

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

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 96-226<sup>1</sup>  
Table of Allotments, ) RM-8893  
FM Broadcast Stations. )  
(Sturgis, Kentucky) )

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: September 2, 1998;

Released: September 11, 1998

By the Chief, Allocations Branch:

1. At the request of JoeMyers Productions, Inc. ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 11 FCC Rcd 20405 (1996), proposing the allotment of Channel 289A at Sturgis, Kentucky, as the community's first local aural transmission service. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted. Comments were also filed by Pinnacle Southeast, Inc. ("Pinnacle"), licensee of Station WYNG(FM), Channel 287B, Evansville, Indiana.

2. In its comments, Pinnacle alleges that Station WYNG(FM) is a pre-1964 grandfathered short-spaced station whose ability to modify, improve, or relocate its existing facilities is severely hampered by the Commission's current rules.<sup>2</sup> Indeed, Pinnacle asserts that Station WYNG(FM)'s only means of upgrading its facilities and relieving its grandfathered short-spacing situation would be to move its transmitter away from the direction of the short-spacing. However, Pinnacle contends that any available transmitter sites would effectively be blocked by the allotment of Channel 289A at Sturgis. Therefore, Pinnacle suggests that since petitioner withdrew its rulemaking proposal for the allotment of Channel 267A at Princeton, Kentucky, in MM Docket No. 96-204, the channel can now be allotted to Sturgis in this proceeding.<sup>3</sup> Pinnacle further contends that the allotment of Channel 267A in lieu of Channel 289A

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<sup>1</sup>A duplicate docket number (MM Docket No. 96-220) was erroneously reflected on the Notice of Proposed Rule Making. The correct docket number should be MM Docket No. 96-226.

<sup>2</sup>We note that the Commission issued a Report and Order giving grandfathered short-spaced stations greater flexibility to improve their facilities and relocate their transmitter sites. See Grandfathered Short-Spaced FM Stations, 12 FCC Rcd 11840 (1997); 62 FR 50518, September 26, 1997.

<sup>3</sup>On November 20, 1996, petitioner withdrew its proposal to allot Channel 267A at Princeton, Kentucky, as the community's second local FM transmission service.

would better serve the public interest because it would permit Station WYNG(FM) to improve or upgrade its facilities and provide Sturgis with a first local aural service.

3. We believe the public interest would be served by allotting Channel 267A at Sturgis, Kentucky, since it would provide the community with its first local aural transmission service. Furthermore, the allotment of alternate Channel 267A would permit Station WYNG(FM) to pursue its available alternatives for upgrading or maximizing its facilities, and petitioner has interposed no objection to the allotment of alternate Channel 267A at Sturgis. An engineering analysis has determined that Channel 267A can be allotted to Sturgis in compliance with the Commission's minimum distance separation requirements at city reference coordinates.<sup>4</sup>

4. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 26, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Sturgis, Kentucky	267A

5. A filing window for Channel 267A at Sturgis, Kentucky, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

7. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>4</sup>The coordinates for Channel 267A at Sturgis are North Latitude 37-32-54 and West Longitude 87-59-06.