

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 11-167
Table of Allotments,	)	RM-11645
FM Broadcast Stations.	)	
(Altamont, Oregon)	)	
	)	
Station KYSF(FM),	)	File No. BPH-20110819ABZ
(Bonanza, Oregon)	)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: September 26, 2013

Released: September 27, 2013

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a *Notice of Proposed Rule Making*¹ issued in response to a hybrid proposal set forth in the Petition for Rule Making filed by Threshold Communications (“Petitioner”), winning bidder in Auction No. 91 for a new station construction permit on FM Channel 290A at Butte Falls, Oregon.² Also before us is the application of Educational Media Foundation (“EMF”),³ licensee of Station KYSF-FM, Channel 275C3, Bonanza, Oregon, which is being treated as a counterproposal in this proceeding (“Counterproposal”). For the reasons discussed below, we grant the Petition for Rule Making and the associated application, as well as the Counterproposal, as modified in this Report and Order.

2. **Background.** The *Notice* proposed the substitution of FM Channel 235C1 for vacant FM Channel 249C1 at Altamont, Oregon, in order to facilitate a minor modification to Petitioner’s new station construction permit. The proposed Channel 235C1 reallocation would require a 20.5 kilometer site restriction.⁴ In the minor modification, Petitioner proposes to substitute FM Channel 249A for its existing channel 290A at Butte Falls, Oregon. In the *Notice*, we observed that the substitution of Channel 235C1 for vacant Channel 249C1 at Altamont would result in a potential net loss of 57,827 persons, and we requested that Petitioner address the impact of a net loss in service on the overall public interest benefits of its hybrid application-rulemaking proposal.

3. In response to the *Notice*, Petitioner filed comments expressing its continuing interest in the proposal. Petitioner states that it does not intend to apply for the Altamont station, but proposed the

¹ *Altamont, Oregon*, Notice of Proposed Rule Making, 26 FCC Rcd 14336 (MB 2011) (“*Notice*”).

² See BNPH-20110630AHK.

³ See File No. BPH-20110819ABZ. At the time that the application was filed, Basin Mediactive, LLC, was the licensee of FM Station KYSF. Basin subsequently assigned the station to EMF pursuant to the Commission’s grant of the assignment application in File No. BALH-20111020ABI. EMF therefore became Basin’s successor-in-interest with respect to this application.

⁴ Although, the NPRM proposed Channel 235C1 at reference coordinates 42-07-04NL and 121-21-50. We are allotting Channel 235C1 at different reference coordinates 42-08-37 and 121-30-19 because it is less restricted.

channel substitution at Altamont would facilitate its request to use Channel 249A in connection with its application for a new station at Butte Falls. In addition, Petitioner argues that the potential loss figure is irrelevant in the context of this proceeding, noting that the Commission has ruled that the loss of service from unbuilt facilities does not present the same loss of service concerns as removal of a licensed station.

Petitioner contends that the potential loss of population coverage by the vacant Altamont allotment would involve, at best, a Priority Four consideration, “other public interest matters,”⁵ because all the affected areas are well-served. Finally, Petitioner explains that the reference coordinates for the current allotment at Butte Falls, Channel 290A, are restricted, and would place the antenna site at an untenable location. Petitioner states that the selection of a better site for the Butte Falls facility on a different channel is critical to the preservation of the allotment and the possibility of any local transmission for that community.

4. EMF’s minor change application is mutually exclusive with the proposed channel substitution at Altamont. In its application, EMF requests that Station KYSF(FM) be permitted to operate on FM Channel 236C3 at Bonanza, Oregon, rather than Channel 275C3. The stated reason for the requested channel substitution is to enable the station to change to a non-directional antenna, which would increase coverage in the direction of Bonanza, thereby increasing service to the public and providing a better use of the spectrum when compared to the current channel. EMF’s application will be considered as a counterproposal in this proceeding.

5. In response to the Public Notice regarding EMF’s application,⁶ Petitioner submitted timely reply comments. Petitioner points out that the modification proposed for Station KYSF(FM) would result in a gain of only 415 persons covered with 60 dBu or greater service. In addition, Petitioner states that the gained population is already well-served by at least seven existing FM stations. Finally, Petitioner asserts that an alternative channel is available for EMF to use for the proposed modification to Station KYSF. Petitioner notes that if the Commission adopts the proposal to delete Channel 249C1 at Altamont, Channel 248C3 will become available to substitute for Channel 275C3 at Bonanza, thereby achieving a satisfactory result for both Petitioner and EMF in this proceeding. EMF submitted a response in support of Petitioner’s alternative proposal.

