

basis if such ownership interests, in combination with other terms to an agreement, deprive an otherwise qualified applicant or licensee of *de facto* control.

**Note to Paragraph (c)(2)(ii)(A):** Mutually exclusive contingent ownership interests, i.e., one or more ownership interests that, by their terms, are mutually exclusive of one or more other ownership interests, shall be calculated as having been fully exercised only in the possible combinations in which they can be exercised by their holder(s). A contingent ownership interest is mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

\* \* \* \* \*

(5) \* \* \*

(v) Affiliation arising under stock options, convertible debentures, and agreements to merge. Except as set forth in paragraph (c)(2)(ii)(A)(2) of this section, stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

**Example 1 to paragraph (c)(5)(v).** If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in a PCS application, the situation is treated as though company B had exercised its rights and had become owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

\* \* \* \* \*

**Note to Paragraph (c)(5)(v):** Mutually exclusive contingent ownership interests, i.e., one or more ownership interests that, by their terms, are mutually exclusive of one or more other ownership interests, shall be calculated as having been fully exercised only in the possible combinations in which they can be exercised by their holder(s). A contingent ownership interest is mutually exclusive of another only if contractual language specifies that both interests cannot be held simultaneously as present ownership interests.

\* \* \* \* \*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-690; MM Docket No. 97-178; RM-8329, RM-8739, RM-10099]

#### Radio Broadcasting Services; West Hurley, Rosendale and Rhinebeck, NY, and North Canaan and Sharon, CT

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, petition for reconsideration, denied.

**SUMMARY:** This document denies a Petition for Reconsideration filed by Sacred Heart University, Inc. directed to the *Report and Order* in this proceeding. See 66 FR 39454, published July 31, 2001. Specifically, that action allotted Channel 273A\* to Rhinebeck, New York, and reserved this channel for noncommercial educational use. With this action, the proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418-2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 97-178, adopted March 6, 2002, and released March 8, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals 11, CY-A257, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Federal Communications Commission.

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

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-693; MM Docket No. 99-28, RM-9438]

#### Radio Broadcasting Services; Olathe, Colorado.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission grants a petition for rule making filed by Mountain West Broadcasting to allot Channel 270C2 to Olathe, Colorado, as a second local transmission service. See 64 FR 7846 (February 17, 1999). Channel 270C2 can be allotted to Olathe at reference coordinates 38-36-18 NL and 107-58-54 WL without a site restriction in compliance with the Commission's technical requirements for spacing and city grade coverage. The Commission dismissed the counterproposal filed by the licensee of Station KAVD(FM), Limon, CO, at its request in compliance with Section 1.420(j) of the Commission's Rules.

**DATES:** Effective May 6, 2002.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99-28 adopted March 13, 2002 and released March 22, 2002. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### 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—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 270C2 at Olathe.

Federal Communications Commission.

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

[FR Doc. 02-8397 Filed 4-5-02; 8:45 am]

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