request to Sever in response to the Amended Proposed.’ No other comments or counterproposals were received in this proceeding.

2. **Background.** The *Notice* set forth two interrelated proposals that request a modification of the FM Station WLSK license. The Rodgers Broadcasting proposal requested the substitution of FM

¹ *Connersville, Madison, and Richmond, Indiana, Erlanger and Lebanon, Kentucky, and Norwood, Ohio; and Lebanon, Lebanon Junction, New Haven, and Springfield, Kentucky*, 20 FCC Rcd 1272 (MB 2005) (“*Notice*”).

² We find that the Amended Proposal supersedes the original petition filed by the Joint Petitioners. Therefore, we are dismissing that petition in the context of this proceeding.

³ After the deadline for filing comments and reply comments, Martin Hensely, head of Hoosier Public, filed a letter and additional engineering supplements. Rodgers Broadcasting filed a “Motion to Strike” against these pleadings.

Station WLSK, Channel 265A for Channel 265C3 at Lebanon, Kentucky and modification of the FM Station WLSK license accordingly. The Rodgers Broadcasting also requested the substitution of FM Station WIFE, Channel 262A for Channel 262B at Connersville, Indiana, reallocation of Channel 262A from Connersville, Indiana to Norwood, Ohio, as its first local service and modification of FM Station WIFE license accordingly.⁴ To accommodate the proposed Norwood reallocation, Rodgers Broadcasting proposed the substitution of Channel 266A for Channel 265A at Erlanger, Kentucky and modification of the FM Station WIZF license accordingly; substitution of Channel *265A for vacant Channel *266A at Madison, Indiana; and the substitution of Channel 267B1 for Channel 267B at Richmond, Indiana and modification of the FM Station WFMG license to reflect this change.

3. The Joint Petitioners requested the reallocation of Channel 297A from Lebanon Junction to New Haven, Kentucky, as its first local service and modification of the FM Station WTHX license to specify New Haven as the community of license.⁵ To prevent removal of Lebanon Junction's sole local service, the Joint Petitioners proposed the reallocation of Channel 274A from Springfield to Lebanon Junction, Kentucky and modification of the Station WAKY-FM license accordingly; and the substitution of Channel 265A for Channel 265C3 at Lebanon, Kentucky, reallocation of Channel 265A from Lebanon to Springfield, Kentucky and modification of the Station WLSK license to replace Springfield's sole local service.

4. **Comment Summary.** In response to the *Notice*, Rodgers Broadcasting filed comments affirming its interest in modifying the facilities of FM Stations WIFE and WFMG. Rodgers Broadcasting states that it will file the necessary applications and construct the facilities for Channel 262A at Norwood and Channel 267B1 at Richmond, if granted.

5. In response to the *Order to Show Cause*, Blue Chip filed a response opposing the requested Channel 266A substitution for FM Station WIZF at Erlanger, Kentucky. Blue Chip argues that the Rodgers Broadcasting proposal inadequately accounts for the consumer displacement and confusion that would result from the requested frequency change. Blue Chip contends that the *Order to Show Cause* and *Circleville*⁶ reimbursement policy inadequately address the unquantifiable impact of the loss of identity, ratings impact, and public confusion, that would result from the proposed frequency change. Blue Chip claims that Station WIZF is the sixth-rated radio station, with a 5.4 share, among listeners 12+ in the Cincinnati, Ohio metro market (population 26 million). The station is also the third-rated station among listeners in its 18-34 target demographic that amounts to a station listenership in excess of one million persons.

6. Rodgers Broadcasting filed reply comments, stating that Blue Chip's contention is premature because Blue Chip has not suggested a reimbursement amount nor has any reimbursement discussions between the two parties taken place. Moreover, Blue Chip challenge to the *Circleville* reimbursement policy is unripe because the entity has not shown that *Circleville* principles fail to compensate the licensee adequately. Rodgers Broadcasting states that the Commission has acknowledged that a channel change may disrupt existing listening patterns, but it has repeatedly held that any such disruption is not sufficient to overcome the public interest in an additional service.⁷ Rodgers Broadcasting rejects Blue Chip's

⁴ Norwood is an incorporated place with a 2000 U.S. Census population of 21,675 persons. Norwood has its own local government and elected officials, fire and police departments, school system, library, zip code (45212) and post office, commercial establishments, health facilities and transportation system.

⁵ New Haven is an incorporated place with a 2000 U.S. Census population of 849 persons. New Haven has a number of businesses and organizations, including Kentucky Railway Museum, Rolling Fork Christian Church, St. Catherine Elementary School, Sherwood, Inn, the Rolling Fork Iron Horse Festival, and Fox Hollow Pottery.

⁶ *Circleville, Ohio*, 8 FCC 2d 159 (1967).

⁷ *Citing Smith and Reno, Nevada*, 12 FCC Rcd 10218 (MMB 1997) and *Ava, Branson and Mountain Grove, Missouri*, 10 FCC Rcd 13035 (MMB 1995).

contention that listener confusion would be greater in this larger market. Rogers Broadcasting notes that the proposed “displacement” channel, 266A, is only one channel away from Station WIZF’s current Channel 265A.

7. Indiana Community filed a counterproposal requesting the modification of the NCE Station WJCF license from Channel 201A to Channel 262A at Morristown, Indiana. In this regard, Indiana Community requests the allotment of Channel 262A to Morristown, Indiana and its reservation for NCE use. Indiana Community states that the modification of its license to Channel 262A at Morristown would eliminate the existing interference that Channel 201A causes to TV Channel 6 Station WRTV, Indianapolis, Indiana. Indiana Community states that Channel 201A could be used by Hoosier Public to resolve mutually exclusive NCE time share applications.

8. Hoosier Public filed supportive comments stating that the allotment and NCE reservation of Channel 262A would resolve a conflict with its mutually exclusive application to share time with NCE Station WFCI, Franklin, Indiana. Hoosier Public states that such a settlement would not require a hearing on the license of NCE Station WFCI. Moreover, the substitution of Channel 262A for Channel 201A would be in the public interest because Station WJCF could provide digital broadcasting with no harm to TV 6 Station WRTV and resolve existing interference problems. As such, Hoosier Public requests that we waive Section 73.202(b) of the Commission’s rules, which would prohibit the modification of Station WJCF to Channel 262A at Morristown. Additionally, Hoosier Public requests that we consider, in the context of this proceeding, modifying the NCE Station WFCI license from Channel 208A at Franklin, Indiana to Channel 201A at Greenfield, Indiana to resolve its pending mutually exclusive NCE time share application.

9. Rodgers Broadcasting filed reply comments opposing the acceptance of Indiana Community’s counterproposal and Hoosier Public’s proposal because neither of the proposals conflict with any of the proposals set forth in the *Notice*. Rodgers Broadcasting states that a counterproposal is a proposal for an alternative and mutually exclusive allotment or set of allotments in the context of the proceeding in which the proposal is made.⁸ As such, Rodgers Broadcasting contends that these proposals are contingent proposals that are unacceptable for filing, and must be dismissed. It also claims that it is Commission policy not to accept any rule making proposal that is contingent on the outcome of another rulemaking proceeding, unless a final *Order* has been issued in that proceeding. Additionally, Rodgers Broadcasting states that both proposals violate the spacing requirements of Sections 73.207 of the Commission’s rules and violate Section 1.420(g) of the Commission’s rules because the proposals seek a change in community of license on a non-mutually exclusive channel. Rodgers Broadcasting also objects to Indiana Community’s attempt to reserve nonreserved channels without the required technical showings.

