

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 11-168
Table of Allotments,	)	RM-11642
FM Broadcast Stations.	)	
(Llano, Texas)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: May 17, 2012**

**Released: May 18, 2012**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*<sup>1</sup> issued in response to a Petition for Rule Making filed by Bryan King (“Petitioner”), licensee of FM Station KAJZ, Channel 242A, Llano, Texas, and permittee of New FM Station, Channel 292A, Junction, Texas.<sup>2</sup> Petitioner proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commission’s rules, by substituting Channel 242C3 for vacant Channel 293C3, Llano, Texas. This proposal is part of a contingently filed “hybrid” application and rule making petition. For the reasons discussed below, we grant the Petition for Rule Making, as well as the three contingent applications.

2. **Background.** The *Notice* proposes to amend the FM Table of Allotments by substituting Channel 242C3 for vacant Channel 293C3, at Llano, Texas. The purpose of this change is to facilitate Petitioner’s contingent application specifying that Station KAJZ operate on FM Channel 293A rather than FM Channel 242A, also at Llano, Texas.<sup>3</sup> In order to accommodate the proposed channel change for the vacant allotment at Llano, Katherine Pyeatt, winning bidder in Auction 91 for FM Channel 242A at Menard, Texas, has amended her application to specify operation on Channel 292A, in lieu of Channel 242A.<sup>4</sup> Finally, to facilitate the Menard channel change, Petitioner has filed a minor change application proposing to modify the facilities specified in his construction permit at Junction, Texas, from Channel 292A to Channel 290A.<sup>5</sup>

3. In the *Notice*, we explained that the proposed allotment is short-spaced to a rejected proposal in MB Docket No. 05-112, which is currently under review.<sup>6</sup> For that reason, consistent with *Auburn*,<sup>7</sup>

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<sup>1</sup> *Llano, Texas*, Notice of Proposed Rule Making, 26 FCC Rcd 14341 (MB 2011) (“*Notice*”).

<sup>2</sup> See File No. BNPB-20091015ACK.

<sup>3</sup> See File No. BMPH-20110825ABP.

<sup>4</sup> See File No. BNPB-20110622AAE.

<sup>5</sup> See File No. BMPH-20110825ABQ.

<sup>6</sup> See *Fredericksburg, Texas*, Memorandum Opinion and Order, 22 FCC Rcd 10883 (MB 2007), *app. for review pending*. The instant proposal is short-spaced to a rejected proposal in MB Docket No. 05-112 to add Channel 243C2 at Lagos Vista, Texas.

we stated that adoption of the proposal in this proceeding would be contingent on the outcome of MB Docket No. 05-112.

4. Petitioner filed comments in support of the proposal contained in the *Notice*. No other comments were received.

5. **Discussion.** The channel substitution for Station KAJZ, replacing Channel 242A with Channel 293A at Llano, Texas, will alleviate the concerns raised by KAJZ listeners regarding potential interference to their reception of the station's signal on Channel 242.<sup>8</sup> Moreover, by modifying the station's facilities to operate on Channel 293A, KAJZ would no longer need to operate as a Section 73.215 station, as it currently does. The two additional applications proposing channel substitutions at Menard and Junction, Texas, do not request any change in channel class, and are proposed for the purpose of facilitating KAJZ's channel substitution. We therefore find that the proposed change in the FM Table of Allotments, as well as the contingent applications, serve the public interest.

6. Channel 242C3 can be allotted at Llano, consistent with the minimum distance separation requirements of the Commission's rules, at coordinates 30-55-34 NL and 98-43-24 WL, with a site restriction of 19.1 km (11.9 miles) north of the community. The Government of Mexico has concurred with the allotment, which is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

7. **Conclusion and Ordering Clauses.** In view of the above, we conclude that the public interest is served by grant of the Petition for Rulemaking, and the contingent applications. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b), and 0.283, IT IS ORDERED, That effective July 2, 2012, 47 C.F.R. Section 73.202 IS AMENDED, with respect to the community listed below, and contingent upon the final outcome in MB Docket No. 05-112, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Llano, Texas	242C3

8. IT IS FURTHER ORDERED, That the Petition for Rule Making, RM-11642, filed by Bryan King, IS GRANTED.

9. IT IS FURTHER ORDERED, That the application, File No. BMPH-20110825ABP, filed by Bryan King, IS GRANTED.

10. IT IS FURTHER ORDERED, That the application, File No. BNPH-20110622AAE, filed by Katherine Pyeatt, IS GRANTED, subject to the following condition: "Operation with the facilities specified herein for Channel 292A, Menard, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if the Government of Mexico objects."

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<sup>7</sup> See *Auburn, Alabama*, Memorandum Opinion and Order, 18 FCC Rcd 10333 (MB 2003) (stating that parties may rely on actions taken in earlier rule making proceedings that are effective but not yet final) ("*Auburn*").

<sup>8</sup> Petitioner states that KAJZ's listeners have filed complaints against translator station K287AY's operation on Channel 242 at Austin, Texas.

11. IT IS FURTHER ORDERED, That the application, File No. BMPH-20110825ABQ, filed by Bryan King, IS GRANTED, subject to the following condition: "Operation with the facilities specified herein for Channel 290A, Junction, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if the Government of Mexico objects."

12. IT IS FURTHER ORDERED, That effective July 2, 2012, the Media Bureau's Consolidated Data Base System will reflect the following changes: Channel 293A, in lieu of Channel 242A, as the reserved assignment for FM Station KAJZ at Llano, Texas; Channel 292A, in lieu of Channel 242A, as the reserved assignment for the construction permit held by Katherine Pyeatt at Menard, Texas; and Channel 290A, in lieu of Channel 292A, as the reserved assignment for the construction permit held by Bryan King at Junction, Texas.

13. A filing window period for Channel 242C3 at Llano, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent *Order*.

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

15. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez  
Assistant Chief, Audio Division  
Media Bureau