

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	MB Docket No. 06-11
FM Broadcast Stations.)	RM-11304
(Crowell, Texas))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 20, 2006

Released: September 22, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rulemaking* issued in response to a Petition for Rule Making filed by Jeraldine Anderson (“Anderson”).¹ The *Notice* proposes the allotment of Channel 250A at Crowell, Texas, as a second local FM service. In her petition, Anderson stated that, should the Commission grant the allotment of Channel 250A at Crowell, she will file the necessary applications and take all necessary actions to construct the facilities for the new station.

2. **Comments and Counterproposals.** Anderson filed comments supporting the allotment of Channel 250A at Crowell and reaffirming her intention to apply for the channel if it is allotted and, if authorized, to build and operate a station on that channel. In addition, two separate counterproposals were filed.

3. In her counterproposal, Linda Crawford (“Crawford”) requested that Channel 288C2 be allotted at Rochester, Texas, as a first local service. To facilitate the allotment of Channel 288C2 at Rochester, Crawford proposed the substitution of Channel 293A for Channel 291A at Know City, Texas, and the substitution of Channel 250C3 for Channel 293C3 at Crowell, Texas.

4. In the second counterproposal, filed on March 13, 2006, two current FM licensees and a proposed assignee² requested: The upgrade of FM Station KFWR, Mineral Wells, Texas, from Channel 240C1 to Channel 240C; the upgrade of FM Station KYBE, Frederick, Oklahoma, from Channel 240A to Channel 239C3; the allotment of Channel 239A at Rochester, Texas; and the allotment of Channel 249A at Megargel, Texas. In order to accomplish those proposed upgrades and new allotments, the Joint Parties requested a number of additional allotment changes, including, *inter alia*, the substitution of Channel 248C3 for Channel 293C3 at Crowell, and the substitution of Channel 299C2 for Channel 248C2 at

¹ *Crowell, Texas*, Notice of Proposed Rule Making, DA 06-109 (Media Bur., rel. Jan. 20, 2006) (“*Notice*”).

² Those entities are: LKCM Radio Group, L.P., licensee of FM Station KFWR, Mineral Wells, Texas; Fort Worth Media Group GP, LLC, licensee of FM Station KYBE, Frederick, Oklahoma; and LKCM Radio Licenses, LP, the proposed assignee of KFWR and KYBE (collectively, “Joint Parties”).

Archer City, Texas. The Joint Parties further proposed a change in the reference coordinates for Channel 248C2 at Archer City.³

5. Texas Grace Communications (“Grace”) submitted an opposition to the Joint Parties’ counterproposal. Grace objects, in particular, to the Joint Parties’ request to substitute Channel 299C2 for Channel 248C2 at Archer City, Texas, and to change the reference coordinates shown for that allotment. Grace states that it holds a valid construction permit for FM Station KRZB, Channel 248C2, Archer City, Texas, and that construction permit was in existence at the time that the Joint Parties filed their counterproposal. Grace states that the counterproposal is invalid due to its failure to protect Grace’s construction permit at Archer City.

6. Before either of the counterproposals was placed on public notice, Crawford asked for permission to withdraw her counterproposal.⁴ Similarly, Anderson sought permission to withdraw her petition for rulemaking to allot Channel 250A at Crowell, Texas.⁵

7. **Discussion.** At the outset, we shall grant the requests by Anderson and Crawford to withdraw their respective proposals. Both Anderson and Crawford states that no consideration has been paid or promised, directly or indirectly, for such withdrawal.⁶ It is the Commission’s policy to refrain from making an allotment to a community absent an adequate expression of interest. By filing their requests to withdraw, Anderson and Crawford have demonstrated that they have no continuing interest in their respective allotment requests. Accordingly, we will dismiss those proposals.

8. We further find that the Joint Parties’ counterproposal should be dismissed. The Commission’s rules require that proposals to change the Table of Allotments must meet minimum distance separation requirements with respect to allotments, pending applications, and outstanding authorizations.⁷ Maximum Channel 248C2 facilities at Archer City at the site specified in Grace’s KRZB permit (the “Archer City Site”) have been fully protected since September 8, 2003.⁸ While it is also the case, as Grace argues, that its construction permit for FM Station KRZB, Channel 248C2, Archer City, Texas, predates the Joint Parties’ counterproposal in this proceeding,⁹ protection rights for the Archer City Site were established by the *Archer City R&O*. The reinstatement of the KRZB construction permit¹⁰

³ The reference coordinates specified in the construction permit for FM Station KRZB, Channel 248C2, Archer City, Texas, BPH-19990217IB, are 33-51-40 NL and 98-38-52 WL. The Joint Parties propose to change those coordinates to 33-32-30 NL and 98-46-30 WL.

⁴ See “Request for Approval of Withdrawal” filed by Linda Crawford on June 21, 2006.

⁵ See “Request for Approval of Withdrawal” filed by Jeraldine Anderson on June 22, 2006.

⁶ See 47 C.F.R. § 1.420(j).

⁷ See 47 C.F.R. §§ 73.207 and 73.208.

⁸ *Archer City, Texas*, Report and Order, 18 FCC Rcd 15,532 (MB 2003) (“*Archer City R&O*”).

⁹ The construction permit (BPH-19990217IB) for FM Station KRZB, Channel 248C2, Archer City, Texas, was reinstated on January 12, 2006.

¹⁰ See *Broadcast Applications, Report No. 26152*, Public Notice (Media Bur., rel. Jan. 17, 2006).

neither created nor modified the protection rights established by the *Archer City R&O*. As a result of the reinstatement of the KRZB construction permit, it is also that case that Grace cannot be required to change transmitter sites as a result of proposals filed subsequent to the date on which the KRZB construction permit application was filed. The Joint Parties propose a change in the reference coordinates for Channel 248C2 at Archer City in order to satisfy the applicable spacing requirements, but it is Commission policy not to require a station to involuntarily relocate its transmitter site.¹¹ Because Grace, the permittee of FM Station KRZB, Channel 248C2, Archer City, has not consented to the proposed relocation, the Joint Parties' counterproposal will be dismissed.

9. Accordingly, IT IS ORDERED, That the petition for rule making filed by Jeraldine Anderson, proposing the allotment of Channel 250A at Crowell, Texas, IS DISMISSED.

10. IT IS FURTHER ORDERED, That the counterproposal submitted in this proceeding by Linda Crawford IS DISMISSED.

11. IT IS FURTHER ORDERED, That the counterproposal submitted in this proceeding by LKCM Radio Group, L.P, Fort Worth Media Group GP, LLC, and LKCM Radio Licenses, LP, IS DISMISSED.

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

13. This document is not subject to the Congressional Review Act. The Commission, is, therefore, not required to submit a copy of this Report and Order to the Government Accountability Office, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the proposed rule was dismissed.

14. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

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¹¹ *See Claremont, Locust Grove and Nowata, Oklahoma, and Barling, Arkansas*, Memorandum Opinion and Order, 3 FCC Rcd 4037, 4038 (MMB 1988), and cases cited therein. *See also Hazelhurst, Utica, and Vicksburg, Mississippi*, Memorandum Opinion and Order, 11 FCC Rcd 2353, 2354 (MMB 1996) ("it is longstanding Commission policy not to require a station to involuntarily relocate its transmitter site, absent consent from the permittee or licensee").