

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

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 02-110
Table of Allotments,) RM-10406
FM Broadcast Stations.)
(Rose Hill and La Grange, North Carolina))

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 4, 2002

Released: September 20, 2002

By the Assistant Chief, Audio Division:

1. In response to a Petition for Rule Making filed by Conner Media, Inc. (“Conner”), the Commission has before it for consideration the *Notice of Proposed Rule Making*,¹ requesting the substitution of Channel 284C3 for Channel 284A at Rose Hill, North Carolina, and reallocation of Channel 284C3 from Rose Hill to La Grange, North Carolina. Conner also requests modification of the license for Station WZUP to specify La Grange as the community of license. Conner filed comments in which it restated its intention to file an application for Channel 284C3 at La Grange. No other comments were received in response to the *Notice* in this proceeding.

2. Based upon the information presented in this proceeding, we believe the public interest would be served by substituting Channel 284C3 for Channel 284A at Rose Hill and reallocating Channel 284C3 to La Grange, North Carolina, since it would result in a preferential arrangement of allotments pursuant to the Commission's Change of Community procedures.² As stated in the *Notice*, La Grange is an incorporated community located in Lenoir County with a population of 2,805 people. La Grange has its own local government, chamber of commerce and its own zip code (28551). La Grange has a newspaper, the *Weekly Gazette*, its own police force and a volunteer fire department. La Grange would receive its first local service fulfilling allotment priority (3) of the Commission's allotment priorities.³ This action will not deprive Rose Hill of local service as Station WEGG-AM is licensed to the community. Retention of Channel 284C3

¹ *Rose Hill and La Grange, North Carolina*, 17 FCC Rcd 8810 (Audio Division, 2002).

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part (“Change of Community MO&O”)*, 5 FCC Rcd 7094 (1990).

³ The FM allotment priorities are: (1) First full-time aural service; (2) Second full-time 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*, 90 FCC Rcd 29 88 (1982).

in Rose Hill would be considered under priority (4), other public interest matters.

3. The reallocation proposal is consistent with the requirements set forth in *Change of Community, supra*. As explained in the *Notice*, La Grange is not located within an urbanized area but the proposed operation of Channel 284C3 at Conner’s specified site would cover 100 percent of the Goldsboro, North Carolina Urbanized Area with its 70 dBu contour.⁴ Therefore Conner was requested to provide additional information responsive to a *Tuck* analysis to determine whether La Grange is sufficiently independent of Goldsboro to merit a first local service preference.⁵ Conner provided information showing that La Grange is an independent community based on the factors listed in *Faye and Richard Tuck*. Channel 284C3 can be allotted to La Grange, North Carolina, in compliance with the Commission's minimum distance separation requirements at Conner’s specified site.⁶ From this site, the loss area of Channel 284A at Ross Hill contains 29,468 people in 1,821 square kilometers while the gain area for Channel 284C3 at La Grange contains 195,226 people in 4,112 square kilometers. Both the loss area and the gain area currently receive five or more aural services. In accordance with Section 1.420(i) of the Commission's Rules, we will modify the license for Station WZUP to specify operation on Channel 284C3 at La Grange, North Carolina, as its new community of license.

4. 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 November 4, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Rose Hill, North Carolina	-----
La Grange, North Carolina	284C3

5. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Conner Media, Inc. for Station WZUP, Channel 284A, Rose Hill, North Carolina, IS MODIFIED to specify operation on Channel 284C3 at La Grange, North Carolina, subject to the following conditions:

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

⁴ See, *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995).

⁵ See *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* (“*Tuck*”), 3 FCC Rcd 5374 (1988).

⁶ The coordinates for Channel 284C3 at La Grange are 35-16-00 and 77-58-00. The site is located 16.8 kilometers west of the community.

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.

6. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), 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 rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Conner Media, Inc., licensee of Station WZUP, Channel 284A, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license and upgrade for Station WZUP, from Channel 284A to Channel 284C3 and reallocation of the channel from Rose Hill, North Carolina to La Grange, North Carolina.

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

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Media Bureau, (202) 418-2180. Questions relating to the application filing process should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau