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April 27, 1993

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APR 27 1993

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

Mr. Larry Eads, Chief  
 Audio Services Division  
 Mass Media Bureau  
 Federal Communications Commission  
 1919 M Street, N.W.  
 Washington, D.C. 20554

Re: MM Docket No. 93-37  
 FCC File BPED-900905MI

Dear Mr. Eads;

Pursuant to Judge Chachkin's Memorandum Opinion And Order, released April 26, 1993 (FCC 93M-188), I am transmitting a copy of an amendment filed to the application of Beacon Broadcasting Corporation (hereafter "Beacon") in the above-captioned comparative hearing involving Beacon and Lehigh Valley Community Broadcasters Association, Inc. (hereafter "Lehigh"). The Hearing Designation Order in the proceeding (copy attached) required Beacon and Lehigh to submit amendments to the environmental assessments in their respective applications to address RF exposure to workers on their proposed towers.

The amendment by Beacon addresses the HDO in this regard and has been accepted for filing by Judge Chachkin. However, Judge Chachkin's Order expresses no opinion about the RF showing, but leaves the resolution of this question to the Chief, Audio Services Division.

The parties to the proceeding have filed a settlement agreement with Judge Chachkin that, if approved, will resolve the mutual-exclusivity between the parties and allow for a prompt grant of Beacon's application. Accordingly, Beacon requests that you review the enclosed amendment and file comments on Beacon's RF showing at the earliest possible time.

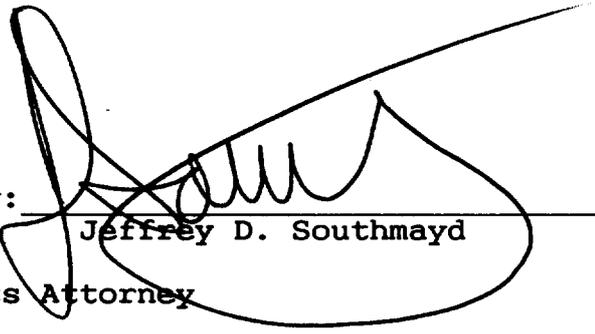
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Please contact the undersigned should you have any questions regarding this matter.

Very truly yours,

Beacon Broadcasting Corporation

By: 

Jeffrey D. Southmayd

Its Attorney

Enclosure

cc: Honorable Joseph Chachkin  
Gary Schonman, Esquire  
Malcolm G. Stevenson, Esquire

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

MM Docket No. 93-37

In re Applications of

LEHIGH VALLEY COMMUNITY  
BROADCASTERS  
BOARD OF DIRECTORS  
(Hereafter "Lehigh")  
Allentown, Pennsylvania  
Req: 89.3 MHz; Channel 207A  
0.12 kW (H&V); 245 meters (H&V)

BEACON BROADCASTING CORPORATION  
(Hereafter "Beacon")  
Allentown, Pennsylvania  
Req: 89.3 MHz; Channel 207A  
0.150 kW (H&V); 244.8 meters (H&V)

NORTHAMPTON COMMUNITY COLLEGE  
(Hereafter "Northampton")  
Bethlehem Township, Pennsylvania  
Req: 89.5 MHz; Channel 208A  
0.004 kW (H) 0.100 kW (V)  
20 meters (H&V)

For Construction Permit for a  
New Noncommercial, Educational  
FM Station

**HEARING DESIGNATION ORDER**

Adopted: February 5, 1993;

Released: March 9, 1993

By the Chief, Audio Services Division:

1. The Commission has before it the above-captioned mutually exclusive applications for a new, noncommercial, educational FM station.

2. *Preliminary Matters.* On November 13, 1990, the Chief, FM Branch returned Northampton's application because the protected contour (60dBu) of the Northampton proposal would overlap the interfering contour (54dBu) of first adjacent channel station WDVR(FM), Delaware Township, New Jersey in violation of 47 C.F.R. § 73.509. On December 12, 1990, Northampton filed a petition for reconsideration of this return. Specifically, Northampton's petition (1) admitted that it had made a typographical error in the preparation of its application, and did not contest the staff study of its application; (2) stated that it was not possible to file a curative amendment to eliminate or sub-

stantially mitigate the interference received; and (3) requested a waiver of 47 C.F.R. § 73.509. In support of its waiver request, Northampton stated that: (1) the frequency requested is the only usable frequency with which to construct a facility on the College's campus; (2) its proposal does not cause interference to other stations; rather, Northampton would only receive interference. This received interference is acceptable to the college and not detrimental to the goals of the broadcast program; (3) the proposed station will be an integral part of the College's communications curriculum which will be used for community outreach; and (4) the Commission has a special obligation under the terms of the Communications Act to ensure a fair and equitable distribution of available broadcast channels, and denial of the waiver request will preclude a local, educational broadcast service to the Bethlehem, Pennsylvania area.

