

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

In the Matter of )
)
Amendment of Section 73.202(b), ) MM Docket No. 00-113
Table of Allotments, ) RM-9904
FM Broadcast Stations. ) RM-9952
(Randolph and Little Valley, New York)1 )

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 8, 2000

Released: November 17, 2000

By the Chief, Allocations Branch:

1. At the request of New Testament Christian Ministries2 ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 15 FCC Rcd 10902 (2000), proposing the allotment of Channel 290A to Randolph, New York, as the community's first local aural service. Comments were filed by the petitioner reiterating its intention to apply for the channel, if allotted, and comments and counterproposal were filed by Little Valley Wireless ("Wireless").3 Reply comments were filed by the petitioner.

2. Wireless states that Little Valley, with a 1990 U.S. Census population of 1,881 people, has its own municipal offices, volunteer fire department, school (Little Valley Central School), churches, including St. Michael's Lutheran, Little Valley Wesleyan, Little Valley United Methodist and Valley View Baptist Church, civic organizations such as American Legion and VFW posts, businesses such as John Sixt and Son Lumber and Lyons Equipment Company, as well as its own post office and zip code. Pursuant to the Commission's allotment priorities, Wireless submits that the allotment of a first local aural service at Little Valley rather than Randolph should be preferred because it is the more populous community.4 Wireless states that it will apply for the channel, if allotted.

3. A staff engineering review has found that there are no alternate channels available for allotment to either community. In comparing competing requests for FM allotments, we are generally guided by the priorities set forth in FM Assignment Policies and Procedures, supra. In this case, however, petitioner supports the allotment of Channel 290A to the larger community of Little Valley

1 The community of Little Valley, New York, has been added to the caption.

2 As requested by the petitioner, its name has been changed to reflect the fact that it is not an incorporated entity.

3 Public Notice of the filing of the counterproposal was given on September 12, 2000, Report No. 2437.

4 The FM allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local aural service; and (4) other public interest matters. Priorities (2) and (3) are given co-equal weight. See, Revision of FM Assignment Policies and Procedures ("FM Assignment Policies and Procedures"), 90 FCC 2d 88 (1982).

and states its intention to apply for the channel, if allotted.<sup>5</sup> Therefore, we need not compare the two proposals.

4. We believe the public interest would be served by allotting Channel 290A to Little Valley, New York, since it could provide the community with its first local aural service. Channel 290A can be allotted to the community in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without a site restriction.<sup>6</sup> The allotment, however, is short-spaced to Station CHRE-FM, Channel 289B, St. Catherines, Ontario, Canada. Canadian concurrence, as a specially negotiated short-spaced allotment, was requested in September, 2000, but has not yet been received. Little Valley is located within 320 kilometers (200 miles) of the U.S.-Canadian border. However, rather than delay any further the opportunity to file applications for this channel, we will allot Channel 290A to Little Valley at this time. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Canadian Government, the construction permit will include the following condition: "Operation with the facilities specified herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the USA-Canadian FM Broadcast Agreement."

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 January 2, 2001, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Little Valley, New York	290A

6. A filing window for Channel 290A at Little Valley, New York, 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.

7. IT IS FURTHER ORDERED, That the petition for rule making filed by New Testament Christian Ministries (RM-9904) IS DISMISSED.

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

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<sup>5</sup> Petitioner states, however, that if the Commission does not allocate the channel to Little Valley, it remains committed to applying for the channel at Randolph. Petitioner also filed a statement, in accordance with Section 1.420(j) of the Commission's Rules, that the petition was not filed for the purpose of reaching or carrying out a settlement and no consideration has been paid to it for withdrawing the Randolph proposal.

<sup>6</sup> The coordinates for Channel 290A at Little Valley are 42-15-08 NL; 78-48-20 WL.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
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