

# Community of License Change

## Section 307(b) Legal Exhibit

Marshfield Broadcasting Co., LLC (“Marshfield”), licensee of Radio Station WMEX (AM), Facility Id. No. 12789, Boston, Massachusetts (the “Station”), proposes to modify its authorization to change its community of license to Quincy, Massachusetts and make the technical changes specified in the engineering section of this application. This application is being submitted pursuant to the procedures set forth in the Commission’s rules authorizing licensees to submit minor modification applications to propose changes in their facility’s community of license.<sup>1</sup>

### I. Quincy is a “Community” for Assignment Purposes

The Commission has previously recognized Quincy, Massachusetts as a community for assignment purposes in that Radio Station WJDA (AM), Facility Id. No. 61159, has been licensed to Quincy since at least 1980 (BR - 19801126UP) and has been serving the community ever since.

### II. AM Assignment Priorities

This application is subject to the standards of evaluation under 307(b) of the Communications Act of 1934, as amended, as established in Commission precedent, but is not subject to the “rebuttable presumption” announced in the Second Report and Order in *Policies to Promote Rural Radio and to Streamline Allotment and Assignment Procedures*.<sup>2</sup>

A station may change its community of license without subjecting the license to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission’s allotment

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<sup>1</sup> 47 C.F.R. § 1.420(i); *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (2006).

<sup>2</sup> *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*; Second Report and Order, First Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 25 FCC Rcd 2556, ¶¶ 36-40. (2011) (“*Rural Radio*”).

priorities.<sup>3</sup> Additionally, when the proposed community is located inside an Urbanized area, the Commission has required an applicant to file a *Tuck* showing that the proposed community is independent of the Urbanized Area to warrant a first local service preference. Subsequently, the Commission "...established a rebuttable presumption that, when the community proposed is located in an urbanized area...we will treat the application, for Section 307(b) purposes, as proposing service to the entire urbanized area rather than the named community of license."

In *Gearhart, Madras, Manzanita and Seaside, Oregon*, 26 FCC Rcd 10259, 10263(MB, 2011), the Commission concluded that a *Tuck* showing was unnecessary in that the station's current and proposed communities were both located within an Urbanized Area "because such intra-urbanized moves do not present the same concerns as rural to urban moves" reaffirming *East Los Angeles, Long Beach and Frazier Park, California*, 10 FCC Rcd 2864 (MMB 1995).

As demonstrated in the associated Engineering 307(b) Exhibit, (1) the proposed assignment is mutually exclusive with the existing assignment and (2) Boston, Massachusetts will not be deprived of its only local service. Further, the proposed allotment will result in a preferential arrangement of allotments under the FM allotment priorities, as applied to AM community of license relocations, as revised by Rural Radio, *supra*. The FM allotment priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local transmission service; and (4) other public interest matters. In determining whether WMEX (AM)'s proposed licensing to Quincy is preferable to its present licensing to Boston, Massachusetts, the changes proposed will not add or remove first or second full-time aural reception service to either the gain or loss area and WMEX(AM) will not provide a first local service to Quincy. Consequently, Priorities (1), (2) and (3) are not implicated. However, the provision of a second local service to Quincy will result in a preferential arrangement of allotments over the retention of a twentieth (20<sup>th</sup>) local service at Boston which furthers Priority (4). This is especially compelling in that Quincy had a 2010 US Census population of 92, 271 making it the ninth (9<sup>th</sup>) in Massachusetts. Quincy's 2017 estimated population was over 94,000, an increase of over 2%.

While there will be loss in population and area in the 2 mV/m served by the proposal, as indicated by the attached Engineering Report, there are 47 stations, 20 AM and 27 FM, excluding WMEX, that provide service to the loss area. It is obvious that the 2 mV/m contour loss area will continue to be well served by numerous other aural services.

Therefore, the instant proposal will allow the station to provide a second local service to a large and significant community while Boston will remain well served by 47 full-service radio stations.

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<sup>3</sup> See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989), recons. granted in part, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

Further, since Boston and Quincy are both located in the Boston Urbanized area, the “rebuttable presumption” is not applicable and a *Tuck* showing is not required as the proposed move is within the same Urbanized area.

### **Conclusion**

As shown above, the proposed change of community of license of WMEX (AM) from Boston to Quincy would best serve the public interest because it would (1) provide a second local full-time transmission service to a significant community, Quincy, while retaining numerous radio stations in Boston and would, therefore, better further a “fair, efficient, and equitable distribution of radio service’ under Section 307(b) of the Communications Act. Consequently, the instant application should be granted.