3. We disagree with Northampton's assertions. An engineering study of Northampton's proposal reveals that the received prohibited contour overlap would encompass 58 percent of Northampton's proposed 60 dBu protected contour. As originally filed, Northampton's application thus failed to comply with the Commission's technical requirements as articulated in 47 C.F.R. § 73.509. Furthermore, Northampton did not request a waiver of this rule section at the time its application was filed. As such, the application was properly returned as unacceptable for filing pursuant to 47 C.F.R. § 73.3566(a). (Applications which are determined to be patently not in accordance with the FCC rules, regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing...) As the Commission has previously stated, all stations have a potential preclusionary effect as to the institution of other nearby facilities for new or increased FM broadcast service to the public. Proposed facilities which involve overlap received contribute toward less efficient channel usage because the overlap received decreases the normally protected 60 dBu service area, while continuing to cause the same preclusionary consequences as a fully efficient facility (i.e. one without the overlap received). Accordingly, to waive the prohibition against overlap based on the reasons proffered by Northampton would effectively nullify the prohibition against overlap as a means of assuring efficient utilization of the FM broadcast spectrum.

4. In a recent decision involving waiver requests of contour overlap caused and received, the Commission distinguished first adjacent channel overlap from second or third adjacent channel contour overlap:

Overlap of co-channel or first adjacent channel signals is a more serious matter since the interference that may occur results in the loss of service over a wide area. Second or third adjacent channel overlap may result in the replacement of one signal by another (not the complete loss of service) and is confined to a very small area around the transmitter of the interfering station. In addition, the potential for such interference to occur depends to a great extent on the quality of the receivers used within the affected area.

See *Educational Information Corporation*, 6 FCC Rcd 2207, 2208 (1991), at Paragraph 9. Compelling circumstances must be advanced before waivers of 47 C.F.R. § 73.509 for first-adjacent stations can be considered. This has not been

done in the instant case. Consequently, Northampton's request for a waiver of 47 C.F.R. § 73.509, and its petition for reconsideration, will be denied<sup>1</sup>.

5. *Lehigh*. On May 11, 1990, Lehigh amended its application to indicate that it was financially dependent upon a Federal grant administered by the National Telecommunications and Information Administration. Commission records indicate that Lehigh has not received this grant. Accordingly, an appropriate financial issue will be specified.

6. Lehigh has amended Item 8, Section II of its application on May 11, 1990, February 25, 1991, and November 18, 1991 to reflect changes in its Board of Directors. However, the applicant failed to include amended responses to Section II, Items 6, 7, and 9 of FCC 340 in these three amendments. Accordingly, Lehigh will be required to file an amendment with respect to these Items with the presiding Administrative Law Judge within 30 days of the release of this Order.

7. Lehigh proposes to mount its antenna on the existing tower of WFMZ-TV, Allentown, Pennsylvania. However, engineering analysis of Lehigh's application reveals a discrepancy between the information contained in the Commission's data base for this tower and that provided by the applicant. Specifically, Lehigh lists the overall height above ground level and overall height above mean sea level of its antenna's supporting structure (the WFMZ-TV tower) as 140 meters and 424 meters, respectively. However, the Commission's database for these parameters reflects 150.9 meters and 434.3 meters, respectively. Accordingly, Lehigh will be required to file an amendment with the presiding Administrative Law Judge which corrects this discrepancy within 30 days of the release of this Order.

8. *Beacon*. In a letter dated May 10, 1991, the Chief, FM Branch returned Beacon's application as unacceptable for filing due to prohibited contour overlap to station WRDV(FM), Warminster, Pennsylvania in violation of 47 C.F.R. § 73.509. In the letter, the Chief, FM Branch noted:

[P]ursuant to the Commission's *Public Notice* entitled "Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications" [56 RR 2d 776 (1984)]... the Commission indicated that it would provide *one* opportunity to reinstate applications *nunc pro tunc* where the original application was returned and where a relatively minor curative amendment was filed within 30 days of the date of the return of the application. (emphasis in original)

Beacon's application was retendered on June 10, 1991 accompanied by an amendment which, Beacon claimed, corrected the engineering defect that resulted in the return of the original application. On October 1, 1991, Beacon's application BPED-900905ML was reinstated *nunc pro tunc*.

sion Channel 6, Philadelphia, Pennsylvania, in violation of 47 C.F.R. § 73.525; (2) that Beacon's plotted transmitter site does not agree with the coordinates specified in Section VB, Item 2(b) of its application; and (3) that Beacon's Exhibit VB-2(b) (page 4), sets forth values which exceed the 0.135 kW directional antenna value proposed elsewhere in Beacon's application. Lehigh contends that Beacon has already been afforded an opportunity to correct its defective proposal and receive *nunc pro tunc* acceptance of its application. Consequently, Lehigh argues, resubmission at this time, to correct these additional defects, is expressly barred by the following policy respecting the processing of FM construction permits enunciated in the *Public Notice*, *supra*:

In the future, we will, however, expect such applicants to completely review *all* portions of a returned or dismissed application. Thereafter, if the same application is returned or dismissed a second time, it will *not* be afforded *nunc pro tunc* reconsideration rights. (emphasis original)

Therefore, Lehigh contends, Beacon's application, as amended on June 10, 1991, remains patently defective.