10. **Amended Proposal.** The Joint Parties filed an Amended Proposal requesting the substitution of Channel 294C3 for Channel 294A at Belle Meade, Tennessee, reallocation of Channel 294C3 from Belle Meade to Millersville, Tennessee, as its first local service and modification of the Station WNFN(FM) license accordingly; substitution of Channel 293A for Channel 294A at Horse Cave, Kentucky and modification of the Station WHHT(FM) license to reflect the channel substitution; substitution of Channel 297A for Channel 292A at Hodgenville, Kentucky and modification of the Station WKMO(FM) license accordingly. Instead of reallocation Station WTHX(FM) to New Haven, Kentucky, the Joint Parties request the substitution of Channel 257A for Channel 297A at Lebanon Junction, Kentucky and modification of the Station WTHX(FM) license to reflect this change. In lieu of reallocation Station WAKY(FM) to Lebanon Junction, the Joint Parties propose the reallocation of Channel 274A from Springfield to New Haven, Kentucky, as its first local service and modification of the Station

⁸ *Citing Milton, West Virginia and Flemingsburg, Kentucky*, 11 FCC Rcd 6374 (MMB 1996).

WAKY(FM) license accordingly. To prevent removal of sole local services, the Joint Parties request the substitution of Channel 265A for Channel 265C3 at Lebanon, Kentucky, reallocation of Channel 265A from Lebanon to Springfield, Kentucky and modification of the Station WLSK(FM) license accordingly; reallocation of Channel 246C2 from Goodlettsville to Belle Meade, Tennessee and modification of the Station WRQQ(FM) license accordingly; reallocation of Channel 221A from Hendersville to Goodlettsville, Tennessee, and modification of the Station WQQK(FM) license accordingly; and reallocation of Channel 259C from Manchester to Hendersville, Tennessee and modification of the Station WWTN(FM) license accordingly. Consistent with the *Taccoa* policy, the Joint Parties request that a new *Notice of Proposed Rule Making* be issued setting forth the Amended Proposal.⁹

11. Rodgers Broadcasting filed Reply Comments and Request to Sever with respect to the Amended Proposal. Rodgers Broadcasting requests severance from the Amended Proposal because the two proposals are not technically related. In this regard, Channel 265A can be substituted for Channel 265C3 at Lebanon as agreed by CBC of Marion County, Inc., licensee of Station WLSK. If the Amended Proposal is granted, Channel 265A would be reallocated from Lebanon to Springfield as requested by the Joint Parties.

12. **Discussion.** In this instance, we find it unnecessary to consider the request for severance. The Amended Proposal violates Section 73.208(a)(1)(i) of the Commission's rules. Specifically, the reallocation of pre-1964 grandfathered Station WWTN(FM), Channel 259C from Manchester to Hendersville is short-spaced to a pending modification application for Station WRJF(FM), Channel 260C3, Eva, Alabama.¹⁰ Accordingly, we dismiss the Amended Proposal.

13. We find that the Indiana Community counterproposal is contingent on the reallocation of Channel 262A from Connersville to Norwood, and is not a counterproposal. A counterproposal is a proposal for an alternative and mutually exclusive allotment or set of allotments in the context of the proceeding in which the proposal is made. Moreover, counterproposals must be capable of being effectuated at the time they are granted and cannot be contingent upon future actions by third parties.¹¹ Consequently, the requested Channel 262A at Morristown, Indiana violates Section 73.208(a)(1)(i) because the proposed channel is short-spaced to the licensed site of Station WWKI, Channel 263B, Kokomo, Indiana.¹² Accordingly, we dismiss the Indiana Community counterproposal.

14. Hoosier Public's request to modify NCE Station WFCI license from Channel 208A at Franklin, Indiana to Channel 201A at Greenfield, Indiana to resolve mutually exclusive NCE time share applications cannot be considered in this rulemaking proceeding because it is patently defective. Specifically, Franklin College of Indiana is the licensee of Station WFCI, not Hoosier Public. The *Community of License Order* only allows the licensee or permittee of an existing station to modify its

⁹ *Taccoa, Sugar Hill, and Lawrenceville, Georgia*, 16 FCC Rcd 21191 (MMB 2001).

¹⁰ See File No. BPH-20031009AAY.

¹¹ See *Cloverdale, Montgomery and Warrior, Alabama*, 12 FCC Rcd 2090 (MMB 1997).

