

**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.)
(Hemet, California))

**MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)**

Adopted: June 6, 2007

Released: June 8, 2007

By the Chief, Audio Division, Media Bureau:

1. The Audio Division has before it two Petitions for Reconsideration separately filed by Southern California Public Radio (“Southern California”) and Maranatha Ministries of Hemet (“Maranatha Ministries”), directed to the staff letters dated March 18, 2004,¹ returning their Petitions for Rule Making that requested the reservation of vacant FM Channel 273A at Hemet, California for noncommercial educational (“NCE”) use. Southern California submitted a supplement to its Petition for Reconsideration in response to the *Order*.² No additional comments were received in this proceeding.

2. **Background.** Pursuant to Section 1.113(a) of the Commission’s Rules,³ the *Order* set aside a staff decision that denied the Petitions for Reconsideration to reserve vacant Channel 273A at Hemet for NCE use,⁴ thereby reinstating the Petitions for Reconsideration. The *Order* also requested that the Petitioners file an NCE reservation showing⁵ prepared in accordance with Section 73.313 of the Commission’s Rules (the “Rules”). To this end, the *Order* stated that a NCE reservation proponent may use actual terrain to calculate the relevant NCE stations contours using the methodology set forth in Section 73.313 of the Rules.⁶ Under this limited exception, a reservation proponent must demonstrate that it has reasonable assurance of site availability for the proposed NCE site; and must obtain FAA approval for a tower at this proposed site in compliance with our *Woodstock and Broadway* policy.⁷

3. **Supplement.** Southern California filed a supplement in compliance with Section 73.313 of the Rules, demonstrating that the reservation of Channel 273A at Hemet would provide a first and/or second NCE service to 40,880 persons (30.9 percent) of the total population (132,362 persons). Moreover, Southern California demonstrated in its supplement that it has reasonable assurance of site availability for its proposed transmitter site, as required by *Woodstock and Broadway* policy. To this end, Southern California

¹ *Hemet, California*, Letter, (MB, rel. March 18, 2004).

² *Hemet, California*, Order, 21 FCC Rcd 10037 (MB 2006) (“*Order*”).

³ 47 C.F.R. § 1.113(a).

⁴ *Hemet, California*, Memorandum Opinion and Order, 21 FCC Rcd 8465 (MB 2006) (“*MO&O*”).

⁵ See 47 C.F.R. § 73.202(a)(1).

⁶ 47 C.F.R. § 73.313.

⁷ *Woodstock and Broadway, Virginia*, Memorandum Opinion and Order, 3 FCC Rcd 6398 (1988) (“*Woodstock and Broadway*”).

submitted a letter from Meridian Telecom, Inc.,⁸ stating that Verizon Wireless would be willing to enter into a lease agreement with Southern California with respect to its VWZ site⁹ on mutually acceptable terms and conditions generally applicable to broadcast tower leases. Southern California also claims that FAA approval is not required in this instance because no increase in tower height would be necessary to construct the proposed NCE station at Hemet.

4. **Discussion.** We will grant the Petition for Reconsideration filed Southern California. Additionally, we are denying the Petition for Reconsideration filed Maranatha Ministries because no supplement was submitted, as requested. In this regard, based on uniform terrain, our staff engineering analysis determined that a NCE reservation of vacant Channel 273A at Hemet would provide a first and/or second NCE service to only 2.5 percent of the total population within the 60 dBu contour of Maranatha Ministries' proposed station. We tentatively conclude that the public interest is best served by narrowly expanding the scope by which a NCE reservation proponent may use actual terrain in FM allotment proceedings to calculate first and second NCE service benefits in regards to NCE allotment reservation requests in accordance with Section 73.313 of the Commission's Rules. Based on the forgoing, we are simultaneously issuing a separate *Notice of Proposed Rule Making*, proposing the NCE reservation of vacant Channel 273A at Hemet, California. The *Notice of Proposed Rule Making* also seeks comment on the use of actual terrain to reserve commercial allotments for NCE use.

5. IT IS ORDERED, That the Petition for Reconsideration filed by Southern California Public Radio IS GRANTED.

6. IT IS ORDERED, That the Petition for Reconsideration filed by Maranatha Ministries of Hemet IS DISMISSED.

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

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

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

⁸ The supplement contained a letter signed by Tod Petty, Verizon, Wireless Collocation Manager of Meridian Telecom, Inc.

⁹ The VWZ site is located at 235 South Lyon Avenue, Hemet, California.