

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-312
Table of Allotments,)	RM-9735
FM Broadcast Stations.)	
(Mill Hall, Jersey Shore and)	
Pleasant Gap, Pennsylvania))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 18, 2000;

Released: October 27, 2000

By the Chief, Allocations Branch:

1. At the request of Forever Broadcasting, LLC (“petitioner”), licensee of Station WZRZ(FM), Channel 254A, Mill Hall, Pennsylvania, the Allocations Branch has before it the Notice of Proposed Rule Making, 14 FCC Rcd 17772 (1999), proposing the reallocation of Channel 254A from Mill Hall to Pleasant Gap, Pennsylvania, and the modification of Station WZRZ(FM)’s license accordingly. Petitioner also requested the reallocation of Channel 249A from Jersey Shore to Mill Hall, Pennsylvania, and the modification of Station WVRT(FM)’s license accordingly.¹ Petitioner filed comments in support of the proposal reaffirming its intention to apply for Channel 254A, if reallocated to Pleasant Gap. No other comments were received

2. The proposed reallocations were filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit 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. See Amendment of the Commission's Rules Regarding 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) (“Change of Community”). As stated in the Notice, Pleasant Gap is a Census Designated Place with a 1990 U.S. Census population of 1,699 persons. It is located in Spring Township which is a part of Centre County.

¹ Petitioner submitted a Declaration from DHRB, Inc. (“DHRB”), licensee of Station WVRT(FM), Channel 249A, Jersey, Shore, Pennsylvania, consenting to the reallocation of Channel 249A from Jersey Shore to Mill Hall, Pennsylvania. Petitioner has agreed to reimburse DHRB for any legal and engineering expenses related to the reallocation of its channel and the change of community of license for its station. DHRB also affirms its intention to apply for the channel if reallocated to Mill Hall.

The community has an elementary school, a volunteer fire department, a post office, restaurants, gas stations, banks, churches, and a number of local businesses.

3. We believe that the public interest would be served by granting the petitioner's rulemaking proposal because it would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See Change of Community, *supra*. Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.² See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

4. In making this analysis, Pleasant Gap would receive a first local service, triggering priority (3), and Mill Hall would retain a first local service with Station WVRT(FM), Channel 249A being reallocated as a replacement service. On the other hand, the reallocation of Channel 249A to Mill Hall would not deprive Jersey Shore of its sole local service because Stations WJSA-FM and WJSA(AM) would remain licensed to the community. Both Mill Hall and Jersey Shore have five or more reception services and are considered to be well served. Furthermore, no Tuck analysis is necessary for either of these reallocations because Mill Hill and Pleasant Gap are not located in any urbanized area.³ Further, while a new transmitter site for Channel 254A at Pleasant Gap would provide a 70 dBu signal over 23% of the State College, Pennsylvania Urbanized Area, this is below the 50% threshold required to trigger a Tuck analysis.

5. We do recognize that both reallocations will create some gains and losses of service. Specifically, the reallocation of Channel 249A to Mill Hall will create a gain of service to 27,287 persons and a loss of service to 29,440 persons, resulting in a net loss of service to 2,153 persons. However, both the gain and loss areas are served by at least five full-time reception services. In addition, the reallocation of Channel 254A to Pleasant Gap will produce a gain of service to 106,672 persons and a loss of service to 40,731 persons, for a net gain of 80,598 persons. These gain and loss areas are also served by at least five full-time reception services and are, therefore, considered to be well served.

6. Our action in approving the reallocation and change of community of license of Station WZRZ(FM), Channel 254A from Mill Hall to Pleasant Gap is premised upon the reallocation and change of community of license of Station WVRT(FM), Channel 249A from Jersey Shore to Mill

²The 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 given to priorities (2) and (3).]

³ See Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995); Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951); RKO General, Inc., 5 FCC Rcd 3222 (1990); and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

Hall in order to prevent the removal of the sole local aural transmission service in Mill Hall. Accordingly, consistent with precedent, we will condition the grant of an authorization to operate on Channel 254A at Pleasant Gap upon the activation of Channel 249A at Mill Hall and the grant of program test authority.

Technical Summary

7. An engineering analysis has determined that Channel 249A can be reallocated to Mill Hall in compliance with the Commission's minimum distance separation requirements at Station WVRT(FM)'s requested site.⁴ In addition, Channel 254A can be reallocated to Pleasant Gap in compliance with the Commission's minimum distance separation requirements at Station WZRZ(FM)'s requested site.⁵ Since Mill Hall and Pleasant Gap are located within 320 kilometers (200) miles of the U.S. Canadian border, concurrence of the Canadian government has been obtained. In accordance with Section 1.420(i) of the Commission's Rules, we modify Station WVRT(FM)'s license to specify operation on Channel 249A at Mill Hall, Pennsylvania; and Station WZRZ(FM)'s license to specify operation on Channel 254A at Pleasant Gap, Pennsylvania, as each station's new community of license, subject to the condition explained in paragraph 6, supra.

8. Accordingly, pursuant to the authority found 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 December 11, 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>
Jersey Shore, Pennsylvania	242B1
Mill Hall, Pennsylvania	249A
Pleasant Gap, Pennsylvania	254A

9. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of DHRB, Inc., for Station WVRT(FM) at Jersey Shore, Pennsylvania, IS MODIFIED to specify operation on Channel 249A at Mill Hall, Pennsylvania, subject to the following conditions:

⁴ The coordinates for Channel 249A at Mill Hall are 41-08-03 North Latitude and 77-28-09 West Longitude.

⁵ The coordinates for Channel 254A at Pleasant Gap are 40-55-58 North Latitude and 77-45-40 West Longitude.

(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 Section 73.1620, provided that Station WVRT(FM), Channel 249A has been activated at Mill Hall, Pennsylvania, and has been granted program test authority.

(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.

10. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Forever Broadcasting, LLC for Station WZRZ(FM), Mill Hall, Pennsylvania, IS MODIFIED to specify operation on Channel 254A at Pleasant Gap, Pennsylvania, 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 Section 73.1620.

(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.

11. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of 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 in community of license and/or upgrade. As a result of this proceeding, DHRB, Inc. and Forever Broadcasting, LLC, licensees of Stations WVRT(FM) and WZRZ(FM), respectively, are required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

12. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

DHRB, Inc.
309 West Southern Ave.
South Williamsport, Pennsylvania 17701

Forever Broadcasting, LLC
One Forever Drive
Hollidaysburg, Pennsylvania 16648

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

14. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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