9. On December 20, 1991, Beacon filed an opposition to Lehigh's petition. Beacon included in its opposition an engineering statement specifying the method utilized to determine the potential interference area with WPVI(TV). Beacon concluded that the method of determining interference to WPVI(TV) is consistent with Section 73.525(e)(1) of the Commission's rules. With regard to the alleged misplotted transmitter site on the site map, Beacon acknowledges that the transmitter site was incorrectly plotted by a few feet. However, Beacon stated that the proposed antenna is to be mounted on an existing tower at an established antenna farm and due to the numerous towers in the area, confusion over the specific location of the proposed tower was inadvertently plotted in error. Beacon claimed that all other tower information provided within the application was correct. Accordingly, Beacon simultaneously filed an amendment to correct this minor discrepancy. As support for acceptance of the amendment, Beacon stated that the Commission has held in the past that the incorrect plotting of the proposed antenna site is not an issue when the proposed antenna will be located on an existing tower whose site location is a matter of record with the Commission. With regard to Lehigh's allegation that Beacon's Exhibit VB-2(b) contained incorrect information regarding the proposed directional antenna system, Beacon stated that this defect was a typographical error, but the correct information is clearly contained elsewhere in the application, specifically in Exhibit IV and Exhibit VB-2.

10. On January 15, 1992, Lehigh filed both a reply to the opposition and an opposition to Beacon's December 20,

late-filed amendment nor proffered any justification for its acceptance by the Commission, and therefore, Beacon's amendment must be rejected. Lehigh reiterates its argument that Beacon's amendment must be rejected, in any event, because Beacon has already had one opportunity to correct its defective application, and any further attempt to shore up that proposal through an additional amendment is expressly barred by the Commission's policy statement respecting the processing of defective AM and FM construction permit applications.

11. Beacon proposes to co-locate its antenna on the television tower of WFMZ(TV), Allentown, Pennsylvania. It has been longstanding Commission policy that if an applicant has specified inconsistent data, but clearly proposes to locate its antenna on an existing tower to which specific reference is made in its application, the staff takes official notice of data specified in Commission records for the licensed facilities, and thus often can confidently and reliably resolve the inaccuracy or inconsistency in the data given for the proposed tower location or height. See *R. Donnie Goodale*, 7 FCC Rcd 1495 (1992); *David T. Murray*, 5 FCC Rcd 5770 (1990); and *Steven B. Courts*, 4 FCC Rcd 4764 (1989). Accordingly, for administrative convenience and good cause, we shall accept Beacon's December 20, 1991 amendment which corrects the discrepant coordinates.

12. We now turn to the allegations raised by Lehigh with respect to Beacon's compliance with the Commission's rules pertaining to interference to television channel six as set forth in 47 C.F.R. § 73.525. Lehigh contends that Beacon's application should be dismissed because of predicted interference to Channel 6 television station WPVI, Philadelphia, Pennsylvania. However, contrary to Lehigh's contention, noncompliance with Section 73.525 does not affect the acceptability of Beacon's application. Nevertheless, the Commission could not grant Beacon's application until this defect is corrected.

13. On May 28, 1992, Capital Cities/ABC, the licensee of WPVI-TV, Philadelphia, Pennsylvania filed an informal objection to Beacon's application. The objection asserted that Beacon's proposal would result in interference to the signal of its station. As a result of this objection, Beacon filed an amendment on July 27, 1992 which brings its application into compliance with Section 73.525 by a reduction in the number of people who will receive interference and by the installation of filters within the area predicted to receive interference. Lastly, Beacon's July 27, 1992 amendment corrected the directional antenna value discrepancy by reducing the proposed effective radiated power to 0.125 kilowatts vertically polarized and utilizing a more restrictive directional antenna pattern. Accordingly, in light of the above discussion, both Lehigh's petition and Capital Cities/ABC's informal objection will be denied.

14. Engineering analysis of Beacon's application reveals that the proposed maximum ERP of 0.15 kilowatts (V) as listed in Section V-B, Question 9(a), of Beacon's amendment, is not supported in the rest of Beacon's July 27, 1992 amendment. In Beacon's engineering statement, Beacon requests an ERP of 0.125 kilowatts (V) and the 0.125 kilowatts (V) ERP is listed as the maximum ERP everywhere else in the amendment. This discrepancy appears to be a typographical error. The Commission allows such typographical errors to be corrected by an amendment, if the correct information is contained elsewhere in the application. Furthermore, in Exhibit VB-7, titled "Directional Antenna Information" there is an error which appears

to be typographical. In this exhibit, the adjusted effective radiated power at an azimuth of 225° is listed as -23.98 dBk. However, using the relative field factor of 0.566 at the 225° azimuth, the adjusted effective radiated power is calculated to be -13.98 dBk. The Commission allows such typographical errors to be corrected by an amendment, if the correct information can be confidently obtained using other information contained elsewhere in the application.

