

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 05-136
FM Table of Allotments,)	RM-11163
FM Broadcast Stations.)	RM-11296
(Arapaho, Edmond, Oklahoma City,)	
Ponca City, Stillwater, The Village, and)	
Woodward, Oklahoma))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: May 16, 2007

Released: May 18, 2007

By the Assistant Chief, Audio Division, Media Bureau:

1. Before the Audio Division is a *Notice of Proposed Rule Making*¹ issued at the request of Charles Crawford (“Petitioner”), proposing to allot Channel 251C3 at Arapaho, Oklahoma, as the community’s first local service. Petitioner filed comments reiterating its interest in filing an application for the proposed allotment but subsequently filed a request for withdrawal. A counterproposal was filed by Citadel Broadcasting Company (“Citadel”) proposing to substitute Channel 251C1 for Channel 250A at Edmond, Oklahoma, reallocate Channel 251C1 to The Village, Oklahoma, and to modify the license for Station WWLS-FM, accordingly.² No other comments or counterproposals were filed.³

2. We grant Petitioner’s request for withdrawal which was filed pursuant to Section 1.420(j) of the Commission’s rules.⁴ Petitioner states that he has not been paid or promised any consideration in exchange for withdrawing his petition. It is the Commission’s policy to refrain from making an allotment to a community absent an expression of interest. Therefore, since there has been no continued expression of interest for an allotment of Channel 251C3 at Arapaho, Oklahoma, we will dismiss Petitioner’s proposal.

¹ *Arapaho, Oklahoma, et al.*, Notice of Proposed Rule Making, 20 FCC Rcd 6228 (MB 2005) (This was a multiple docket Notice of Proposed Rule Making but this proceeding only pertains to the instant MB Docket No. 05-136).

² See Public Notice, Report No. 2740 (Nov. 10, 2005) (At the time the public notice was issued for Citadel’s counterproposal Station WWLS-FM was operating under its former call sign KKWD(FM)). Citadel’s counterproposal was filed prior to the adoption of *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (2006).

³ Citadel also filed a Motion to Accept Supplement and a Supplement on June 15, 2005, a Motion to Accept Supplement on September 12, 2006, and a Supplement on September 13, 2006.

⁴ 47 C.F.R. § 1.420(j).

3. Next, we consider Citadel's counterproposal for Station WWLS-FM's upgrade and change of community to Channel 251C1 at The Village.⁵ To accommodate the counterproposal, the following channel substitutions are proposed for stations in Oklahoma: (1) for Station KVRO at Stillwater, substitute Channel 266A for Channel 251A at its current site; (2) for Station KPNC at Ponca City, substitute Channel 264C3 for Channel 265A; and (3) for Citadel's Station KATT-FM at Oklahoma City, substitute Channel 263C1 for Channel 263C at its current site. Our engineering analysis confirms that the proposed channel substitutions and/or change in reference coordinates conform to the technical requirements of the Commission's rules.⁶ Citadel has reached agreements with the licensees of Stations KVRO at Stillwater, KPNC at Ponca City, and KWOX at Woodward for their consent to the proposed changes to their facilities in exchange for Citadel's reimbursement of their expenses.⁷

4. Citadel filed its proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's rules.⁸ 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. This decision is based on the FM Allotment priorities.⁹

5. We find that the reallocation will serve the public interest because it will provide The Village with its first local service under priority three while Edmond will continue to receive local service from two noncommercial educational FM stations under priority 4.¹⁰ Our engineering analysis shows that

⁵ The proposal to modify WWLS-FM's license to specify operation on Channel 251C1 at The Village conflicts with a proposal to allot Channel 249A at Purcell, Oklahoma, in MM Docket No. 00-148, which was dismissed by Report and Order. See *Quannah, TX, et al.*, Report and Order, 18 FCC Rcd 9495 (MB 2003), *aff'd* Memorandum Opinion and Order, 19 FCC Rcd 7159 (MB 2004), *application for review filed Jun. 21, 2004* (MM Docket No. 00-148). We caution parties that the instant proposal will be subject to the outcome of MM Docket No. 00-148. See *Auburn, Alabama, et al.*, Memorandum Opinion and Order, 18 FCC Rcd 10333 (MB 2003).

⁶ Citadel proposes new reference coordinates for WWLS-FM, Channel 251C1, The Village to 35-35-22 NL and 97-29-03 WL with a site restriction of 6.8 km (4.3 miles) northeast of city reference coordinates; KPNC, Channel 264C3, Ponca City to 36-50-29 NL and 97-04-59 WL with a site restriction of 14.9 km (9.3 miles) north of city reference coordinates; and KWOX, Channel 266C, Woodward to 36-24-16 NL and 99-39-50 WL with a site restriction of 24.8 km (15.4 miles) west of city reference coordinates. Citadel's proposal to change the reference coordinates of vacant Channel 249A at Hennessey, Oklahoma, to 36-07-55 NL and 97-58-46 WL with a site restriction of 7.7 km (4.8 miles) west of city reference coordinates was also requested by another party in a separate proceeding and granted in MM Docket No. 05-85. See *Hennessey, Oklahoma*, Report and Order, 21 FCC Rcd 14717 (MB 2006).

⁷ As a result of these agreements, Citadel is in compliance with the Columbus Policy which rejects petitions for rulemaking that involve more than two substitutions of channels occupied by existing FM stations unless an agreement is reached with the affected stations or there are "significant public interest benefits." See *Columbus, Nebraska, et al.*, Report and Order, 59 RR 2d 1185 (1986). Citadel states that pursuant to Section 1.420(j), it has not paid nor promised to pay any party for withdrawing an expression of interest, dismissal of an application, or forbearing from filing an expression of interest or an application.

⁸ 47 C.F.R. § 1.420(i).

⁹ The FM 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 *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988).

¹⁰ Station KCSC broadcasting on Channel 211 and KOKF broadcasting on Channel 215 are both licensed to the community of Edmond.

there will be a net gain in service to 389,550 persons with no loss of service as a result of the change in coordinates for the proposed upgrade of WWLS-FM. Citadel states that Edmond and The Village are both located within the Oklahoma City, Oklahoma Urbanized Area but nevertheless submits a *Tuck*¹¹ showing to demonstrate that The Village is independent of Oklahoma City.¹² Our engineering analysis shows that the current facility of KWKD at Edmond provides a 70 dBu signal that encompasses approximately 57.5% of Oklahoma City while the proposed 70 dBu signal at The Village would encompass approximately 100% of Oklahoma City and approximately 94.7% of the Norman, Oklahoma Urbanized Area. Citadel's *Tuck* analysis demonstrates that The Village meets at least five of the eight *Tuck* factors.¹³ We find that The Village is separate and distinct from Oklahoma City, and for the same reasons find that it is also independent of Norman. We conclude that The Village is deserving of its own first local transmission service. Therefore, we will modify the license of Station WWLS-FM to specify operation on Channel 251C1 at The Village, Oklahoma.

6. Accordingly, pursuant to authority contained 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 July 2, 2007, the Media Bureau's Consolidated Data Base System will reflect for the following stations in Oklahoma: (1) Channel 251C1 at The Village as the reserved assignment for Station WWLS-FM in lieu of Channel 250A at Edmond; (2) Channel 266A at Stillwater as the reserved assignment for Station KVRO in lieu of Channel 251A; (3) Channel 264C3 at Ponca City as the reserved assignment for Station KPNC in lieu of Channel 265A;¹⁴ and (4) Channel 263C1 at Oklahoma City as the reserved assignment for Station KATT-FM in lieu of Channel 263C.¹⁵

7. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Citadel Broadcasting Company for Station WWLS-FM, Channel 250A at Edmond, Oklahoma, IS MODIFIED to specify operation on Channel 251C1 at The Village, Oklahoma, subject to the following conditions:

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

¹¹ *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988).

¹² *East Lost Angeles, California et al.*, Report and Order, 10 FCC Rcd 2864 (MMB 1995) (changing a community of license within the same urbanized area does not require a *Tuck* showing).

¹³ Citadel supplied evidence demonstrating that The Village is an incorporated city with a 2000 U.S. Census population of 10,157 persons with 12.6% of employed individuals working at their place of residence; operates under its own local government with elected officials; has its own schools, police and fire departments; has numerous local businesses including health care facilities; and the residents of the community perceive The Village as being separate from larger metropolitan areas.

¹⁴ See note 6 *supra* for changes in reference coordinates for Stations WWLS-FM at The Village, KPNC at Ponca City, and KWOX at Woodward.

¹⁵ We note that the downgrade of KATT-FM to Channel 263C1 obviates the need for the Order to Show Cause that was issued for its reclassification to a Class C0 facility, to accommodate a petition for rule making in RM-11330. That petition will be reviewed in a separate proceeding.

- 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.

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Stillwater Broadcasting, LLC for Station KVRO, Channel 251A at Stillwater, Oklahoma, IS MODIFIED to specify operation on Channel 266A at Stillwater, Oklahoma subject to the following conditions:

- a) Within 90 days of the effective date of this *Order*, the licensee 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.

9. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Team Radio, LLC for Station KPNC, Channel 265A at Ponca City, Oklahoma, IS MODIFIED to specify operation on Channel 264C3 at Ponca City, Oklahoma subject to the following conditions:

- a) Within 90 days of the effective date of this *Order*, the licensee 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.

10. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Citadel Broadcasting Company for Station KATT-FM, Channel 263C at Oklahoma City, Oklahoma, IS MODIFIED to specify operation on Channel 263C1 at Oklahoma City, Oklahoma subject to the following conditions:

- a) Within 90 days of the effective date of this *Order*, the licensee 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.

11. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) 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 rulemaking fee when filing the application to implement the change in community of license and/or upgrade. As a result of this proceeding, the licensees receiving an upgrade and/or change in community of license are required to submit a rulemaking fee in addition to the fee required for the application to affect the upgrade and/or change in community of license, at the time the Form 301 application is submitted.

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

13. IT IS FURTHER ORDERED, That the petition for rule making (RM-11163) filed by Charles Crawford IS DISMISSED.

14. IT IS FURTHER ORDERED, That the counterproposal (RM-11296) filed by Citadel Broadcasting Company IS GRANTED.

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

16. For additional information concerning this proceeding, contact Helen McLean, Media Bureau (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau