

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

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 24-193
Table of Allotments,)	RM-11986
FM Broadcast Stations)	
(Huntley, Montana))	

REPORT AND ORDER

Adopted: October 17, 2024

Released: October 17, 2024

By the Assistant Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Audio Division has before it the Notice of Proposed Rule Making and Order to Show Cause,¹ issued in response to a Petition for Rulemaking filed by SSR Communications, Inc. (Petitioner). Petitioner filed Comments and Further Comments (Further Comments).² No other comments or counterproposals were received in response to the *NPRM and OSC*. For the reasons discussed below, we amend the Table of FM Allotments, section 73.202(b) of the Commission's rules,³ by allotting Channel 284A at Huntley, Montana, as the community's first local service. We also modify the license of KYSX, Billings, Montana to specify operation on Channel 286A in lieu of Channel 283C1.

II. BACKGROUND

2. The *NPRM and OSC* proposed the allotment of Channel 284A at Huntley, Montana, as that community's first local service.⁴ To accommodate the proposed Huntley allotment, the *NPRM and OSC*⁵ directed BMG Billings, LLC (BMG), licensee of KYSX, to show cause as to why its license should not be modified to specify operation on Channel 286A in lieu of Channel 283C1 at Billings, Montana.⁶

¹ See *Huntley, Montana*, Notice of Proposed Rule Making and Order to Show Cause, DA 24-614, rel. June 27, 2024 (MB 2024), 2024 WL 3225341 (*NPRM and OSC*); see also 89 FR 55911 (published July 8, 2024).

² We accept Petitioner's Further Comments because no other party would be prejudiced. See *Dulac, Louisiana*, Report and Order, 24 FCC Rcd. 10154 (MB 2009) (accepting late-filed comments because no other party filed comments or would be prejudiced by acceptance of the Petitioner's Comments).

³ 47 C.F.R. § 73.202(b).

⁴ See *NPRM and OSC*, para. 7.

⁵ See *NPRM and OSC*, para. 8.

⁶ Station KYSX was originally licensed for Channel 286A in Billings Montana. On December 16, 2009, the Commission re-issued to KYSX a construction permit to specify operation on Channel 283C1 in Billings, Montana. See *NPRM and OSC*, para 6; see also *Broadcast Actions*, Public Notice, Report No. 47136 (MB 2009). Pending completion of that move, KYSX is operating pursuant to an implied STA on Channel 286A based on its previously licensed facilities, Application File No. BMLH-20060712AFZ. See *Entravision Holdings, LLC KDVA(FM), Buckeye, AZ*, Memorandum Opinion and Order, 37 FCC Rcd 1343, 1354 ¶ 24 (2022) (stating that where an existing full-service non-reserved band FM station's license has been modified to specify a new channel, the station is neither licensed to its old channel nor entitled to any protection based on its formerly licensed facilities).

The Media Bureau sent the *NPRM and OSC* to BMG twice by certified mail, but the envelopes were returned as undeliverable. On September 25, 2024, the staff contacted Mr. Pete Benedetti, owner of BMG, by telephone. Mr. Benedetti informed the staff that BMG has no interest in constructing the facility authorized by its construction permit on the reserved Channel 283C1 at Billings and consented to remain on its licensed Channel 286A. Based on this input, we modify KYSX's license to specify operation on Channel 286A at Billings, Montana. Petitioner filed Comments reiterating its intent to file an application for a construction permit to operate a new FM commercial broadcast station at Huntley, Montana⁷ and construct the station promptly in the event that the Commission grants its application.⁸ In its Further Comments, Petitioner reiterates its intention to apply for Channel 284A, Huntley, Montana, if allotted. It will participate in a future FM auction, and if it is the successful winning bidder, it will promptly construct and operate the proposed station in the event the Commission grants its application.⁹

III. DISCUSSION.

3. Accordingly, we modify the KYSX license to specify operation on Channel 286A in lieu of Channel 283C1 at Billings, Montana, and allot Channel 284A at Huntley, Montana, as the community's first local service under Priority (3).¹⁰ A staff engineering analysis reveals that Channel 284A can be allotted to Huntley, Montana, consistent with the minimum distance separation requirements of the Commission's rules with a site restriction of 13.9 km (8.6 miles) north of the community.¹¹ The reference coordinates are 46-01-30 NL and 108-18-00 WL.

4. *Paperwork Reduction and Regulatory Flexibility.* The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,¹² do not apply to a rulemaking proceeding to amend the Table of FM Allotments, section 73.202(b) of the Commission's rules.¹³ This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995.¹⁴ In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.¹⁵

IV. ORDERING CLAUSES

5. IT IS ORDERED that, pursuant to authority found in 47 U.S.C. sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b), and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, effective December 2, 2024, the Table of FM Allotments, 47 CFR § 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

⁷ As stated in the *NPRM and OSC*, Petitioner concurrently filed a construction permit application, File No. 0000243492, for Channel 284A at Huntley and paid the necessary filing fee. *See NPRM and OSC*, para 1.

⁸ *See* Comments at 1.

⁹ *See* Further Comments at 1.

¹⁰ *See Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

¹¹ 47 CFR § 73.207.

¹² 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

¹³ 47 CFR § 73.202(b).

¹⁴ 44 U.S.C. §§ 3501-3520.

¹⁵ 44 U.S.C. § 3506(c)(4).

Community

Channel No.

Huntley, Montana

284A

6. The window period for filing applications for Channel 284A at Huntley, Montana will not be opened at this time. Instead, the issue of opening this allotment for filing will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the Commission will send a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

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

9. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2054.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
Assistant Chief, Audio Division
Media Bureau