

**47 CFR Part 73****[MM Docket No. 90-139; RM-7149 and 7484]****Radio Broadcasting Services; Oshkosh, Winneconne and Townsend, Wisconsin and Menominee, Michigan****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 280C3 for Channel 280A at Oshkosh, Wisconsin, modifies the license for Station WMGV(FM) and changes the community of license from Oshkosh to Winneconne, Wisconsin, substitutes Channel 279C3 for Channel 280A at Menominee, Michigan, and modifies the license for Station WHYB to specify operation on the higher class channel, in response to a petition filed by Value Radio Corp and CJL Broadcasting, Inc. See 55 FR 11412, March 28, 1990. The coordinates for Channel 280C3, Winneconne, are 44-15-09 and 88-44-48. Canadian concurrence has been obtained for Channel 279C3 at Menominee at coordinates 45-06-21 and 87-46-43. The counterproposal filed by Independence Broadcasting Wisconsin Corp. requesting allotment of Channel 278C3 to Townsend, Wisconsin, has been withdrawn. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** April 7, 1995.**FOR FURTHER INFORMATION CONTACT:**

Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, MM Docket No. 90-139, adopted February 10, 1995, and released February 21, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857-3800.

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: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 280A, Oshkosh, and by adding Winneconne, Channel 280C3.

3. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 280A and adding Channel 279C3, Menominee.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95-4694 Filed 2-24-95; 8:45 am]

**BILLING CODE 6712-01-F****47 CFR Part 76****[MM Docket 92-266; FCC 95-43]****Cable Television Act of 1992—Rate Regulation****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** On its own motion, the Federal Communication Commission (the "Commission") has adopted a Ninth Order on Reconsideration in order to allow small cable operators and low-price systems that have been provided with transition relief to adjust their transition rates to reflect increases in inflation. Between April 1, 1995 and August 31, 1995, cable operators that have been afforded transition relief may adjust their rates to reflect the net of a 5.21% inflation adjustment, minus any inflation adjustments they have already received. In the future, all transition relief systems may join other operators by making inflation adjustments on an annual basis, no earlier than October 1, of each year and no later than August 31 of the following year to reflect the final GNP-PI through June 30 of the applicable year.

**EFFECTIVE DATE:** April 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Paul D'Ari, Cable Services Bureau (202) 416-0800.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Ninth Order on Reconsideration in MM Docket No. 92-266, FCC 95-43, adopted February 3, 1995 and released February 6, 1995.

The complete text of this Ninth Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS, Inc.") at (202) 857-

3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of the Ninth Order on Reconsideration

**A. Background**

In the Report and Order and Further Notice of Proposed Rulemaking in MM Docket No. 92-266 ("Rate Order"), 58 FR 29736 (May 21, 1993), the Commission developed a benchmark formula for the purpose of establishing initial rates for regulated services. Under the benchmark approach, regulated cable systems were required to calculate an applicable benchmark, an estimate of the rate that a cable system with similar characteristics, but subject to effective competition, would be permitted to charge. Cable systems whose rates exceeded the applicable benchmark were generally required to reduce their rates either to the benchmark or by 10%, whichever reduction was less. This 10% "competitive differential" represented the average difference that the Commission determined existed between the rates of competitive and noncompetitive systems.

In the Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking ("Second Reconsideration Order"), 59 FR 17943 (April 15, 1994), the Commission refined the econometric model, recalculated the competitive differential, and concluded that a competitive differential of 17% more accurately estimates the difference between effectively competitive and noncompetitive cable rates. Accordingly, the Commission required most systems with rates above the benchmark to either reduce their regulated rates to a level that represented their September 30, 1992 regulated revenues, reduced by 17% (mitigated by annual inflation increases, changes in external costs and changes in the number of programming channels) or to submit a cost-of-service showing supporting higher rates.

The Commission granted two classes of cable operators transition relief, by not requiring them to implement the full 17% reduction rate. The first category of systems that were provided with transition relief is systems owned by "small operators," defined as operators serving 15,000 or fewer subscribers and not affiliated with a larger operator. Systems owned by small operators were not required to reduce rates by 17%. Rather these operators were allowed to use the permitted rate charged on March 31, 1994 to establish initial restructured rates, and adjust accordingly to reflect