

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 04-19
Table of Allotments,	)	RM-10845
FM Broadcast Stations.	)	
(Talladega and Munford, Alabama)	)	
	)	

**REQUEST FOR SUPPLEMENTAL INFORMATION**

**Adopted: April 25, 2005**

**Released: April 27, 2005**

**Comment Date: June 20, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* (“*Notice*”)<sup>1</sup> issued in response to a Petition for Rule Making filed by Jacobs Broadcast Group Inc., licensee of Station WTDR(FM) (“WTDR”), Talladega, Alabama (“Petitioner”). Petitioner filed comments and reply comments. Calhoun Communications (“Calhoun”) filed comments, and an erratum and supplement thereto. For the reasons stated below, we are issuing this *Request for Supplemental Information*.

2. At the request of Petitioner, the *Notice* proposed that Channel 224A, Station WTDR be reallocated to Munford, Alabama, and that Station WTDR’s license be modified to reflect the change of community. This reallocation of Channel 224A to Munford would provide Munford with its first local aural transmission service. Petitioner made the foregoing reallocation request pursuant to Section 1.420(i) of the Commission’s rules,<sup>2</sup> which permits the modification of a station’s authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.<sup>3</sup> The *Notice* did not require Petitioner to submit a showing pursuant to *Faye and Richard Tuck*<sup>4</sup> to demonstrate that Munford is independent of the Anniston Urbanized Area and entitled to consideration as a first service, because Munford is not located in the Anniston Urbanized Area and Station WTDR provides only about 10 percent of the Urbanized Area with a 70 dBu signal.

3. In regard to this reallocation proposal, we concur with Calhoun that as a Munford station, Petitioner could relocate the Station WTDR transmitter to a site that would serve most of the Anniston Urbanized Area. Had Petitioner proposed this site in its petition for rule making, we would have required a showing pursuant to *Faye and Richard Tuck* to demonstrate that Munford is independent of

<sup>1</sup> *Talladega and Munford, Alabama*, 19 FCC Rcd 1881 (MB 2004).

<sup>2</sup> 47 C.F.R. § 1.420(i).

<sup>3</sup> *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 7094 (1990).

<sup>4</sup> *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988); *see also Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995) (a reallocation proposal requires a showing pursuant to *Faye and Richard Tuck* when the proposed 70 dBu contour will encompass more than 50 percent of an Urbanized Area).

the Anniston Urbanized Area and therefore entitled to consideration as a first local service. In the event that Petitioner subsequently proposes to relocate its transmitter site to a location that would serve more than 50 percent of the Anniston Urbanized Area, the procedure of first proposing only a change in community of license and subsequently proposing the relocation of the transmitter site would effectively circumvent a specific Commission requirement that the licensee submit a showing pursuant to *Faye and Richard Tuck*. In order to avoid any such perception, we are requesting Petitioner to submit a showing pursuant to *Faye and Richard Tuck* to demonstrate that Munford is independent of the Anniston Urbanized area and therefore entitled to consideration as a first local service, regardless of the location of its transmitter site. This would enable us to resolve this matter on the basis of a complete record and address any issue with respect to a two-step procedure to implement a migration of a station from a rural to an urbanized area.

4. Interested parties may file comments on or before June 20, 2005. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the following counsel.

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5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.501 and 73.606(b) of the Commission's Rules*, 46 FR 11540, published February 9, 1981.

6. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or the staff for clarification or adduction of evidence or resolution of the issues in the proceeding. However, any new written information elicited from such request or summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives the service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in this proceeding. Any reply comment which has not

been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
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