

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

In the Matter of)	
Amendment of Section 73.202(b))	
FM Table of Allotments,)	MB Docket No. 04-42
FM Broadcast Stations.)	RM-10850
(Glasgow and Bowling Green, Kentucky))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 19, 2004

Released: May 21, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rulemaking*¹ issued at the request of Heritage Communications, Inc. ("Heritage"), licensee of Station WGGC, Glasgow, Kentucky, requesting changes to the FM Table of Allotments in Kentucky. Heritage requested the reallocation of Channel 236C0 from Glasgow, Kentucky, to Bowling Green, Kentucky, and the modification of the license for Station WGGC to specify operation at Bowling Green.² Heritage filed comments in which it restated its intention to file an application for Channel 236C0 at Bowling Green. No other comments were filed in response to MB Docket No. 04-42.

2. Based upon the information presented in this proceeding, we believe the public interest will be served by reallocating Channel 236C0 to Bowling Green, Kentucky, since it would result in a preferential arrangement of allotments. The proposed reallocation of Station WGGC was filed pursuant to the provisions of Section 1.420(i) of the Commission's rules, 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.³ In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments as set forth in *Revision of FM Assignment Policies and Procedures*.⁴ Retention of Channel 236C0 at Glasgow triggers Priority No. 4, other public interest matters, as does the reallocation of Channel 236C0 to Bowling Green. However, the reallocation to Bowling Green (population

¹ See *Glasgow and Bowling Green, Kentucky*, 19 FCC Rcd 3606 (MB 2004).

² The license for Station WGGC, Glasgow, Kentucky, was modified to specify operation on Channel 236C0 in lieu of Channel 236C on October 28, 1999 (BMLH-1990728KA). The FM Table of Allotments was inadvertently never changed to reflect the downgrade. We will make the correction in the context of this proceeding. Since this action constitutes an editorial change, a public notice and comment proceeding is unnecessary. See 5 U.S.C. 553(b)(A) and (B).

³ 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).

⁴ The allotment priorities 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 is given to priorities (2) and (3).] See *Second Report and Order in BC Docket 80-130, Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1982).

49,296 people) will (a) provide additional service to the larger community while not depriving Glasgow (population 13,019 people) of local service; (b) will restore competitive commercial nighttime service to Bowling Green; and (c) replace the local service lost when Station WBVR-FM moved from Bowling Green to Auburn, Kentucky. Glasgow will remain served by five local FM and AM stations.⁵ A Commission staff analysis indicates that Station WGGC, Glasgow currently provides coverage to 100 percent of the Bowling Green, Kentucky Urbanized Area and will continue to serve the urbanized area when reallocated to Bowling Green. Since no site change is anticipated, coverage to the urbanized area will remain unchanged. Consideration of *Huntington and Tuck* in these circumstances is unwarranted.⁶

3. The reallocation proposal is consistent with the requirements set forth in *Change of Community, supra*. Channel 236C0 can be allotted to Bowling Green, Kentucky, in compliance with the Commission's minimum distance separation requirements at coordinates 36-54-43 and 86-11-21.⁷ Our analysis confirms that there will be no loss in service and no underserved areas will be created as Heritage has made a commitment to operate Station WGGC at its current licensed site. Additionally, the *Notice* pointed out that Station WGGC is a pre-1964 grandfathered station. We recognize that we are creating a new short-spaced allotment in contravention of Section 73.207 of the Rules. However, we have held that grandfathered FM Stations that were in compliance with our Rules when authorized should be afforded the same opportunity to change their community of license as other stations authorized in conformity with our rules, where there is no change in transmitter site.⁸ Heritage will be required to specify its current licensed site for Station WGGC, Glasgow, Kentucky, for the applications for a construction permit and a license for Station WGGC, Bowling Green, Kentucky. In accordance with Section 1.420(i) of the Commission's rules, we will modify the license for Station WGGC to specify operation on Channel 236C0 at Bowling Green, as its new community of license.

4. 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 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS ORDERED That effective August 2, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Bowling Green, Kentucky	227C3, 236C0
Glasgow, Kentucky	231A, 287C3

5. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Heritage Communications, Inc. for Station WGGC, Glasgow, IS MODIFIED to specify operation on Channel 236C0 at Bowling Green, Kentucky, in lieu of Channel 236C0 at Glasgow, Kentucky, subject to the following conditions:

⁵ Stations WGVB(FM), Channel 231A, WOVO(FM), Channel 287C3, WSGP(FM), Channel 202C3, WCDS(AM), 1440kHz, and WSLU(AM), 1490 kHz.

⁶ See *East Los Angeles, Long Beach, and Frazier Park, California*, 10 FCC Rcd 2864 (MMB 1995). Heritage provided sufficient information in its Petition for Rule Making to satisfy a *Tuck* showing.

⁷ Union County Broadcasting Co., Inc., licensee of Station WMSK-FM, Morganfield, Kentucky, file an application for a minor modification which, although short spaced to Station WGGC at Bowling Green, utilizes Section 73.215 and will cause no actual interference to Station WGGC. See application BMPH-20040116ADB.

⁸ See *Newnan and Peachtree City, Georgia*, 7 FCC Rcd 6307 (MMB 1992), *Oceanside and Encinitas California*, 15 FCC Rcd 15302 (MMB 1999), and *Fremont and Holton, Michigan*, 14 FCC Rcd 17108 (1999).

- (a) Within 90 days of the effective date of this *Order*, the licensee of Station WGGC 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 by Station KTCL in accordance with Section 73.1620 of the Rules.
- (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 Section 1.1307 of the Commission's rules, unless the proposed facilities are categorically excluded from environmental processing.

6. Pursuant to Sections 1.1104(1)(k) and (2)(k) of the Commission's rules, any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change of community. As a result of this proceeding, Heritage Communications, Inc., licensee of Station WGGC, Channel 236C0, Glasgow, Kentucky, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for Station WGGC, Channel 236C0, Glasgow, Kentucky, to Channel 236C0 at Bowling Green, Kentucky, at the time its Form 301 application is submitted.

7. For further information regarding the proceeding listed above, contact Sharon McDonald, Media Bureau, (202)418-2180.

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau