

modifies Station WZBB(FM)'s license to specify Stanleytown as its community of license. Channel 260C3 can be allotted to Stanleytown in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.8 kilometers (18.0 miles) northwest. The coordinates for Channel 260C3 at Stanleytown are 36-48-47 and 80-04-41. The proposal filed by WNLB Radio, Inc. (RM-8450), see 59 FR 34405, July 5, 1994, requesting the substitution of Channel 260A for Channel 260C3 at Rocky Mount, the reallocation of Channel 260C3 to Bassett, Virginia, is denied. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 10, 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. 94-63, adopted August 18, 1995, and released August 25, 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 Virginia, is amended by adding Stanleytown, Channel 260C3 and removing Channel 260A at Rocky Mount.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95-21583 Filed 8-30-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 76

[MM Docket No. 93-304; DA 95-1850]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this action, amends its rules regarding the listing of major television markets to change the designation of the Los Angeles-San Bernardino-Corona-Fontana-Riverside, California television market to include the community of Anaheim, California. This action is taken at the request of Golden Orange Broadcasting Company, licensee of television station KDOC-TV, channel 56, Anaheim, California.

EFFECTIVE DATE: October 2, 1995.

FOR FURTHER INFORMATION CONTACT: William H. Johnson, Cable Services Bureau, (202) 416-0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-304, adopted May 16, 1995 and released August 28, 1995. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW., Washington, DC 20554.

Synopsis of the Report and Order

a. Before the Commission is the Notice of Proposed Rule Making in the captioned proceeding, 58 FR 68844, December 29, 1993, issued in response to a petition filed by Golden Orange Broadcasting Co., licensee of television station KDOC-TV, channel 56, Anaheim, California ("KDOC") and the comments received in response thereto. The Notice proposed to amend § 76.51 of the Commission's rules, to change the designation of the Los Angeles-San Bernardino-Corona-Fontana-Riverside, California television market to "Los Angeles-San Bernardino-Corona-Fontana-Riverside-Anaheim, California." Community Cablevision Company, d/b/a/ Dimension Cable Services ("Dimension Cable"), a cable television system operator providing service to Newport Beach, Irvine, Tustin, and Orange, the University of California, Irvine and the Marine Corps Air Stations in Tustin and El Toro filed comments, to which KDOC filed a reply.

Background

2. Section 76.51 of the Commission's rules enumerates the top 100 television markets and the designated communities within those markets. Among other things, this market list is used to determine the scope of territorial exclusivity rights that television broadcast stations may purchase and, in addition, may help define the scope of compulsory copyright license liability for cable operators in certain circumstances. Certain cable television syndicated exclusivity and network nonduplication rights are also determined by the presence of broadcast station communities of license on this list. Some of the markets consist of more than one named community (a "hyphenated market"). Such "hyphenation" of a market is based on the premise that stations licensed to any of the named communities in the hyphenated market do, in fact, compete with all stations licensed to such communities. Market hyphenation "helps equalize competition" where portions of the market are located beyond the Grade B contours of some stations in the area yet the stations compete for economic support.

3. Section 4 of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act"), which amended section 614 of the Communications Act of 1934, as amended ("Act"), requires the Commission to make revisions needed to update the list of top 100 television markets and their designated communities in § 76.51 of the Commission's rules.

Notice of Proposed Rule Making

4. The Notice of Proposed Rule Making in this proceeding noted that Anaheim was in the center of the Los Angeles market, 21 miles from downtown Los Angeles and virtually encompassed within the combined 35-mile zones of San Bernardino, Corona and Fontana and that KDOC-TV's Grade B signal contour encompasses all of the designated communities in the market. Its Grade B signal contour, the Notice indicated, was similar in location and coverage to the Grade B contours of other market-area stations. Further, KDOC-TV's transmitter is located at the same Sunset Ridge site as those of television stations KSCI and KZKI which are licensed to San Bernardino.

Rule Making Comments

5. Petitioner KDOC filed brief comments in support of the requested change in the rules stating that "there is

sufficient commonality between Anaheim and the existing communities in the television market to merit the inclusion of Anaheim in that market." Dimension Cable in its comments incorporated by reference comments it had filed in Docket 93-209, a proceeding involving the New York television market in which parties had been invited to address issues relating to market hyphenation in large and complex markets like the New York and Los Angeles markets. In those comments Dimension argued that television stations in large markets were constrained in seeking to exercise mandatory cable carriage rights by copyright payment obligations outside of the market area defined by § 76.51 of the Commission's rules. It then argued:

Had Congress intended to relieve broadcast stations of potential copyright liability in order to qualify for must carry status, it could have required wholesale revisions to § 76.51 of the Commission rules or amended section 111 of the Copyright Act. Rather than doing so, Congress expressed its intent not to work any fundamental changes in the copyright law. As commenters in this proceeding have urged, the Commission should not now allow stations to obtain must carry rights (and end-run the statute) through market redesignation * * * (footnotes omitted).

Thus, it urged the Commission not to adopt the proposed market redesignation.

Discussion

6. A "hyphenated market" has been described by the Commission as a television market that contains more than one major population center supporting all stations in the market, with competing stations licensed to different cities within the market area. In evaluating past requests for hyphenation of a market, the Commission has considered the following as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area (a concern which has reduced relevance under the must carry rules promulgated as a result of the 1992 Cable Act); (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas

where stations can and do, both actually and logically, compete."

7. Based on the facts set forth in the Notice of Rulemaking, which have not been disputed by the comments herein, and on the responsive comments, we believe that a case for redesignation of the subject market has been set forth so that this proposal should be adopted. It appears from the information before us that television stations licensed to Los Angeles, San Bernardino, Corona, Riverside and Anaheim do compete in the proposed combined market area, and that sufficient evidence has been presented to demonstrate commonality between the proposed community to be added to the market designation and the market as a whole. Such a rationalization of the competitive situation appears to be the public benefit which Congress anticipated by instructing the Commission, in section 614(f) of the Cable Television Consumer Protection and Competition Act of 1992, to make necessary revisions to update the market list. This action, moreover, is entirely consistent with the Report and Order in Docket 93-207, 58 FR 67694, December 22, 1993, which added Riverside as a designated community in the market.

8. The issue raised by Dimension Cable regarding copyright liability has largely been resolved with the passage of the Satellite Home Viewer Act of 1994, which amended section 111(f) of title 17, United States Code. Under this Act, a station located within the same ADI as a cable system is no longer considered a "distant signal" on that system for purposes of compulsory copyright license liability and, therefore, is not subject to the additional copyright fees attendant to "distant signal" carriage within the market. Thus, the issue raised by Dimension has now been directly addressed by Congress and is not an obstacle to the action proposed in this proceeding.

9. As an additional matter, since no station is licensed to Fontana, however, and since only communities with licensed stations have "specified zones" (§ 76.5(e)) and contribute to the area and coverage of a hyphenated market (§ 76.5(f)), reference to it will be eliminated from § 76.51.

10. Accordingly, it is ordered, that effective October 2, 1995, § 76.51 of the Commission's rules is amended to include Anaheim and delete Fontana as follows:

Los Angeles-San Bernardino-Corona-Riverside-Anaheim, California.

11. It is further ordered, that this proceeding is terminated.

12. This action is taken pursuant to authority delegated by § 0.321 of the Commission's rules. 47 CFR 0.321.

List of Subjects in 47 CFR Part 76

Cable Television.

Part 76, Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

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

2. Section 76.51 is amended by revising paragraph (a)(28) to read as follows:

§ 76.51 Major television markets.

* * * * *

(a) * * *

(28) Los Angeles-San Bernardino-Corona-Riverside-Anaheim, California.

* * * * *

Federal Communications Commission.

William H. Johnson,

Deputy Chief, Cable Services Bureau.

[FR Doc. 95-21610 Filed 8-30-95; 8:45 am]

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DEPARTMENT OF DEFENSE

48 CFR Parts 228 and 252

[DFARS Case 95-D305]

Defense Federal Acquisition Regulation Supplement; Alternatives to Miller Act Bonds

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide alternatives to Miller Act bond requirements for construction contracts between \$25,000 and \$100,000.

DATES: *Effective Date:* August 31, 1995.

Comment Date: Comments on the interim rule should be submitted in writing to the address below on or before October 30, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 95-D305