

DESCRIPTION OF PROPOSAL

Newberry Broadcasting, Inc. (“Newberry”), licensee of Station WHHT(FM), Horse Cave, Kentucky, and Starlight Broadcasting Co., Inc. (“Starlight”), licensee of Station WXMZ(FM), Hartford, Kentucky are filing the following contingent applications pursuant to Section 73.3517(e) of the Commission’s Rules:

- Newberry is filing an application to change the channel and class of channel of Station WHHT from Channel 294A to Channel 292C2 at a new site (the “WHHT Application”).¹
- Starlight is filing an application to change the channel of Station WXMZ from Channel 292A to Channel 260A at a new site (the “WXMZ Application”).

The WHHT Application is contingent on grant of the WXMZ Application. The WHHT Application and the WXMZ Application are also contingent on the following changes:

WHHT APPLICATION:

The engineering exhibit attached to the WHHT Application reveals that the proposal to allot Channel 292C2 at Horse Cave requires a change in channel for Station WANY-FM, Albany, Kentucky.² WANY-FM currently operates on Channel 292A. Channel 300A can be substituted for Channel 292A at WANY-FM’s current transmitter site, provided that a change is made to Station WKYR-FM, Burkesville, Kentucky, as discussed below. Newberry requests that the Commission issue an Order to Show Cause to Pamela Allred dba Albany Broadcasting Company (“Allred”) the licensee of WANY-FM, to show cause why the station’s channel should not be changed at its current site. Newberry hereby states that it will

¹ WHHT is currently license to operate on Channel 294A. Newberry also holds a permit to operate WHHT on Channel 293A. *See* BPH-20070118AEQ. This permit will be surrendered so that a new permit for Channel 292C2 can be issued.

² The engineering exhibit also reveals that the proposed allotment of Channel 292C2 at Horse Cave is short-spaced to Channel 292A at Hodgenville, Kentucky (used by WKMO(FM)). However, WKMO’s channel was changed in MB Docket No. 06-77, which is now final. Thus, Channel 292A at Hodgenville no longer needs to be protected.

reimburse Allred, for her reasonable expenses in changing channels in accordance with *Circleville, Ohio*, 8 FCC 2d 159 (1967).

In order to allot Channel 300A at Albany, Kentucky for use by WANY-FM, Station WKYR-FM, Burkesville, Kentucky, must change its channel from Channel 300A to Channel 249A. Channel 249A can be allotted at WKYR-FM's current transmitter site, provided that a change is made to Station WJXB-FM, Knoxville, Tennessee, as discussed below. Newberry requests that the Commission issue an Order to Show Cause to WKYR, Inc. the licensee of WKYR-FM, to show cause why the station's channel should not be changed at its current site.³ Newberry hereby states that it will reimburse WKYR, Inc., for its reasonable expenses in changing channels in accordance with *Circleville, Ohio*, 8 FCC 2d 159 (1967).

In order to allot Channel 249A at Burkesville, Kentucky for use by WKYR-FM, Station WJXB-FM, Knoxville, Tennessee, must change its class of channel from Channel 248C to Channel 248C0. Channel 248C0 can be allotted at WJXB-FM's current transmitter site. Pursuant to Section 73.3573 (note 4) of the Commission's Rules, Newberry requests that the Commission issue an Order to Show Cause to South Central Communications Corporation ("South Central"), the licensee of WJXB-FM, to show cause why the station's class of channel should not be changed at its current site.⁴ As demonstrated in the engineering exhibit attached to the WHHT Application, there is no alternate channel available for use by WKYR-FM at Burkesville, Kentucky. Newberry will also serve a copy of the WHHT Application on South Central.

WXMZ APPLICATION

The engineering exhibit attached to the WXMZ Application reveals that, in order to allot Channel 260A at Hartford, Kentucky for use by WXMZ, Station WKDQ(FM), Henderson, Kentucky, must change its class of channel from Channel 258C to Channel 258C0.⁵ Channel 258C0 can be allotted at WKDQ's current transmitter site. The

³ An application is pending to assign the license for WKYR-FM to Cumberland Broadcasting, LLC. See BALH - 20070612ACC.

⁴ The Commission has already issued an Order to Show Cause to South Central as to why its license should not be modified to Channel 248C0. See Attachment 1. While this order was later vacated, to Newberry's and Starlight's knowledge, South Central never opposed the downgrade.

⁵ The engineering exhibit also reveals that the proposed allotment of Channel 260A at Hartford is short-spaced to a proposal to allot Channel 260A at McHenry, Kentucky. See BNPH-20070403ABT. That proposal, however, was withdrawn and no longer has to be protected.

Commission has already issued an Order to Show Cause to Regent as to why its license should not be modified to Channel 258C0. *See* Attachment 2. To Newberry's and Starlight's knowledge, Regent did not respond and thus its license for WKDQ is automatically reclassified to Channel 258C0. However, to the extent necessary, pursuant to Section 73.3573 (note 4) of the Commission's Rules, Starlight requests that the Commission issue an Order to Show Cause to Regent Broadcasting of Evansville/Owensboro, Inc. ("Regent"), the licensee of WKDQ, to show cause why the station's class of channel should not be changed at its current site. As demonstrated in the engineering exhibit attached to the WXMZ Application, there is no alternate channel available for use by WXMZ at Hartford, Kentucky. Starlight will also serve a copy of the WXMZ Application on Regent.

As part of their contingent applications, Newberry and Starlight have requested that the Commission issue Orders to Show Cause to four stations (WANY-FM, WKYR-FM, WJXB-FM, and WKDQ). This is consistent with the Commission's policy in *Columbus, Nebraska*,⁶ because the parties' proposal only involves two involuntary channel substitutions (WANY-FM and WKYR-FM). The other Orders to Show Cause (WJXB-FM and WKDQ) involve reclassifications to Class C0 pursuant to Section 73.3573 (note 4) of the Commission's Rules and are not involuntary channel substitutions and thus do not invoke the *Columbus, Nebraska* policy. In *Columbus, Nebraska*, the Commission set a limit of two involuntary channel changes because it was concerned with the potential problems involved in coordinating channel changes by more than two parties unwilling to do so. These concerns are not present here. A reclassification to Class C0 does not involve any frequency or facilities changes because these stations are already operating with Class C0 facilities. In addition these stations do not need to file an application; they are automatically reclassified and the Commission will issue a new license. Thus, this process is uncomplicated and results in no confusion to the public.

The parties recognize that, pursuant to Section 73.3517(e) of the Commission's Rules, the Commission will accept up to four contingently related applications. The parties

⁶ 59 RR 2d 1184 (1986).

proposal complies with this rule because the two Orders to Show Cause requested to be issued to WJXB-FM and WKDQ involve reclassifications to Class C0 pursuant to Section 73.3573 (note 4) do not involve the filing of applications. As a result, only four applications will be needed in order to implement this proposal.

ATTACHMENT 1

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

MAR 5 - 2007

In the Matter of

Amendment of Section 73.202(b),)	MB Docket No. 05-273
Table of Allotments,)	RM-11273
FM Broadcast Stations.)	RM-11307
(Charleston, Englewood, Knoxville,)	
Nashville, and Tellico Plains, Tennessee))	

ORDER TO SHOW CAUSE

Adopted: February 28, 2007

Released: March 2, 2007

Comment Date: April 16, 2007

By the Assistant Chief, Audio Division; Media Bureau:

1. Before the Audio Division is a counterproposal filed in this proceeding by Georgia-Carolina Radiocasting Company, LLC ("GCR").¹ GCR proposes the allotment of FM Channel 250A at Tellico Plains, Tennessee, as that community's first local aural broadcast transmission service. To accommodate that allotment, GCR requests the reclassification of Station WJXB-FM, Channel 248C, Knoxville, Tennessee, to specify operation on Channel 248C0. Station WJXB-FM currently operates on Channel 248C with an ERP of 100 kilowatts at 395 meters HAAT. The station is below the minimum Class C antenna height requirements of 451 meters HAAT. Because Station WJXB-FM is operating below minimum Class C standards, it is subject to reclassification as a Class CO facility.²

2. Section 316(a) of the Communications Act, as amended, permits the Commission to modify an authorization if such action is in the public interest. Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.³

¹ The counterproposal was submitted in response to the Notice of Proposed Rule Making, 20 FCC Rcd 15,240 (MB 2005), proposing the allotment of Channel 250A at Charleston, Tennessee, in response to a petition for rule making by Claire Giannasi. A second counterproposal was submitted by Englewood Wireless, proposing the allotment of Channel 250A as a first local service at Englewood, Tennessee. See Public Notice, Report No. 2749 (Jan. 18, 2006).

