

**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. )  
(Mona, Utah) )

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

**Adopted: July 23, 2008**

**Released: July 25, 2008**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it the Petition for Reconsideration filed by Intermountain Educational Communications, Inc. (“Petitioner”) directed to the staff letter dated April 2, 2004,<sup>1</sup> returning its Petition for Rule Making requesting the reservation of vacant Channel 225A at Mona, Utah for noncommercial educational (“NCE”) use. For the reasons discussed below, we are denying the Petition for Reconsideration.

2. **Background.** In the *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, the Commission established revised criteria by which a rulemaking proponent may reserve an FM allotment for NCE use.<sup>2</sup> Under the revised reservation policy, a proponent must demonstrate that it is technically precluded from using a reserved channel (Channels 201 through 220) and that the proposal would provide a first and/or second NCE radio service to at least ten percent of the total population within the 1 mV/m (60 dBu) contour of the proposed station, provided such population exceeds 2,000 persons.<sup>3</sup>

3. Petitioner filed a timely proposal requesting the reservation of vacant Channel 225A at Mona, Utah. The proposal was originally returned by staff letter on March 18, 2004 as unacceptable for consideration because it would not provide a first or second NCE service to at least ten percent to the proposed service area.<sup>4</sup> Upon reconsideration, a further examination revealed that the proposal would

<sup>1</sup> *Mona, Utah*, Letter to Peter Gutmann, Esq. from John A. Karousos, (MB, rel. April 2, 2004).

<sup>2</sup> 15 FCC Rcd 7386 (2000) (“*NCE Report and Order*”). Previously, the Commission would only reserve a channel in the non-reserved FM band (Channels 221 through 300) if the petitioner demonstrated that no reserved channel could be used without causing prohibited interference to Channel 6 TV station(s) and/or to foreign allotments.

<sup>3</sup> See Section 73.202(a)(1)(ii). The Commission originally limited this expanded reservation criteria to future allotment proceedings. Thereafter, the Commission extended the expanded criteria to existing vacant FM allotments for which a *Notice of Proposed Rule Making* had been released prior to August 7, 2000, the effective date of the *NCE Report and Order*. See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants* (“*NCE Second Report and Order*”), 18 FCC Rcd 6691 (2003). In a *Public Notice* released September 30, 2003, we invited petitions for rule making to reserve these vacant FM allotments for NCE use pursuant to the *NCE Second Report and Order*. See *Media Bureau Opens Window to Permit Noncommercial Educational Reservation Showings for Certain Vacant FM Allotments*, 18 FCC Rcd 19600 (MB 2003) (“*Public Notice*”). In response to the *Public Notice*, Petitioner filed a timely petition for rulemaking, requesting the proposed NCE reservation of vacant Channel 225A at Mona.

<sup>4</sup> *Mona, Utah*, Letter to Peter Gutmann, Esq. from John A. Karousos (MB, rel. March 18, 2004).

provide a first or second NCE radio service to at least ten percent of the total population. However, an NCE service at Mona is not technically precluded because reserved band Channel 204A is available for use at Mona, Utah. As such, the staff returned the petition by letter on April 2, 2004, as unacceptable for consideration.

4. **Petition for Reconsideration.** Petitioner states that a NCE service at Mona is technically precluded because no reserved band channels are available at Mona. In this regard, Petitioner submitted an engineering statement stating that the pendency of MM Docket No. 01-323, which proposes to reallocate analog TV Channel 6 to Santaquin, Utah, technically precludes all of the reserved band channels at Mona. The engineering statement notes that Santaquin is located approximately ten kilometers from Mona. As such, the Petitioner concludes that a NCE channel at Mona could cause potential interference within both the TV Channel 6 station's Grade B and Grade A contours. Petitioner claims that Section 73.525(a) of the Commission's Rules precludes the use of Channel 204A at Mona.<sup>5</sup>

5. **Discussion.** We deny the Petition for Reconsideration. At the outset, Channel 204A at Mona would provide a significant public interest benefit.<sup>6</sup> This would provide a first NCE service to 42 percent (16,128 persons) of the total population. The fact that Channel 204A at Mona is short-spaced to a proposed reallocation of analog TV Channel 6 from Vernal to Santaquin, Utah, currently under consideration in MM Docket No. 01-323,<sup>7</sup> does not preclude Channel 204A. Under Section 73.525(a) of the Commission's Rules, a Channel 204A authorization is not required to protect this rulemaking proposal. In view of the availability of Channel 204A at Mona, there is no basis to waive the Section 73.202(a)(1)(ii) reservation requirements with respect to a proposed NCE reservation of vacant Channel 225A at Mona.

6. The Commission will not send a copy of this *Report and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the proposal was unacceptable for consideration.

7. IT IS ORDERED, That the Petitioner's proposal to reserve vacant Channel 225A at Mona, Utah for NCE use is DENIED.

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

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

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

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<sup>5</sup> *See* 47 C.F.R. § 73.525(a).

<sup>6</sup> The reference coordinates are 39-45-50 NL and 111-50-11 WL. This site is located 6.1 kilometers (3.8 miles) south of Mona.

<sup>7</sup> *See Vernal and Santaquin, Utah*, Notice of Proposed Rule Making, 16 FCC Rcd 20523 (2001).