¹² We note that a reservation of a channel in the non-reserved FM band (Channels 221 through 300) is warranted if, (1) no reserved channel (Channels 201 through 220) can be used without causing prohibited interference to a Channel 6 TV station or a foreign broadcast station, or (2) a petitioner is technically precluded from using the reserved band by existing stations or previously filed applications and the proposal would provide a first and/or second NCE radio service to 2,000 or more people who constitute 10 percent of the population within the proposed allocation's 60 dBu (1 mV/m) service contour. A proposal must contain the required technical exhibits demonstrating compliance with the one of the noncommercial educational reservation criteria. See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, 15 FCC Rcd 7386 (2000).

community of license.¹³ At any rate, the FM Table of Allotments is for non-reserved band channels only, *i.e.*, Channel 221 to 300. The proper way to seek a Channel 201A authorization in Greenfield is to file a Form 340 application. Unlike Class D technical proposals, an FM reserved band Class A application must fully comply with Section 73.509 of the Commission's rules. Currently, however, the Commission is not accepting new NCE reserved band applications. It is likely that the Commission will open a window for such filings in 2006. Any decision to open a NCE FM window will be highly publicized on the Audio Division's web site. The URL for this site is: www.fcc.gov/mb/audio.

15. Rodgers Broadcasting filed its request pursuant to Section 1.420(i) of the Commission's Rules, which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest in the proposed allotment.¹⁴ The reallocation of Station WIFE, Channel 262A at Norwood, Ohio is mutually exclusive with the current use of Channel 262B at Connersville, Indiana.

16. When considering a reallocation proposal, a comparison is made between the existing allotment and the proposed allotment to determine whether the reallocation would result in a preferential arrangement of allotments based upon the FM Allotment priorities.¹⁵ We find that the Norwood reallocation results in a preferential arrangement of allotments because Norwood would receive first local service, priority (3), whereas the retention of a second local service at Connersville is only a priority (4) consideration because AM Station WCNB also is currently licensed to Connersville.

17. Norwood is located within the Cincinnati Urbanized Area. A Channel 262A facility at Norwood would cover only 43.2 percent of this Urbanized Area. However, a *Tuck* showing is required because Norwood is located in an Urbanized Area, thus implicating the Commission's policy against migration of stations from rural to urban areas.¹⁶ In this regard, a rulemaking proponent must demonstrate that the intended city of license is sufficiently independent of the central city to justify a first local service preference. In making the determination, we consider the extent to which the station will provide service to the entire Urbanized Area, the relative populations of the suburban and central city, and most importantly, the independence of the suburban community.¹⁷ We conclude that Rodgers Broadcasting has demonstrated in its *Tuck* submission that Norwood is an independent community warranting a first local preference.

¹³ See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part 5 FCC Rcd 7394 (1990) ("Community of License Order").

¹⁴ *Id.*

¹⁵ The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1988).

¹⁶ See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995). See also, *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1998) ("*Tuck*") and *RKO General*, 5 FCC Rcd 3222 (1990) ("*KFRC*").

¹⁷ The Commission set forth eight factors in assessing the independence of a specified community: The Commission considers the following factors in determining a community's interdependence with a central city: (1) the extent to which community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that covers the community's local needs and interests; (3) whether community's leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own zip code or telephone book provided by the local telephone company; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries. *Tuck*, 3 FCC Rcd at 5378. The Commission has considered a community as independent when a majority of these factors demonstrate that the

(continued...)

18. Accordingly, we will substitute Channel 262A for Channel 262B at Connersville, Indiana, reallocate Channel 262A from Connersville, Indiana to Norwood, Ohio, as its first local service and modify the Station WIFE license accordingly.¹⁸ To accommodate the Norwood reallocation, we will substitute Channel 266A for Channel 265A at Erlanger, Kentucky and modify the FM Station WIZF license accordingly.¹⁹ We find that the public interest benefit of providing first local service at Norwood outweighs the possible disruption to Station WIZF's listeners. Rodgers Broadcasting is required to reimburse Blue Chip for its reasonable costs associated with changing its frequency to Channel 266A.²⁰ To accommodate the Channel 266A substitution at Erlanger, we will substitute Channel *265A for vacant Channel *266A at Madison, Indiana;²¹ and substitute Channel 267B1 for Channel 267B at Richmond, Indiana and modify the FM Station WFMG license to reflect this change.²² Station WFMG is a pre-November 1964 grandfathered short-spacing with respect to Station WKKG, Channel 268B, Columbus, Indiana. In this regard, we will extend the *Albemarle and Indian Trail, North Carolina* policy by permitting Station WFMG to downgrade its channel and change its transmitter site because these changes will reduce the current short-spacing from 56.2 kilometers to 27.5 kilometers.²³ To accommodate the Channel 265A substitution at Madison, we will also substitute Channel 265A for Channel 265C3 at Lebanon and modify the Station WLSK license accordingly.²⁴

19. The relocation of Station WIFE from Connersville to Norwood results in a population net gain of 1,009,757 persons. The loss area of Channel 262B at Connersville contains 320,319 persons. In this regard, 981 persons will receive four full-time aural services and 508 persons will receive three full-time aural services, while the remainder of the loss area is considered well-served with at least five full-time aural services.

20. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

21. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective January

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community is distinct from the urbanized area. See *Parker and St. Joe, Florida*, 11 FCC Rcd 1095 (M.M.Bur. 1996).

¹⁸ Channel 262A can be allotted to Norwood provided there is a site restriction of 9.4 kilometers (5.8 miles) southwest at coordinates 39-07-19 NL and 84-32-52 WL.

¹⁹ Channel 266A can be allotted to Erlanger at Station WIZF's current license site at coordinates 39-06-18 NL and 84-33-24 WL.

²⁰ *Id.* note 6.

²¹ Channel *265A can be allotted to Madison at its current reference site at coordinates 38-49-15 NL and 85-18-46 WL.

²² Channel 267B1 can be allotted to Richmond provided there is a site restriction of 11.6 kilometers (7.2 miles) northwest at coordinates 39-55-09 NL and 84-57-47 WL. The *Notice* inadvertently stated that this site was the existing licensed site of Station WFMG.

²³ *Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (MMB 2001), application for review pending on other grounds. See *Newnan and Peachtree City, Georgia*, 7 FCC Rcd 6307 (1992).

²⁴ Channel 265A can be allotted to Lebanon provided there is a site restriction 9.6 kilometers (6.0 miles) northeast at coordinates 37-38-50 NL and 85-11-50 WL.

9, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Communities</u>	<u>Channel No.</u>
Connersville, Indiana	-----
Madison, Indiana	*265A
Richmond, Indiana	267B1
Erlanger, Kentucky	266A
Lebanon, Kentucky	265A
Norwood, Ohio	262A

22. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the authorization of Rodgers Broadcasting Corporation for FM Station WIFE, Channel 262B, Connersville, Indiana, IS MODIFIED to specify operation on Channel 262A at Norwood, Ohio to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of FM Station WIFE shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

23. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the authorization of Blue Chip Broadcasting Licenses II, Ltd. for FM Station WIZF, Channel 265A, Erlanger, Kentucky, IS MODIFIED to specify operation on Channel 266A at Erlanger, Kentucky, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of FM Station WIZF shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from

environmental processing.

24. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the authorization of Rodgers Broadcasting Corporation for FM Station WFMG, Channel 267B, Richmond, Indiana, IS MODIFIED to specify operation on Channel 267B1 at Richmond, Indiana, subject to the following conditions:

(a) Within 90 days of the effective date of the *Order*, the licensee of FM Station WFMG shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

(d) Station WFMG must implement Channel 267B1 at Richmond, Indiana at coordinates 39-55-09 NL and 84-57-47 WL.

25. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of the Commission's rules, Rodgers Broadcasting Corporation, licensee of FM Station WIFE, Connorsville, Kentucky is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the community of license for FM Station WIFE to specify operation on Channel 262A at Norwood, Ohio at the time its Form 301 application is submitted.

26. IT IS FURTHER ORDERED, That the counterproposal filed by Indiana Community IS DISMISSED.

27. IT IS FURTHER ORDERED, That the Amended Proposal filed by the Joint Parties IS DISMISSED.

28. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by the Joint Petitioners IS DISMISSED.

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

30. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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