

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

In the Matter of
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Ozona and Iraan, Texas)1
MB Docket No. 02-261
RM-10503
RM-10607

REPORT AND ORDER

Adopted: January 15, 2003

Released: January 17, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division considers herein the Notice of Proposed Rule Making ("Notice")2 which includes the captioned proceeding. The Notice set forth eight separate proposals to allot FM channels to eight specific communities.3 Robert Fabian ("Fabian") requests the allotment of Channel 289C1 to Ozona, Texas, as that community's second local aural transmission service (RM-10503). Fabian filed comments reiterating an intention to apply for Channel 289C1, if allotted to Ozona. A counterproposal was filed by Iraan Broadcasting proposing the allotment of Channel 288C2 to Iraan, Texas, as that community's first local service (RM-10607).

2. In support of its proposal, Iraan Broadcasting states that the city of Iraan is located in Pecos County and has a 2000 U.S. Census population of 1,238 persons. Iraan has its own library, post office, police and fire protection, and city ambulance. Iraan maintains its own school system, consisting of elementary, junior high and high schools. It has its own municipal airport and chamber of commerce. Iraan has a number of local churches and businesses. It is home to Pecos County General Hospital and Iraan Medical Clinic.

3. Iraan Broadcasting argues that pursuant to the Commission's allotment priorities, Iraan is entitled to credit under priority 3 for providing a first local service.4 In contrast, Ozona already has one

1 The community of Iraan, Texas was added to the captioned.

2 Dickens, Texas et al., 17 FCC Rcd 16350 (MB 2002).

3 The proposals set forth in the multiple Notice were not mutually exclusive with each other. A separate Report and Order has been issued in the Dickens, Texas proceeding (MB 02-258), Floydada, Texas proceeding (MB 02-259), Rankin, Texas proceeding (MB 02-262), San Diego, Texas proceeding (MB 02-264), and Westbrook, Texas proceeding (MB 02-265). See Dickens, Texas et al., 17 FCC Rcd 22530 (MB 2002). A separate Report and Order will be issued in the Freer, Texas proceeding (MB 02-260) and the Safford, Arizona proceeding (MB 02-264).

4 The 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 is given to priorities (2) and (3).] See Revisions of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982)

station KYXX(FM), and, therefore, should be evaluated under priority 4. Generally, conflicting proposals are considered on a comparative basis consistent with the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.⁵ However, our staff has found an alternate Class C2 channel for Iraan, and a comparison is no longer necessary. Therefore, we find that the public interest would best be served by allotting Channel 269C2 at Iraan, Texas, as that community's first local aural transmission service and Channel 289C1 at Ozona, Texas, as that community's second local aural transmission service.

4. A staff engineering analysis has determined that Channel 269C2 can be allotted to Iraan in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.8 kilometers (3.0 miles) west to avoid a short-spacing to the license site of Station KWFR, Channel 270C1, San Angelo, Texas.⁶ Since Iraan is located within 320 kilometers (199 miles) of the U.S.-Mexican border, Mexican concurrence has been requested, but not yet received. Therefore, if a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: "Operation with the facilities specified for Iraan herein is subject to modification, suspension, or termination without right to a hearing, if found by the Commission to be necessary in order to conform to the 1992 USA- Mexico FM Broadcast Agreement." Additionally, Channel 289C1 can be allotted to Ozona, Texas in compliance with the Commission's minimum distance separation requirements with a site restriction 39.8 kilometers (24.7 miles) southwest to avoid short-spacing to the application site of a New FM station, Channel 289C2, Mason, Texas.⁷ Since Ozona is located within 320 kilometers (199 miles) of the U.S.- Mexican border, Mexican concurrence was requested and received.

5. 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 **March 3, 2003**, 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>Community</u>	<u>Channel No.</u>
Iraan, Texas	269C2
Ozona, Texas	232C3, 289C1

6. The window period for filing applications for Channel 269C2 at Iraan, Texas and Channel 289C1 at Ozona, Texas will not be opened at this time. Instead, the issue of opening these allotments for auction will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the aforementioned proceedings ARE TERMINATED.

⁵ See *supra*, note 4.

⁶ The coordinates for Channel 269C2 at Iraan are 30-53-44 North Latitude and 101-56-34 West Longitude.

⁷ The coordinates for Channel 289C1 at Ozona are 30-25-54 North Latitude and 101-27-42 West Longitude.

8. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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