

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

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MB Docket No.04-217  
Table of Allotments, ) RM-10863  
FM Broadcast Stations. )  
(Clayton, Georgia and Sylva, North Carolina) )

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: March 29, 2006**

**Released: March 31, 2006**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the *Notice of Proposed Rule Making* (“*Notice*”)<sup>1</sup> issued in response to a Petition for Rule Making filed by Sutton Broadcasting Corporation (“*Petitioner*”). *Petitioner* filed Comments. No other comments or counterproposals were filed. After the record was closed, *Petitioner* filed a request for approval of the withdrawal of its Petition for Rule Making and its expression of interest in implementing its rulemaking proposal.

2. As stated in the Appendix to the *Notice*, a showing of continuing interest is required before a channel will be allotted. It is the Commission’s policy to refrain from making a new allotment to a community absent a *bona fide* expression of interest. Therefore, we grant *Petitioner*’s request for permission to withdraw its Petition for Rule Making that initiated this proceeding and its prior expression of interest in implementing its rulemaking proposal<sup>2</sup> and we dismiss *Petitioner*’s Petition for Rule Making.

3. 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 GAO, pursuant to the Congressional Review Act, see 5 U.S.C. Section 801(a)(1)(A), because this proposed rule is dismissed herein.)

4. Accordingly, IT IS ORDERED That the Petition for Rule Making filed by Sutton Broadcasting Corporation IS DISMISSED.

5. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

<sup>1</sup> Clayton, Georgia and Sylva, North Carolina, 19 FCC Rcd 10202 (MB 2002).

<sup>2</sup> Pursuant to Section 1.420(j) of the Commission’s rules, *Petitioner* provided a declaration under penalty of perjury stating that neither *Petitioner* nor any of its principals has received or will receive any consideration in exchange for the withdrawal of its Petition for Rule Making in this proceeding.

6. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau