

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

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 99-299
Table of Allotments,) RM-9687
FM Broadcast Stations.) RM-9813
(Osceola, Sedalia and)
Wheatland, Missouri)¹)

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: August 8, 2000

Released: August 18, 2000

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by The Clair Group (“Clair”), the Commission has before it for consideration the Notice of Proposed Rule Making, 14 FCC Rcd 17121 (1999), requesting the substitution of Channel 262A for Channel 222A at Osceola, Missouri, and substitution of Channel 222A for Channel 221A at Sedalia, Missouri, to allow Station KMFC(FM), Centralia, Missouri, to operate with maximum Class A facilities of six kilowatts.² Clair and Bick Broadcasting Co. (“Bick”) filed comments supporting the proposed substitutions. Bott Communications, Inc. (“Bott”) filed a counterproposal.³ Clair, Lake Area Educational Broadcasting Foundation (“Lake Area”), and Bick jointly filed an Opposition to the counterproposal (“Petitioners”).

2. Bott counterproposed the allotment of Channel 262A to Wheatland, Missouri, as that community’s first local aural service. Bott argues that the upgrades proposed in the Notice can be accomplished through a mutual agreement pursuant to Section 73.213(c)(2) of the Rules allowing for the allotment of Channel 262A at Wheatland as a first local service. Bott believes this resolution would be a far better use of the spectrum. Bott states that its engineering analysis confirms that city grade coverage of Wheatland can be provided from its proposed site and that a total of 32,828 people within 2,863 square kilometers would be served by the new facility. Bott believes that Wheatland is a community for allotment purposes, stating that Wheatland is an incorporated community with a

¹ The community of Wheatland, Missouri, has been added to the caption.

² In its Petition for Rule Making, Clair stated that it had reached an agreement with the licensee of Station KSDL, Sedalia, Bick Broadcasting Co. and with the licensee of KCVJ, Osceola, Lake Area Educational Broadcasting Foundation, with regard to reimbursement and support of the proposal. Therefore, it was not necessary to issue an order to show cause to either station.

³ The counterproposal filed by Bott (RM-9813) was put on public notice on January 25, 2000 (Report No. 2385). However, as the FCC was closed on January 25 and 26, 2000, due to inclement weather, the public notice was not released until January 27, 2000.

population of 363 people. Further, Wheatland has its own post office, an elected mayor and four elected aldermen along with a city clerk and treasurer. Wheatland has its own water and sewer department, a volunteer fire department with a firehouse, and a school system for children K-grade 12.

Additionally, Bott states that according to the Wheatland City Clerk, there are 35 businesses located in Wheatland, along with five churches, a senior citizen's housing facility and the Wheatland Pioneer Village, a popular tourist attraction.

3. Petitioners oppose the counterproposal filed by Bott. Petitioners argue that their proposal by which three Class A radio stations licensed to Clair, Lake Area and Bick will be able to increase to full Class A facilities bringing improved service to the residents of the three separate communities outweighs the allotment of a channel to a small community. Although Petitioners assert that a technical solution to the conflict exists in that additional channels are available to accommodate the substitutions at Osceola and Sedalia and the counterproposal for Wheatland, Petitioners are opposed to an allotment at Wheatland on the basis that it does not qualify as a community for allotment purposes.⁴

4. Conflicting proposals, such as have been filed in this proceeding, are generally considered under the guidelines set forth in Revision of FM Assignment and Policies and Procedures, 90 FCC Rcd 2d (1982).⁵ However, in this instance, since an additional channel is available, there is no need to compare the communities. Therefore, after consideration of the information filed in this proceeding we believe the public interest would be served by the allotment of FM channels at Osceola, Sedalia, and Wheatland, Missouri, providing expanded service at Osceola and Sedalia and a new service at Wheatland. As proposed in the Notice, Channel 262A can substituted for Channel 222A at Osceola, Missouri, and Channel 222A can be substituted for Channel 221A at Sedalia, Missouri, at the requested sites in compliance with the Commission's spacing requirements.⁶ In accordance with Section 1.420(g) of the Commission's Rules, we are herein modifying the license for Station KSDL, Sedalia, Missouri, to specify operation on Channel 222A in lieu of Channel 221A and the license for Station KCVJ, Osceola, Missouri, to specify operation on Channel 262A in lieu of Channel 222A. In

⁴ Clair originally requested the substitution of Channel 285A for Channel 222A at Osceola, Missouri. Prior to release of the Notice, Lake Area filed an amendment to Clair's petition requesting the substitution of Channel 262A in lieu of Channel 285A at Osceola to accommodate a construction permit for Station KGAR, Garden City, Missouri (BMPH-990816IC). To accommodate the counterproposal, Petitioners restated support for the allotment of Channel 285A at Osceola at Station KCVJ's existing site, providing a solution to the existing conflict for Channel 262A. On March 2, 2000, Bott Communications, Inc. filed a petition for rulemaking requesting the allotment of Channel 285A at Lowry City, Missouri, as a first local service (RM-9845). See Notice of Proposed Rule Making, adopted August 8, 2000, and released August 18, 2000, DA No. 1900.

⁵ The FM allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).]

⁶ The coordinates for Channel 262A at Osceola are 38-03-09 and 93-35-16. The coordinates for Channel 222A at Sedalia are 38-43-52 and 93-13-32.

addition, we shall allot Channel 226A at Wheatland, Missouri, in response to the counterproposal filed by Bott. Channel 226A can be allotted to Wheatland with a site restriction 14.3 kilometers (8.9 miles) east of the community.⁷ A staff engineering analysis has determined that 14,525 people in 2,516 square kilometers could be served with the allotment of Channel 226A at Wheatland. Although Petitioners argue that Wheatland is not a community for allotment purposes, staff research located additional information supporting community status for Wheatland.⁸ While we acknowledge that the population of Wheatland is small, we believe there is sufficient information to support community status and that the public interest will be served by providing the residents of Wheatland with the opportunity for a first local broadcast service.

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 October 2, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

Community	Channel Number
Osceola, Missouri	262A
Sedalia, Missouri	222A
Wheatland, Missouri	226A

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Bick Broadcasting for Station KSDL, Sedalia, Missouri, IS MODIFIED, to specify operation on Channel 222A in lieu of Channel 221A, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in Station KSDL's license, BLH7620, except the channel as specified above. Any other changes, except those so specified under Section 73.1620 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

⁷ The coordinates for Channel 226A at Wheatland are 37-55-00 and 93-14-30.

⁸ Staff research found the following information concerning Wheatland. Wheatland has its own City Hall, Wheatland City Fire Dept., Chapter of Veterans of Foreign Wars 9638, Post Office, Galmey Church, Gerster Baptist Church, Hopewell Baptist Church, Wheatland Church-The Nazarene, Wheatland Public Schools District 2, Galmey General Store, Roll's Diner, TJ's Round Up, Meadow Brook Center, Hodges Insurance, All Star Gas, Pomme De Terre Golf Assn. Inc., Country Cottage Hair Care, Klip-N-Kurl, Prairie's Edge Salon and Ruth Ann's Hair Styling.

- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH7620, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Lake Area Educational Broadcasting Foundation for Station KCVJ, Osceola, Missouri, IS MODIFIED to specify operation on Channel 262A in lieu of Channel 222A, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for 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.

8. A filing window for Channel 226A at Wheatland, Missouri, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media

Bureau, (202) 418-2180. Questions related to the application filing process for Channels 262A, Osceola, MO, 222A, Sedalia, MO or 226A, Wheatland, MO, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

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