See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, Second Report and Order, 15 FCC Rcd 21,649 (2000) ("Second Report and Order"), and Section 1.420(g), n. 2, and Section 73.3573, n. 4, of the Commission's Rules.

³ See Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act, Order, 2 FCC Rcd 3327 (1987).

3. The reclassification of a Class C FM station to a Class CO station may be initiated through the filing of a petition for rule making to amend the FM Table of Allotments.⁴ A petitioner proposing both amendment of the FM Table of Allotments and reclassification of a Class C FM station must certify that no alternative channel is available for the proposed service? GCR has provided the requisite certification.

4. A Class CO reclassification of Station WJXB-FM at Knoxville, Tennessee, would accommodate GCR's request to allot Channel 250A to Tellico Plains, Tennessee, as that community's first local service. GCR's request for reclassification therefore has sufficient public interest benefit to warrant the issuance of an order to show cause. Accordingly, we shall issue this *Order to Show Cause* directed to South Central Communications Corporation ("South Central"), licensee of Station WJXB-FM, Knoxville, Tennessee. South Central is required to show cause why its authorization should not be modified to specify operation on Channel 248C0 in lieu of Channel 248C at Knoxville, Tennessee.

5. The license for Station WJXB-FM, Channel 248C, Knoxville, Tennessee, can be modified to Channel 248C0 at its current authorized transmitter site, located at coordinates 36-00-36 NL and 83-55-57 WL. Pursuant to Section 1.87 of the Commission's Rules, South Central may not later than April 16, 2007, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call on South Central to furnish additional information. If South Central raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modifications, deny the modifications, or set the matter of modifications for hearing. If no written statement is filed by the date referenced above, South Central will be deemed to have consented to the modification as proposed in this *Order to Show Cause* and a final *Order* will be issued by the Commission, if the channel modification is found to be in the public interest.

6. If South Central chooses to seek authority to modify its license to increase antenna height to at least 451 meters HAAT, it must express its intention to file the necessary application by the comment date specified in this *Order*. It also must file an acceptable application for a construction permit for Station WJXB-FM with the Commission within 180 days subsequent to the show cause comment due date. Upon the filing of an acceptable construction permit application, the proposal to allot Channel 250A at Tellico Plains, Tennessee, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by South Central for Channel 248C as specified herein, under this procedure. If the construction is not completed as authorized, Station WJXB-FM is subject to automatic reclassification as a Class CO station, and, in that event, a new petition for rule making to allot Channel 250A at Tellico Plains, Tennessee, may be refiled.

7. IT IS THEREFORE ORDERED, That South Central Communications Corporation show cause why its authorization for station WJXB-FM should not be modified to specify operation on Channel 248C0 in lieu of Channel 248C at Knoxville, Tennessee, and

⁴ *Second Report and Order, supra*, and 41 C.F.R. § 1.420, n. 2.

⁵ See 41 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

8. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this *Order to Show Cause* by Certified Mail, Return Receipt Requested, to South Central Communications Corporation, licensee of WJXB-FM, Knoxville, Tennessee, and its counsel, as indicated below:

John D. Engelbrecht, President
South Central Communications Corporation
Post Office Box 3848
Evansville, Indiana 47736

Edward S. O'Neill, Esq.
Fletcher, Heald, & Hildreth, P.L.C.
1300N. 17th Street – Eleventh Floor
Arlington, Virginia 22209
(Counsel for South Central Communications Corporation)

9. Any protest to this proposed reclassification may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Protests should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on:

Dan J. Alpert, Esq.
The Office of Dan J. Alpert
2120 N. 21st Road
Arlington, Virginia 22201
(Counsel for counterproponent, Georgia-Carolina Radiocasting Company, LLC)

Kris R. Kendrick, Esq.
Post Office Box 82032
Athens, Georgia 30608-2032
(Counsel for petitioner, Claire Giannasi Kurtz)

10. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Pennsylvania Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. **All filings must be addressed to the Office of the Secretary, Federal Communications Commission. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

11. For further information concerning this proceeding, contact Deborah A. Dupont, Media Bureau, at (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

ATTACHMENT 2

FEDERAL COMMUNICATIONS COMMISSION

445 12th Street SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: <http://www.fcc.gov/mb/audio/>

PROCESSING ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2700
FACSIMILE: (202) 418-1411
MAIL STOP: 2-B450
INTERNET ADDRESS: dale.bickel@fcc.gov

March 7, 2007

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Regent Broadcasting of Evansville/Owensboro
2000 Fifth Third Center
511 Walnut Street
Cincinnati, Ohio 45202

Re: WKDQ, Henderson, KY
Facility ID Number 6871
Request for Reclassification to Class C0

Dear Licensee:

In accordance with the procedures adopted by the Commission in the year 2000,¹ this letter constitutes notification to Regent Broadcasting of Evansville/Owensboro ("Regent"), licensee of the above-captioned commercial FM station, of the filing of a minor change construction permit application² by Elizabethtown CBC, Inc. for commercial FM station WTHX, Lebanon Junction, KY (Facility ID Number 48245).³ The Elizabethtown CBC application proposes that the WKDQ license and allotment be modified to specify Class C0 in lieu of Class C, pursuant to Note 4 of 47 C.F.R. § 73.3573.⁴

¹ See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, Second Report and Order in MM Docket No. 98-93, FCC 00-368, 15 FCC Rcd 21649 (2000).

² FCC File Number BPH-20070118AEP.

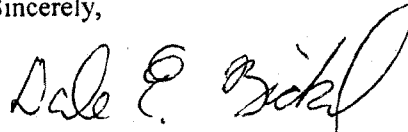
³ WTHX has been ordered to move to Channel 257A by MB Docket 06-77.

⁴ The staff has tentatively concluded that the Elizabethtown CBC, Inc. application meets the requirements of § 73.3573, Note 4, and is otherwise acceptable for filing. In order to be considered in compliance with Note 4, the triggering application must: 1) be short-spaced to the Class C station, but be fully spaced if it were a Class C0 station; 2) include a certification that no alternative channel is available at the proposed location without any other changes to the FM Table of Allotments; and 3) be served on the licensee of the affected Class C station.

Accordingly, IT IS ORDERED, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 316(a), and pursuant to § 1.87 of the Commission's Rules, Regent Broadcasting of Evansville/Owensboro, licensee of WKDQ (FM), Henderson, KY, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 258C0 in lieu of Channel 258C. Regent Broadcasting of Evansville/Owensboro may, no later than 30 days from the date of this letter, file a written statement to express its intention to seek authority to modify the WKDQ technical facilities to attain minimum Class C facilities;⁵ or, alternatively, as provided for by § 73.3573, Note 4, cited above, otherwise challenge the triggering application. If Regent Broadcasting of Evansville/Owensboro chooses to seek authority to modify the WKDQ facilities, an acceptable application for a construction permit must be on file with the Commission no later than 180 days after the Show Cause response due date, and copies of all submissions related to its efforts to modify the WKDQ facilities must be provided to Elizabethtown-CBC, Inc. If Regent Broadcasting of Evansville/Owensboro does not either state its intention to seek authority to modify the WKDQ facilities or challenge the triggering application within the time period specified herein, WKDQ will be reclassified as a Class C0 station, and processing of the triggering application will be completed.

Further action on the Elizabethtown CBC, Inc. application for WTHX will be withheld in accordance with the provisions of § 73.3573, Note 4. Please note that responses must be submitted to the Secretary of the Commission in triplicate and must be served on all parties.

Sincerely,



Dale E. Bickel
Senior Electronics Engineer
Audio Services Division
Mass Media Bureau

cc: Latham and Watkins, LLP
: Womble Carlisle Sandridge and Rice, LLC

⁵ Minimum acceptable Class C facilities are 100 kilowatts effective radiated power (ERP) and 451 meters antenna radiation center height above average terrain (HAAT), or the equivalent thereof, as determined consistent with 47 C.F.R. § 73.210 and § 73.211.