6. **Discussion.** We turn first to Petitioner’s response regarding the potential net loss in service from substituting FM Channel 235C1 for vacant Channel 249C1 at Altamont, Oregon. As Petitioner correctly observes, the loss of service from unbuilt facilities does not present the same loss of service concerns as removal of a licensed station.⁷ We have verified Petitioner’s representation that the area that could lose potential service is already well-served by five or more reception services. In this situation, a potential loss of service from the vacant allotment at Altamont does not raise significant Priority 4 concerns. Moreover, our engineering analysis confirms Petitioner’s assertion that the reference coordinates for Channel 249A at

⁵ See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988) (“*Revision of Assignment Policies*”). 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).

⁶ *Public Notice*, Report No. 2946 (February 7, 2012).

⁷ See *Linden Texas*, Report and Order, 16 FCC Rcd 10853 (MMB 2001); *Pawley’s Island and Atlantic Beach, South Carolina*, Report and Order, 8 FCC Rcd 8657 (MMB 1993); and *Glenco and Le Sueur, Minnesota*, Report and Order, 7 FCC Rcd 7651 (MMB 1992).

Butte Falls, are restricted, and would place the antenna site at an untenable location.⁸ Moreover, the staff has not identified any channel other than Channel 249A that could be substituted for Channel 290A at Butte Falls, and that would permit the use of a suitable transmitter site. Accordingly, we find that the potential loss in service from the proposed channel substitution at Altamont is more than counterbalanced by the public benefit from the provision of a first local service on Channel 249A at Butte Falls.

7. We next consider the Counterproposal, EMF's application seeking permission for Station KYSF(FM), Bonanza, Oregon, to operate on FM Channel 236C3 rather than Channel 275C3. Generally, conflicting proposals are considered on a comparative basis consistent with the FM allotment priorities set forth in *Revision of FM Assignment Policies*.⁹ In this instance, a comparison is no longer necessary because the staff analysis has confirmed that the substitution of alternate Channel 248C3 at Bonanza would resolve the conflict between Petitioner's and EMF's proposals, and EMF supports the proposed substitution.¹⁰ Moreover, our analysis indicates that Station KYSF(FM) will be able to change to a non-directional antenna for operation on FM Channel 248C3 at Bonanza, Oregon. Accordingly, we find that FM Channel 248C3, rather than Channel 236C3, should be substituted for Channel 275C3 at Bonanza, Oregon, and the license of Station KYSF(FM) should be amended accordingly.

8. **Conclusion and Ordering Clauses.** In view of the above, we conclude that the public interest is served by grant of the Petition for Rulemaking, the hybrid application, and the Counterproposal, as amended to specify that Station KYSF(FM) operate on Channel 248C3 at Bonanza, Oregon.

9. IT IS ORDERED, That effective November 11, 2013, 47 C.F.R. Section 73.202 IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Altamont, Oregon	235C1

10. IT IS FURTHER ORDERED, That effective November 11, 2013, the Media Bureau's Consolidated Data Base System will reflect Channel 249A, as the reserved assignment for the construction application of auction winner Threshold Communications, in lieu of Channel 290A at Butte Falls, Oregon.

11. IT IS FURTHER ORDERED, That the Petition for Rule Making, RM-11645, filed by Threshold Communications IS GRANTED.

12. IT IS FURTHER ORDERED, That the application, File No. BNPH-20110630AHK., filed by Threshold Communications, IS GRANTED.

⁸ In its reply comments, Petitioner explains that "[t]he Butte Falls allotment is on Channel 290A with a site restriction that would place the antenna site in a remote and undeveloped location on land in proximity to the Rouge River National Forest. The site is unfeasible." Staff engineering analysis confirms Petitioner's representation.

⁹ See *Revision of Assignment Procedures*, *supra*, note 4.

¹⁰ See *Notice*, Appendix, 25 FCC Rcd at 7433 ("The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved"). See also *Pinewood, South Carolina*, Memorandum Opinion and Order, 5 FCC Rcd 7609 (1990) (approving the use of an alternate channel to resolve a conflict between mutually exclusive proposals).

13. IT IS FURTHER ORDERED, That Educational Media Foundation, within 90 days of the effective date of this *Order*, amend its application, File No. BPH-20110819ABZ for Station KYSF(FM), Bonanza, Oregon, to specify Channel 248C3 in lieu of Channel 275C3 at the transmitter site specified in its application, and the Media Bureau's Consolidated Data Base System will reflect Channel 248C3 at Bonanza, Oregon, as the reserved assignment for Station KYSF(FM) in lieu of Channel 275C3.

14. IT IS FURTHER ORDERED, pursuant to 47 U.S.C. Section 316(a), That the license of Educational Media Foundation, for Station KYSF(FM), Channel 275C3, Bonanza, Oregon, File No. BMLED-20111028ADP, IS MODIFIED to specify operation on Channel 248C3.

15. A filing window period for Channel 235C1 at Altamont, Oregon, 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*.

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

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

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
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Media Bureau