15. In addition, an engineering review of Beacon's application also reveals a discrepancy in its listed overall height above ground level and overall height above mean sea level of its proposed antenna supporting structure. Beacon states that it is mounting on WFMZ(TV)'s existing tower at the coordinates 40° 33' 54" N.L., 75° 26' 26" W.L. In its application, Beacon lists the overall height above ground level and overall height above mean sea level of the antenna's supporting structure as 204 meters and 487 meters, respectively. However, the overall height above ground level and overall height above mean sea level of the antenna supporting structure are listed by the FAA as 150.9 meters and 434.3 meters, respectively. Furthermore, the Commission's database shows that there is another tower in the vicinity of Beacon's proposed coordinates; it is listed at 40° 33' 55" N.L., 75° 26' 26" W.L. with an overall height above ground level and an overall height above mean sea level of the antenna's supporting structure as 203.6 meters and 487.1 meters, respectively. Since these defects in Beacon's application pertain to its grantability, and not acceptability, Beacon's application is not in violation of the Commission's policy on the processing of patently defective AM and FM applications as set forth in the *Public Notice, supra*. Accordingly, Beacon shall be required to file an amendment with the presiding Administrative Law Judge within 30 days of the date of this Order to correct the above-listed discrepancies.

16. Lastly, an engineering study of Beacon's amended application reveals that its amended Channel 6 interference study was done in accordance with 47 C.F.R. § 73.525. The number of people calculated to be inside the Channel 6 interference area is 3,102. Therefore, the installation of 102 filters on television receivers would be necessary for Beacon's proposal to be in compliance with 47 C.F.R. § 73.525. Accordingly, if Beacon is awarded a construction permit as a result of this proceeding, its compliance with the following condition will be required:

In accordance with Section 73.525 of the Commission's Rules, Beacon shall effectively install 102 filters on television receivers located within the predicted interference area within ninety (90) days after commencing program tests and, no later than forty five (45) days thereafter, provide TV channel six Station WPVI(TV) with a certification containing sufficient information to permit verification of such installations. [The number of filters to be installed within the area predicted to receive new interference shall be 102.]

17. *Other Matters.* Both Lehigh and Beacon propose to locate their transmitting antennas on the existing tower of WFMZ, Allentown, Pennsylvania. Our engineering study indicates that the applicants failed to address the matter of how they propose to resolve any RF exposure to workers on their respective towers. See 47 C.F.R. § 1.1307(b). Consequently, we are concerned that each may have failed to comply with the environmental criteria set forth in the

*Report and Order* in GEN Docket No. 79-163, 51 Fed. Reg. 14999 (April 12, 1986). See also, *Public Notice* entitled "Further Guidance for Broadcasters Regarding Radiofrequency Radiation and the Environment" (released January 24, 1986). Under the rules, applicants must determine whether their proposals would have a significant environmental effect under the criteria set out in 47 C.F.R. § 1.1307. If the application is determined to be subject to environmental processing under the 47 C.F.R. § 1.1307 criteria, the applicant must then submit an Environmental Assessment (EA) containing the information delineated in 47 C.F.R. § 1.1311. Section 1.1307 states that an EA must be prepared if the proposed operation would cause exposure to workers or the general public to levels of RF radiation exceeding specific standards. Since the applicants failed to indicate how workers engaged in maintenance and repair would be protected from exposure to levels exceeding the ANSI guidelines, each will be required to submit the environmental impact information described in 47 C.F.R. § 1.1311. See generally, OST Bulletin No. 65 (October, 1985) entitled "Evaluating Compliance With FCC-Specified Guidelines For Human Exposure to Radiofrequency Radiation," at 28. In situations such as those of Lehigh and Beacon, where there are multiple contributors to radiofrequency radiation, it is necessary to submit a certification that an agreement will be in effect requiring all stations to reduce power or cease operations, as necessary, to assure worker safety with respect to radiofrequency radiation when construction or maintenance is to be performed at the site. See *Public Notice*, August 19, 1992, Mimeo 24479. Therefore Lehigh and Beacon will be required to file, within 30 days of the release of this Order an EA, containing the requisite certification of agreement, with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of 47 C.F.R. § 1.1308. Accordingly, the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980). In the event the Mass Media Bureau determines, based on its analysis of the Environmental Assessments, that the applicants' proposals will not have a significant impact upon the quality of the human environment, the contingent environmental issue shall be deleted and the presiding judge shall thereafter not consider the environmental effects of the proposal. See 47 C.F.R. § 1.1308(d).

18. Lehigh and Beacon both propose to co-locate their antennas above the directional antennas of translator stations W285DB, Allentown, Pennsylvania and W204AC, Emmaus, Pennsylvania. Since their transmission lines would pass by these translators' directional antennas, there is a possibility that their transmission lines could disrupt the translators' directional antenna patterns. Accordingly, Lehigh and Beacon must submit exhibits demonstrating that their proposed facilities would have no adverse effect on the translators' directional antenna patterns.

19. Beacon petitioned for leave to amend its application after the last day for filing amendments as of right. The subject amendments were accompanied by the good cause showing required by 47 C.F.R. § 73.3522(a)(2); consequently, the amendments are accepted for filing. However, an applicant may not improve its comparative position after

the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendments will be disallowed.

20. Lehigh petitioned for leave to amend its application on March 28, 1991 and November 18, 1991 and October 23, 1992. The accompanying amendments were filed after the last date for filing minor amendments as of right. Under Section 1.65 of the Commission's Rules, the amendments are accepted for filing. However, an applicant may not improve its comparative position after the time for filing amendments as of right has passed. Therefore, any comparative advantage resulting from the amendments will be disallowed.

