

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 02-199
FM Table of Allotments,)	RM-10514
FM Broadcast Stations.)	
(Magnolia, Arkansas and Oil City,)	
Louisiana))	
)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 28, 2003

Released: April 30, 2003

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is a *Notice of Proposed Rule Making* issued at the request of Columbia Broadcasting Company, Inc. (“Petitioner”), licensee of Station KVMA-FM, Magnolia, Arkansas, proposing to substitute Channel 300C2 for 300C1 at Magnolia, Arkansas and reallocate Channel 300C2 from Magnolia to Oil City, Louisiana, as the community’s first local transmission service, and modify Station KVMA’s authorization to specify Oil City as the community of license. Petitioner filed comments reiterating its interest in the reallocation and pledging to file the necessary applications. Access.1 Communications-Shreveport, LLC (“Access.1”) filed comments opposing the reallocation and Petitioner filed reply comments.

2. This proposal was filed pursuant to Section 1.420(i) of the Commission’s Rules that authorizes the Commission to modify the license or permit of an FM station to specify a new community of license where the amended allotment would be mutually exclusive with the station’s present authorization.¹ This permits the modification of a station’s license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. 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 determination is based upon the FM Allotment priorities.²

3. Access.1 argues that this change of community is tantamount to a move-in to an Urbanized Area because of Oil City’s proximity to the Shreveport, Louisiana, Urbanized Area. However, our records show that Oil City is well outside the Shreveport Urbanized Area, and it is not included in the Urbanized Area in the 2000 U.S. Census. Furthermore, Station KVMA-FM’s city-grade signal, covering 0.3% of the Urbanized Area, is well below the 50% coverage that would trigger our consideration of the community’s independence of the larger community based on the factors delineated in *Faye and Richard Tuck*³. We reject Access.1’s speculative allegations that the proposed reallocation is

¹ See *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).

² The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1988).

³ See *Headland, Alabama, and Chatahoochee, Florida*, 10 FCC Rcd 10352 (Allocations Br. 1995).

part of a plan developed by Columbia and Cumulus Media, Inc.,⁴ to move the station into the Shreveport market. Access.1 argues that a condition of closing of the transfer of control indicates that the parties intend to relocate the station's tower and transmitting facilities. However, those issues are properly raised when an application for an Oil City station is submitted.

4. With respect to the public interest implications of this relocation, we believe that this proposal will result in a preferential arrangement of allotments because Oil City will gain a first local aural transmission service and Magnolia will not be left unserved, as Station KVMA(AM) will continue to serve Magnolia.⁵ This proposal thus fulfills Priority (3) of the FM Allotment priorities. Further, regarding Access.1's concerns about the number of persons to be left with fewer than five reception services,⁶ we find that the public interest benefits weigh in favor of the proposal because there will be a net gain in population of over 100,000 persons able to receive a 60dBu signal from the station. We are satisfied that the loss area of 2,000 persons receiving four services is relatively small, compared to the overall gains.

5. We grant the change of community and modify the license of Station KVMA-FM to reflect the modification. We have determined that Oil City is a community for allotment purposes. Oil City is listed in the U.S. Census with a 2000 population of 1,219 persons. It has a zip code, post office, an elected mayor and district council, its own attorney, town clerk, police chief, housing authority and zoning board. It has fire and police departments and sheriff's office. It also has a long history and traditions, as well as numerous businesses, a school, churches and clubs.

6. Channel 300C2 can be reallocated from Magnolia to Oil City at petitioner's proposed site 27.6 kilometers (17.1 miles) northeast of the community.⁷

7. 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 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective June 16, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel</u>
Magnolia, Arkansas	---
Oil City, Louisiana	300C2

⁴ Cumulus Media, Inc., is the parent corporation of Cumulus Broadcasting, Inc., which is the proposed transferee in an application for transfer of control (File No. BTCH-20020522AAH) of Station KVMA-FM, the consummation of which is contingent on the outcome of this proceeding.

⁵ Contrary to Access.1's argument, an AM daytime-only station is considered to be local aural transmission service under the FM Allotment priorities. *See Grants, Milan and Shiprock, New Mexico*, 16 FCC Rcd 20323 (2001).

⁶ Contrary to Access.1's allegation, the area in which persons will receive reception service from 4 stations is not gray area. Gray area is an area in which listeners are able to receive reception service from one station.

⁷ Coordinates for Channel 300C2 at Oil City, Arkansas are 32-54-06 NL and 93-44-01 WL

8. IT IS ORDERED That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Order* to the following:

Mark N. Lipp
J. Thomas Nolan
Shook, Hardy & Bacon
600 14th Street N.W.
Suite 800
Washington, DC 20005

9. IT IS FURTHER ORDERED That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Columbia Broadcasting Company, Inc. for Station KVMA-FM, Channel 300C1, Magnolia, Arkansas, IS MODIFIED to specify operation on Channel 300C2 at Oil City, Louisiana, subject to the following conditions:

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

10. 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, Columbia Broadcasting Company, Inc. is required to submit rule making fees in addition to the fees required for the applications to effect the change of community for Station KVMA-FM.

11. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Victoria M. McCauley (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau