

telephone companies' wires even though the cable operator was affiliated with the telephone company in violation of the rules by virtue of their joint interest in the contractor that was to build the cable system. The court acknowledged that the project "presents a number of advantages that might justify a good cause waiver." However, it held that the Commission had "failed * * * to explain why any of these advantages require [the contractor's] participation as [the telephone companies'] contractor." In this case, in contrast, in light of the decisions holding Section 613(b) unconstitutional, it is necessary to waive Section 613(b) to allow affiliates of telephone companies to provide video programming in order to render the statute constitutional. The Ninth Circuit recognized that a waiver might be warranted in these circumstances in *GTE California, Inc. v. FCC*, 39 F.3d 940 (1994), a case that (unlike *NCTA v. FCC*) involved a constitutional challenge to Section 613(b). The Ninth Circuit stated in that case, in response to the argument that Section 613(b) is unconstitutional, that "GTECA did not present the constitutional issue to the Commission at a point in this proceeding where it could have tried to obviate the constitutional question by granting discretionary relief, such as a permanent waiver." As that statement recognizes, a waiver is warranted to implement what the Ninth Circuit in *US West* termed our "more speech-friendly plan" and hence avoid a serious constitutional issue.

17. *Conclusion.* Accordingly, it is ordered that Section 613(b)(4) of the Communications Act is interpreted to authorize waivers permitting telephone companies to provide video programming directly to subscribers in their telephone service area pursuant to the rules we will adopt in this docket or related rulemaking proceedings.

List of Subjects in 47 CFR Part 63

Ownership rules, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-14833 Filed 6-16-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-196; RM-8041]

Radio Broadcasting Services; Tallassee and Tuskegee, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallocates Channel 260A from Tuskegee to Tallassee, Alabama, and modifies the license of WACQ, Incorporated for Station WACQ-FM, as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. The allotment of Channel 260A to Tallassee will provide a first local FM service to the community without depriving Tuskegee of local aural transmission service. See 57 FR 44354, September 25, 1992. Coordinates used for Channel 260A at Tallassee, Alabama, are 32-26-30 and 85-47-45. With this action, the proceeding is terminated.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 92-196, adopted June 6, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 260A at Tuskegee, and by adding Tallassee, Channel 260A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-14835 Filed 6-16-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 91-129; RM-7664]

Radio Broadcasting Services; Lake Havasu City, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 244C2 to Lake Havasu City, Arizona, as that community's fourth local FM service, in response to a petition for rulemaking filed on behalf of Bridge Broadcasting. See 56 FR 21465, May 9, 1991. Coordinates used for Channel 244C2 at Lake Havasu City are 34-29-02 and 114-19-18. Lake Havasu City is located within 320 kilometers (199 miles) of the United States-Mexico border and therefore, concurrence of the Mexican government to this proposal was obtained. With this action, the proceeding is terminated. **DATES:** Effective July 28, 1995. The window period for filing applications on Channel 244C2 at Lake Havasu City, Arizona, will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 244C2 at Lake Havasu City, Arizona, should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 91-129, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of the title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 244C2 at Lake Havasu City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-14845 Filed 6-16-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 95-9; RM-8560]

Radio Broadcasting Services; Cambria, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 278A to Cambria, California, as that community's second local FM service, in response to a petition for rule making filed on behalf of James Kampschroer. See 60 FR 5158, January 26, 1995. Coordinates used for Channel 278A at Cambria are North Latitude 35-33-54 and West Longitude 121-04-48. With this action, the proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications for Channel 278A at Cambria, California, will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 278A at Cambria should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95-9, adopted June 7, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California is amended by adding Channel 278A at Cambria.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-14837 Filed 6-16-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94-73; RM-8489]

Radio Broadcasting Services; Clarksdale, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Leroy P. Jenkins, Jr., d/b/a Delta Blues Broadcasting, allots Channel 221A to Clarksdale, Mississippi. See 59 FR 35292, September 13, 1994. Channel 221A can be allotted to Clarksdale, Mississippi, in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.8 kilometers (3.0 miles) west to avoid a short-spacing conflict with the presently licensed site of Station WUMS(FM), Channel 221A, University, Mississippi. The coordinates for Channel 221A at Clarksdale are 34-11-42 and 90-37-38. With this action, this proceeding is terminated.

DATES: Effective July 28, 1995. The window period for filing applications will open on July 28, 1995, and close on August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94-73, adopted June 5, 1995, and released June 13, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased

from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Channel 221A at Clarksdale.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-14839 Filed 6-16-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94-69; RM-8490, RM-8536]

Radio Broadcasting Services; Grenada and Crenshaw, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Delta Radio, Inc. allots Channel 222A to Grenada, Mississippi, as the community's second local FM service. At the request of Robert E. Evans, III, the Commission allots Channel 295A to Crenshaw, Mississippi, as the community's first local aural transmission service. See 59 FR 35293, July 11, 1994. Channels 222A and 295A can be allotted to Grenada and Crenshaw, Mississippi, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 222A can be allotted to Grenada with a site restriction of 4.6 kilometers (2.9 miles) north to avoid a short-spacing with the licensed site of Station WQST(FM), Channel 223C, Forest, Mississippi. The coordinates for Channel 222A at Grenada are 33-49-02 and 89-48-00. For Channel 295A at Crenshaw a site restriction of 7.2 kilometers (4.4 miles) southeast is needed to avoid a short-spacing conflict with a construction permit for Station KXFE(FM), Channel 295C3, Dumas, Arkansas. The