

FCC Makes Changing City of License of Radio Stations More Difficult

January 11, 2012 by [David Oxenford](#)

Changing the city of license of an AM or FM station is getting more difficult, based on recent FCC decisions. As we have [written before, the FCC's Rural Radio order](#) changed the manner in which the FCC reviews **city of license changes**. In connection with any proposed city of license change, the FCC reviews the proposal to make sure that the change will result in a favorable arrangement of allotments, making sure that the distribution of radio channels is in the public interest. In making that decision, the FCC has relied on a series of priorities - first insuring that all areas of the country get at least two radio reception services (Priority 1 was to provide service to "**white areas**" that currently receive no radio service at all, Priority 2 was to provide a second reception service to all areas). The next priority was to provide as many communities as possible with their first "**transmission service**", i.e. a station licensed to that community that would have a primary responsibility to address its needs and interests. Finally, if there was no proposal to provide a first or second reception service or a first local transmission service, the FCC looked at Priority 4 factors, i.e. other public interest matters. In the past, service to a greater number of people itself was a Priority 4 consideration. Based on [a case](#) released last week, service to a greater population apparently is no longer be viewed as justification for the change in the city of license of a radio station - even if the proposed move is from a rural community that already has a significant amount of service to a similarly well served urbanized area and results in a significant increase in the population served by the station.

The Rural Radio order changed the Priority 3 preference for a first transmission service by determining that any proposal for a city of license within an **urbanized area** would be viewed as being a proposal for service to the entire urbanized area (meaning that, instead of being a first local service to a named community, all the stations in the urbanized area would be considered as serving the same city). Thus, a proposal to take a station from a rural area (e.g. proposing to take the third radio station from some smaller rural town) to a city without a service in a urbanized area would no longer be viewed as providing the first local transmission service to the suburban community (but would instead be viewed as being a proposal to provide just another service to a metro area that probably already has many stations that are licensed to the various communities in the urbanized area). Some had thought that, while Priority 3 would no longer justify such a move, a Priority 4 preference would be available if the move would allow the station to serve a much larger population, and if any loss area was already well served. In the proposed move discussed last week, the Commission relied on language in the Rural Radio Order that stated that population increases alone would not be enough to justify a city of license change when a station proposed to move into an urbanized area. In [this case](#), the Commission's staff found wanting a proposal to move from the well-served community of Boone, Iowa to a community in the Des Moines urbanized area - even though the proposed

change would result in service to over 300,000 more people than are currently served by the station - increasing the number of people served by the station from less than 100,000 to over 400,000. The request was not denied outright, but instead the applicant was given another opportunity to supply additional information to demonstrate the public interest benefits that would result from the move.

The Rural Radio presumptions seem to be looking for qualitative judgments about the areas and populations being served. Various petitions for reconsideration of the Rural Radio order have been filed and are pending before the FCC (including one that I filed for clients) questioning the revised presumptions - and asking how they can be applied in real life situations. In cases such as this one, and another decided last month, significant population increases that would vastly improve the reach of a station were deemed insufficient to justify a city of license move. Clearly, broadcasters and listeners would benefit from such moves, yet the Rural Radio Order seems to want to protect every listener choice of those in more rural parts of America. While the Order does not explicitly rule out all moves into urban areas, it does not provide any clear-cut guidelines as to when such moves might be seen to be in the public interest, or even as to what specific criteria will be evaluated when reviewing such moves. Will the Commission determine that loss of service to any area outside an urbanized area - no matter how well served that area may be - is more important than providing more service to an urbanized area? Seemingly, this will cut off all opportunities to move stations to urbanized areas, entrenching the competitive landscape that currently exists in such area, without any evaluation of the economic survival opportunities of these additional services in rural areas. New cases will probably answer such questions but, in the interim, many broadcasters will be left with little or no guidance on how such moves will be treated.

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