

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

MM Docket No. 87-616

In the Matter of

Amendment of Section 73.202(b), RM-6075
Table of Allotments,
FM Broadcast Stations.
(Emporia, Kansas)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 18, 1989; Released: February 2, 1989

By the Deputy Chief, Policy and Rules Division:

1. Before the Commission is the *Notice of Proposed Rule Making*, 3 FCC Rcd 384 (1988), proposing the allotment of FM Channel 241A to Emporia, Kansas, as that community's third FM service. The *Notice* was issued in response to a petition filed by Emporia Broadcasting (petitioner). The petitioner filed untimely comments with a motion to accept.¹ New West Radio, Inc., filed a counterproposal.² No other comments were received.

2. As indicated in the *Notice*, Channel 241A can be allotted to Emporia consistent with the Commission's spacing requirements, providing a third FM service to the community. We have accepted petitioner's late filed comments, providing the statement of interest required to allot the channel. New West Radio's counterproposal requested the substitution of Channel 241C2 for Channel 240A at Derby, Kansas, which required substitutions at Augusta and Herington, Kansas. Channel 241C2 at Derby conflicts with Channel 241A at Emporia. Augusta and Herington were both allotted Channel 242A in MM Docket 84-231 (*First Report and Order*, 50 FR 3514, January 25, 1985). The window for Channel 242A had not opened at the time the counterproposal was filed and New West Radio did not provide substitute channels which would allow for a higher class of service in both communities. The window for Channel 242A has since opened and applications are on file for both communities but construction permits have not been granted. A staff study was conducted to determine if another channel could be located for Emporia which would not conflict with Derby, Kansas, in an attempt not to foreclose the possible future expansion of service at Derby. We have determined that Channel 258A can be allotted to Emporia with a site restriction 6 kilometers (3.7 miles) southwest of the community.³ The site restriction will prevent a conflict with Station KMBR, Channel 259C, Kansas City, Missouri.

3. We find that the allotment of Channel 258A to Emporia is in the public interest, as it could provide a third service to the community. Therefore, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the

Commission's Rules, IT IS ORDERED, That effective March 20, 1989, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, to read as follows:

Community	Channel No.
Emporia, Kansas	258A, 269A, 285A

4. The window period for filing applications will open on March 21, 1989, and close on April 20, 1989.

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

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Steve Kaminer
Deputy Chief, Policy and Rules Division
Mass Media Bureau

FOOTNOTES

¹ We have accepted the comments for the purpose of allowing petitioner to reaffirm its interest in applying for the channel.

² The counterproposal was unacceptable and returned by letter dated April 15, 1988.

³ The coordinates for Channel 258A at Emporia are 38-22-09 and 96-13-54.