

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 99-361
Table of Allotments,	)	RM-9777
FM Broadcast Stations.	)	RM-9851
(Plainville and Larned, Kansas)	)	

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: July 5, 2000

Released: July 14, 2000

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the Notice of Proposed Rule Making and Order to Show Cause, 14 FCC Rcd 21435 (1999), issued in response to a petition for rule making filed on behalf of Radio, Inc. ("petitioner"), licensee of Station KFIX, Channel 245C2, Plainville, Kansas, proposing the substitution of Channel 245C1 for Channel 245C2 at Plainville, and modification of its license accordingly. To accommodate the proposal, petitioner requested the substitution of Channel 255A for Channel 244A at Larned, Kansas, and modification of the license of Goodstar Broadcasting of Kansas, L.L.C. ("Goodstar") for Station KGTR to specify the alternate Class A channel. Petitioner filed supporting comments in response to the Notice. Goodstar filed a counterproposal<sup>1</sup> and response to the order to show cause, as well as an Erratum.<sup>2</sup> No other comments were received.

2. As stated in the Notice, the petitioner is currently precluded from pursuing a modification through the one-step application process due to the existence of Channel 244A at Larned. The distance between the two communities is 100.3 kilometers whereas a distance of 133 kilometers is required in this situation. Therefore, in order to enable Station KFIX to provide an enhanced service within its primary service contour on Channel 245C1 at Plainville, the Notice proposed to modify Station KGTR to specify operation on Channel 255A at Larned, as requested. Petitioner reaffirmed its prior willingness to reimburse Goodstar for the reasonable costs associated with implementing the requested frequency change at Larned.

3. In response to the Order to Show Cause Goodstar filed a counterproposal requesting the substitution of Channel 255C3 for Channel 244A at Larned. This proposal is mutually exclusive with the proposed substitution of Channel 255A for Channel 244A at Larned, and can be accommodated without affecting any other proposal contained in the Notice. Goodstar stated its

<sup>1</sup> Public Notice of the counterproposal was given April 18, 2000 (Report No. 2403).

<sup>2</sup> The erratum corrected the docket number contained in the caption of Goodstar's comments and counterproposal.

intention to apply for Channel 255C3, if allotted. Further, in support of the modification, Goodstar contends that operation on Channel 255C3 will permit it to increase its service area population from 7,671 to 30,017 (+400%). Additionally, Goodstar acknowledges that while the petitioner is not responsible for any costs associated with its requested upgrade to Channel 255C3, it is obligated to reimburse Goodstar for the reasonable costs associated with the change from Channel 244A to Channel 255A. Circleville, Ohio, 8 FCC 2d 159 (1967).

4. In consideration of the above, we believe the public interest would be served by substituting Channel 245C1 for Channel 245C2 at Plainville, Kansas, as well as substituting Channel 255C3 for Channel 244A at Larned, Kansas, as the modifications will enable each licensee to provide an expanded service within their primary service areas. As indicated in the Notice, Channel 245C1 can be allotted to Plainville at the licensed site of Station KFIX at coordinates 39-01-15 NL and 99-28-12 WL. Additionally, Channel 255C3 can be allotted to Larned at the existing licensed site of Station KGTR at coordinates 38-09-54 NL and 99-06-05 WL. Therefore, in accordance with Section 1.420(g) of the Commission's Rules, we will modify the license of Station KFIX, Plainville, to specify operation on Channel 245C1, and will also modify the license for Station KGTR, Larned, to specify operation on Channel 255C3. As petitioner admittedly benefits from the change of frequency for the Larned station, it has stated its willingness to reimburse the licensee of Station KGTR for the reasonable costs associated with the change in channels. However, since the licensee of Station KGTR sought and will receive an upgrade to Channel 255C3, we shall order reimbursement to the Larned licensee for the reasonable costs associated with changing its frequency equivalent only to the costs of changing to a Class A channel. See Lonoke, Arkansas and Clarksdale, Mississippi, 6 FCC Rcd 4861 (1991).

5. 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 Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 28, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Larned, Kansas	255C3, 295C1
Plainville, Kansas	245C1

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licenses of Radio, Inc. for Station KFIX, Channel 245C2, Plainville, Kansas, and Goodstar Broadcasting of Kansas, L.L.C., for Station KGTR, Channel 244A, Larned, Kansas, ARE MODIFIED to specify operation on Channels 245C1 and 255C3, respectively, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensees 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 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 Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(m) of the Commission's Rules, any party seeking a change in community of license of a television or FM 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 in community of license and/or upgrade. As a result of this proceeding, Radio, Inc., licensee of Station KFIX, Plainville, Kansas, and Goodstar Broadcasting of Kansas, L.L.C., licensee of Station KGTR, Larned, Kansas, are each required to submit a rule making fee in addition to the fee required for the applications to effectuate the upgrades.

8. IT IS FURTHER ORDERED, That the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Order by Certified Mail, Return Receipt Requested, to the following:

Radio, Inc.  
Radio Station KFIX     and  
Hays, KS 67601

Goodstar Broadcasting of Kansas, L.L.C.  
Radio Station KGTR  
1660 N. Tyler Road  
Wichita, KS 67212

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

10. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau