

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MM Docket No. 00-148
FM Broadcast Stations.)	RM-9939
(Quannah, Archer City, Converse, Flatonia,)	RM-10198
Georgetown, Ingram, Keller, Knox City,)	
Lakeway, Lago Vista, Llano, McQueeney,)	
Nolanville, San Antonio, Seymour, Waco and)	
Wellington, Texas, and Ardmore, Durant,)	
Elk City, Healdton, Lawton and Purcell,)	
Oklahoma.))	

REQUEST FOR SUPPLEMENTAL INFORMATION

Adopted: January 16, 2002

Released: January 18, 2002

Comment Date: February 28, 2002

By the Chief, Allocations Branch:

1. The Allocations Branch has before it the Notice of Proposed Rule Making in this proceeding, 15 FCC Rcd 15809 (2000). Nation Wide Radio Stations filed Comments and Reply Comments. First Broadcasting Company, L.P., Rawhide Radio, L.L.C., Next Media Licensing, Inc., Capstar TX Limited Partnership and Clear Channel Broadcast Licenses, Inc. ("Joint Parties") filed a Counterproposal and Reply Comments. Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. filed Joint Reply Comments. Elgin FM Limited Partnership and Charles Crawford jointly filed Reply Comments and Maurice Salsa filed Reply Comments and a Motion to Strike. For the reasons discussed below, we are issuing this Request for Supplemental Information.

Background

2. At the request of Nation Wide Radio Stations, the Notice in this proceeding proposed the allotment of Channel 233C3 to Quannah, Texas. In response to the Notice, the Joint Parties filed a Counterproposal involving interrelated channel substitutions at twenty communities in Texas and Oklahoma. Included in that Counterproposal was a proposed substitution of Channel 230C1 for Channel 248C1 at Archer City, Texas, and modification of the Station KRZB construction permit to specify operation on Channel 230C1. On the basis of our own engineering review, Joint Reply Comments filed by Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. and Reply Comments filed by Maurice Salsa, the proposed transmitter site (33-36-58 and 98-51-42) for the Channel 230C1 allotment at Archer City is short-spaced to an application filed by AM & FM Broadcasters, LLC to upgrade Station KICM, Krum, Texas, to upgrade its channel to Channel 229C1 (File No. 20000725AAZ). That application was granted on August 20, 2001. As noted by the parties, any counterproposal filed in a rulemaking proceeding must comply with all Commission technical requirements. Broken Arrow and Bixby, Oklahoma, Coffeyville, Kansas, 3 FCC Rcd 6507 (1988).

3. In this situation, the Joint Parties filed timely Reply Comments addressing this short-

spacing. In the Reply Comments, the Joint Parties referred to an agreement with AM & FM Broadcasters to the effect that after grant of the upgrade application and adoption of the Counterproposal substituting Channel 230C1 at Archer City, AM & FM Broadcasters would file an application to downgrade its allotment back to Channel 229C2. Pursuant to to agreement, the Joint Parties would “compensate” AM & FM Broadcasters for the downgrade of Station KICM. In this regard, the Joint Parties contend that Section 1.420(j) of the Rules, which limits reimbursement to a party withdrawing or dismissing an expression of interest in a rulemaking proceeding, applies only to a dismissal, modification or withdrawal of an expression of interest and not to an agreement to file a subsequent application to downgrade an allotment. It is our view that under these circumstances, AM & FM Broadcasters is, in fact, withdrawing its interest in operating Station KICM as a Class C1 facility, and the agreement would be within the ambit of Section 1.420(j) of the Rules. See Amendment of Sections 1.420 and 73.3584 of the Commission’s Rules Regarding Abuses of the Commission’s Processes, 5 FCC Rcd 7600 (1992). It is also our view that if we were to allot Channel 230C1 to Archer City in the context of this proceeding, it would be contingent upon the filing and subsequent grant of an application by AM & FM Broadcasters to downgrade the Station KICM allotment. Accordingly, the Joint Parties are requested to submit the underlying agreement with AM & FM Broadcasters as well as the other documentation required by Section 1.420(j) of the Rules. The Joint Parties and other interested parties may also file written submissions concerning the applicability of Section 1.420(j) of the Rules to this proceeding.

4. Interested parties may file comments on or before February 28, 2002. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the following counsel:

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5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission’s Rules. See Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission’s Rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this matter, contact Robert Hayne, Mass Media Bureau, (202) 418-2177. For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or the staff for clarification or adduction of evidence or resolution of the issues in the proceeding. However, any new written information elicited from such request or summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in this proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

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