21. *Share-time Arrangement*. An issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus better serve the public interest. *Granfallon Denver Educational Broadcasting, Inc.*, 43 Fed. reg. 49560 (October 24, 1978). It should be noted that our action specifying a share-time issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

22. Inasmuch as it appears that there would be a significant difference in the size of the areas and populations which would receive service from the proposals, and since this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

23. Except as may be indicated by any issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

24. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Lehigh, whether the applicant is financially qualified.
2. If a final environmental impact statement is issued with respect to Lehigh or Beacon in which it is concluded that the proposed facility is likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by 47 C.F.R. §§ 1.1301-1319.
3. To determine: (a) whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof; (b) the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; and (c) whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

4. To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if either.

the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

25. IT IS FURTHER ORDERED, That Northampton's request for waiver of 47 C.F.R. § 73.509 and its petition for reconsideration ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

26. IT IS FURTHER ORDERED, That Lehigh shall, within 30 days of the release of this Order, file with the presiding Administrative Law Judge the amendments set forth in paragraphs 7 and 8, hereinabove.

Larry D. Eads, Chief  
Audio Services Division  
Mass Media Bureau

27. IT IS FURTHER ORDERED, That in light of the discussion in paragraphs 10 through 15, above, Lehigh's petition to deny the application of Beacon and the Capital Cities/ABC informal objection ARE DENIED.

RECEIPT COPY

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APR 8 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of ) MM Docket No. 93-37  
)  
LEHIGH VALLEY COMMUNITY BROADCASTERS ) FCC File No.  
BOARD OF DIRECTORS ) BPED-891019MF  
)  
BEACON BROADCASTING ) FCC File No.  
CORPORATION ) BPED-900905ML  
)  
For a noncommercial FM Broadcast )  
Station at Allentown, Pennsylvania )

To: Hon. Joseph Chachkin,  
Administrative Law Judge

PETITION FOR LEAVE TO AMEND

Beacon Broadcasting Corporation, through counsel, hereby respectfully seeks leave to amend its above-captioned application to include the attached engineering amendment. As will be shown herein, good cause exists for the acceptance of the amendment.

1. The applications captioned-above were designated for comparative hearing pursuant to Hearing Designation Order, DA 93-154, released March 9, 1993 (hereafter the "HDO"). The HDO required Beacon to file various amendments to its application within thirty days of the release date in response to certain paragraphs in that document.

2. Paragraph 28 requires an amendment be filed to correct discrepancies discussed in "...paragraphs 16 and 17..." of the HDO. The paragraph numbers noted therein do not appear to be correct

inasmuch as these paragraphs do not discuss potential errors in the Beacon application requiring amendment. Rather, paragraphs 14 and 15 in the HDO discuss defects in the application that require amendment. These defects involve discrepancies in the effective radiated power and antenna heights listed in the application. The subject amendment corrects the discrepancies on the effective radiated power and demonstrates that the information requested in paragraph 15 in the HDO has previously been supplied correctly in the application.

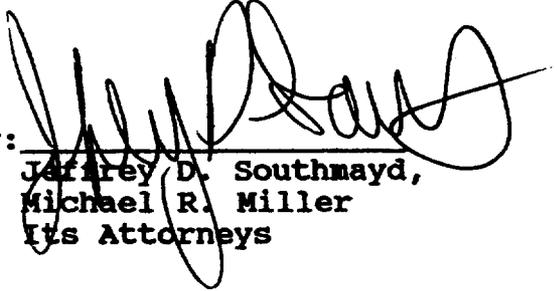
3. Paragraph 17 in the HDO indicates that Beacon has failed to address the matter of how it proposes to resolve any RF exposure to workers on its proposed tower. As the attached engineering amendment indicates, Beacon did in fact address this matter in its application. It is believed by Beacon that its original showing in this regard fully complies with the Commission's policy for resolving RF exposure to workers on the tower.

4. Finally, paragraph 18 in the HDO asks both applicants to demonstrate that their proposed facilities will have no adverse effect on the operation of two FM translators located on their proposed tower. The attached engineering amendment makes such a demonstration as to Beacon's proposed operation.

Based on the foregoing, good cause exists for the acceptance of the subject amendment. Beacon claims no comparative advantage from the acceptance of the amendment.

Respectfully submitted,

BEACON BROADCASTING CORPORATION

By:   
Jeffrey D. Southmayd,  
Michael R. Miller  
Its Attorneys

SOUTHMAYD & MILLER  
1233 20th Street, N.W.  
Suite 205  
Washington, D.C. 20036  
(202) 331-4100

April 8, 1993

**CERTIFICATE OF AMENDMENT**

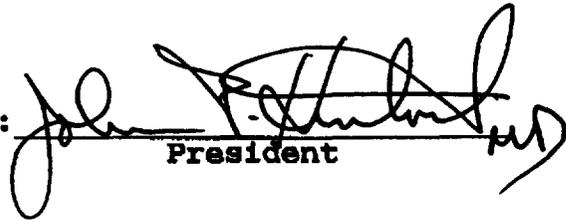
**RE: FCC File BPED-900905ML**

**Beacon Broadcasting Corporation hereby amends its above-referenced application to include an engineering amendment responsive to the Hearing Designation Order in MM Docket No. 93-37.**

**Beacon Broadcasting Corporation**

**Date: April 8, 1993**

**By:**

  
**President**

CORRECTED

Section V-B - FM BROADCAST ENGINEERING DATA

FOR COMMISSION USE ONLY

File No.

ASB Referral Date

Referred by

COPY

Name of Applicant

BEACON BROADCASTING CORPORATION

Call letters (if issued)

NEW

Is this application being filed in response to a window?  Yes  No

If Yes, specify closing date: N/A

Purpose of Application: (check appropriate boxes)

Construct a new (main) facility.

Construct a new auxiliary facility

CORRECTED

4. Does the application propose to correct previous site coordinates?  
If Yes, list old coordinates.

Yes  No

Latitude	N/A	Longitude	N/A
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5. Has the FAA been notified of the proposed construction?  
If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available.

Yes  No

Exhibit No.  
N/A

Date N/A Office where filed N/A

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to nearest point of the nearest runway.

Landing Area	Distance (km)	Bearing (degrees True)
(a) <u>Allentown Queen City</u>	<u>3.20</u>	<u>279°</u>
(b) _____	_____	_____

7. (a) Elevation: *(to the nearest meter)*

- (1) of site above mean sea level: 283.4 meters
- (2) of the top of supporting structure above ground (including antenna, all other appurtenances, and lighting, if any); and 203.6 meters
- (3) of the top of supporting structure above mean sea level [(aX1) + (aX2)] 487.0 meters

(b) Height of radiation center: *(to the nearest meter)* H = Horizontal; V = Vertical

- (1) above ground N/A meters (-)
- 113.0 meters (-)
- (2) above mean sea level: [(aX1) + (bX1)] N/A meters (-)
- 396.4 meters (-)
- (3) above average terrain N/A meters (-)
- 244.8 meters (-)

8. Attach as an Exhibit sketch(es) of the supporting structure, labelling all elevations required in Question 7 above, except item 7(bX3). If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator.

Exhibit No.  
VB-1

9. Effective Radiated Power:

(a) ERP in the horizontal plane N/A kw (HM) 0.125 kw (VM)

(b) Is beam tilt proposed?  Yes  No

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

N/A kw (HM) N/A kw (VM)

Exhibit No.  
N/A

10. Is a directional antenna proposed?

Yes  No

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316, including plot(s) and tabulations of horizontally and vertically polarized radiated components in terms of relative field.

Exhibit No.  
VB-7

11. Will the main studio be located within the 70 dBu or 3.16 mV/m contour?

Yes  No

If No, attach as an Exhibit justification pursuant to 47 C.F.R. Section 73.1125.

Exhibit No.  
N/A

12. Are there: (a) within 50 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast (except citizens band or amateur) radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?

Yes  No

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(d) and 73.318.)

Exhibit No.  
VB-2

13. Attach as an Exhibit a 7.5 minute series U.S. Geological Survey topographic quadrangle map that shows clearly, legibly, and accurately, the location of the proposed transmitting antenna. This map must comply with the requirements set forth in Instruction D for Section V. Further, the map must clearly and legibly display the original printed contour lines and data as well as latitude and longitude markings, and must bear a scale of distance in kilometers.

Exhibit No.  
VB-3

14. Attach as an Exhibit (in one source) a map which shows clearly, legibly, and accurately, and with the original printed latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.  
VB-4

- (a) the proposed transmitter location, and the radials along with profile graphs have been prepared;
- (b) the 1 mV/m predicted contour and, for noncommercial educational applicants applying on a commercial channel, the 3.16 mV/m contour; and
- (c) the legal boundaries of the principal community to be served.

15. Specify area in square kilometers (1 sq. mi. = 2.59 sq. km.) and population (latest census) within the predicted 1 mV/m contour.

Area 494 sq. km. Population 286,093

16. Attach as an Exhibit a map (Sectional Aeronautical charts where obtainable) showing the present and proposed 1 mV/m (60 dbu) contours.

Exhibit No.  
VB-3

Enter the following from Exhibit above: Gain Area 0 sq. mi.  
Loss Area 143 sq. mi. (370 sq km)

Percent change (gain area plus loss area as percentage of present area) 42.8 %.

If 50% or more this constitutes a major change. Indicate in question 2(c), Section I, accordingly.

Exhibit No.  
N/A

17. For an application involving an auxiliary facility only, attach as an Exhibit a map (Sectional Aeronautical Chart or equivalent) that shows clearly, legibly, and accurately, and with latitude and longitude markings and a scale of distance in kilometers:

(a) the proposed auxiliary 1 mV/m contour; and

(b) the 1 mV/m contour of the licensed main facility for which the applied-for facility will be auxiliary. Also specify the file number of the license. See 47 C.F.R. Section 73.1675. (File No.: N/A)

18. Terrain and coverage data to be calculated in accordance with 47 C.F.R. Section 73.2731.

Source of terrain data: (check only one box below)

Linearly interpolated 30-second database

7.5 minute topographic map

(Source: \_\_\_\_\_)

Other (briefly summarize)

Data taken from WFMZ-TV Station records on file with the FCC and verified by using 7½ minute topographic map.

Radial bearing (degrees True)	Height of radiation center above average elevation of radial from 3 to 16 km (meters)	Predicted Distances to the 1 mV/m contour (kilometers)
0	269.3	10.8
45	273.9	18.2
90	253.2	16.9
135	230.3	11.5
180	197.1	12.2
225	177.3	11.0
270	273.0	8.1
315	284.6	7.6

Allocation Studies

(See Subpart C of 47 C.F.R. Part 73)

19. Is the proposed antenna location within 320 kilometers (199 miles) of the common border between the United States and Mexico?

Yes  No

If Yes, attach as an Exhibit a showing of compliance with all provisions of the Agreement between the United States of America and the United Mexican States concerning Frequency Modulation Broadcasting in the 88 to 108 MHz band.

Exhibit No.  
N/A

20. Is the proposed antenna location within 320 kilometers of the common border between the United States and Canada?

Yes  No

If Yes, attach as an Exhibit a showing of compliance with all provisions of the Working Agreement for Allocation of FM Broadcasting Stations on Channels 201-300 under The Canada-United States FM Agreement of 1947.

Exhibit No.  
N/A

21. If the proposed operation is for a channel in the range from channel 201 through 220 (88.1 through 91.9 MHz), or if this proposed operation is for a class D station in the range from Channel 221 through 300 (92.1 through 107.9 MHz), attach as an Exhibit a complete allocation study to establish the lack of prohibited overlap of contours with other U.S. stations. The allocation study should include the following:

Exhibit No.  
VB-6

See Engineering Statement - Table I, Table III

- (a) The normally protected interference-free and the interfering contours for the proposed operation along all azimuths.
- (b) Complete normally protected interference-free contours of all other proposals and existing stations to which objectionable interference would be caused.
- (c) Interfering contours over pertinent arcs of all other proposals and existing stations from which objectionable interference would be received.
- (d) Normally protected and interfering contours over pertinent arcs, of all other proposals and existing stations, which require study to show the absence of objectionable interference.
- (e) Plot of the transmitter location of each station or proposal requiring investigation, with identifying call letters, file numbers and operating or proposed facilities.
- (f) When necessary to show more detail, an additional allocation study will be attached utilizing a map with a larger scale to clearly show interference or absence thereof.
- (g) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire Exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (h) The name of the map(s) used in the Exhibit(s).

22. With regard to any stations separated by 53 or 54 channels (10.6 or 10.8 MHz) attach as an Exhibit information required in 1/ (separation requirements involving intermediate frequency (i.f.) interference).

Exhibit No.  
N/A

23.(a) Is the proposed operation on Channel 218, 219, or 220?

Yes  No

(b) If the answer to (a) is yes, does the proposed operation satisfy the requirements of 47 C.F.R. Section 73.207?

Yes  No

(c) If the answer to (b) is yes, attach as an Exhibit information required in 1/ regarding separation requirements with respect to stations on Channels 221, 222 and 223.

Exhibit No.  
N/A

(d) If the answer to (b) is no, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

Exhibit No.  
N/A

1/ A showing that the proposed operation meets the minimum distance separation requirements. Include existing stations, proposed stations, and cities which appear in the Table of Allotments; the location and geographic coordinates of each antenna, proposed antenna or reference point, as appropriate; and distance to each from proposed antenna location.

CORRECTED

Exhibit No.  
N/A

(e) If authorization pursuant to 47 C.F.R. Section 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

- (1) Protected and interfering contours, in all directions (360 ), for the proposed operation.
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as transmitter location.
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (5) The official title(s) of the map(s) used in the exhibits(s).

24. Is the proposed station for a channel in the range from Channel 201 to 220 (88.1 through 91.9 MHz) and the proposed antenna location within the distance to an affected TV Channel 6 station(s) as defined in 47 C.F.R. Section 73.525?

Yes  No

If Yes, attach as an Exhibit either a TV Channel 6 agreement letter dated and signed by both parties or a map and an engineering statement with calculations demonstrating compliance with 47 C.F.R. Section 73.525 for each affected TV Channel 6 station.

Exhibit No.  
VB-9

25. Is the proposed station for a channel in the range from Channel 221 to 300 (92.1-107.9 MHz)?

Yes  No

If Yes, attach as an Exhibit information required in 17. (except for Class B (secondary) proposals.)

Exhibit No.  
N/A

26. Environmental Statement (See 47 C.F.R. Section 1.1301 et seq.)

Would a Commission grant of this application come within Section 1.1307 of the FCC Rules, such that it may have a significant environmental impact?

Yes  No

If you answer Yes, submit as an Exhibit an Environmental Assessment required by Section 1.1311.

Exhibit No.  
N/A

If No, explain briefly why not.

The proposed site is categorically excluded from environmental processing under the provisions of Section 1.1306 of the FCC Rules and Regulations.

SEE Exhibit VB-8.

CERTIFICATION

I certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have examined the foregoing and found it to be accurate and true to the best of my knowledge and belief.

Name (Typed or Printed) <b>Peter W. Lechman</b>	Relationship to Applicant (e.g., Consulting Engineer) <b>Telecommunications Consultant</b>
Signature 	Address (Include ZIP Code) <b>LECHMAN &amp; JOHNSON, INC. 16201 TRADE ZONE AVENUE, SUITE 106 UPPER MARLBORO, MARYLAND 20772</b>
Date <b>April 2, 1993</b>	Telephone No. (Include Area Code) <b>( 301 ) 390-0900</b>

**ENGINEERING AMENDMENT**

**BEACON BROADCASTING CORPORATION  
APPLICATION BPED-900905ML FOR A NEW NCE-FM STATION  
ALLENTOWN, PENNSYLVANIA**

**CHANNEL 207A 0.125 KW-V (MAX-DA) 245 M**



Engineering Amendment  
Beacon Broadcasting Corporation  
Allentown, Pennsylvania  
April 2, 1993  
Page Two

be  $\frac{1}{4}$  inch in diameter and located adjacent to transmission lines with sizes ranging from  $\frac{1}{4}$  inch to 6 inches, with the placement of Beacon's proposed transmission line grouped with the larger size transmission lines. Beacon's proposed transmission line will have no effect upon the translators directional antenna pattern. Specifically, these translators' antennas are highly directional with minimum radiation emitted toward the tower structure and or transmission lines located within the tower structure. Beacon will take precautions to assure that its proposed transmission line is grouped with the larger diameter size transmission lines that are used for other FM and TV stations co-located.

**LECHMAN & JOHNSON, INC.**



**Peter W. Lechman**  
**Telecommunications Consultant**  
**April 2, 1993**

**LECHMAN & JOHNSON, INC.**

CORRECTED

EXHIBIT VB-7

Page 2

DIRECTIONAL ANTENNA INFORMATION

BEACON BROADCASTING CORPORATION  
AMENDMENT TO APPLICATION FOR CONSTRUCTION PERMIT (BPED-900905ML)  
NON-COMMERCIAL FM RADIO STATION  
ALLENTOWN, PENNSYLVANIA

Channel 207A

0.125 kW (Max) DA

245 Meters

<u>Azimuth</u>	<u>Rel.Fld.</u>	<u>dB</u>	<u>dBk</u>	<u>kW</u>
0	0.357	-8.95	-17.98	0.01590
10	0.449	-6.95	-15.98	0.02520
20	0.566	-4.95	-13.98	0.04000
30	0.712	-2.95	-11.98	0.06340
40	0.896	-0.95	-9.98	0.10000
45	0.995	-0.04	-9.07	0.12400
50	1.000	0.00	-9.03	0.12500
60	1.000	0.00	-9.03	0.12500
70	1.000	0.00	-9.03	0.12500
80	1.000	0.00	-9.03	0.12500
90	0.941	-0.53	-9.56	0.11100
100	0.826	-1.66	-10.69	0.08500
110	0.697	-3.14	-12.17	0.06100
120	0.598	-4.47	-13.50	0.04500
130	0.528	-5.55	-14.58	0.03500
135	0.481	-6.35	-15.38	0.29000
140	0.448	-6.97	-16.00	0.02500
150	0.448	-6.97	-16.00	0.02500
160	0.490	-6.19	-15.22	0.03000
170	0.551	-5.17	-14.20	0.03800
180	0.633	-3.97	-13.00	0.05000
190	0.689	-3.24	-12.27	0.05930
200	0.693	-3.19	-12.22	0.06000
210	0.693	-3.19	-12.22	0.06000
220	0.633	-3.97	-13.00	0.05010
225	0.566	-4.95	-13.98	0.04000
230	0.515	-5.75	-14.78	0.03330
240	0.410	-7.75	-16.78	0.02100
250	0.325	-9.75	-18.78	0.01320
260	0.259	-11.75	-20.78	0.00836
270	0.205	-13.75	-22.78	0.00527
280	0.197	-14.13	-23.16	0.00482
290	0.190	-14.43	-23.46	0.00451

CORRECTED

EXHIBIT VB-7

Page 3

**DIRECTIONAL ANTENNA INFORMATION**

**BEACON BROADCASTING CORPORATION  
AMENDMENT TO APPLICATION FOR CONSTRUCTION PERMIT (BPED-900905ML)  
NON-COMMERCIAL FM RADIO STATION  
ALLENTOWN, PENNSYLVANIA**

Channel 207A      0.125 kW (Max) DA      245 Meters

<u>Azimuth</u>	<u>Rel.Fld.</u>	<u>dB</u>	<u>dBk</u>	<u>kW</u>
300	0.183	-14.75	-23.78	0.00420
310	0.179	-14.95	-23.98	0.00400
315	0.179	-14.95	-23.98	0.00400
320	0.179	-14.95	-23.98	0.00400
330	0.179	-14.95	-23.98	0.00400
340	0.225	-12.95	-21.98	0.00634
350	0.283	-10.95	-19.98	0.01000

COMPLIED WITH PARAGRAPH 17, HDO

EXHIBIT VB-8

RADIOFREQUENCY RADIATION STUDY

BEACON BROADCASTING CORPORATION  
AMENDMENT TO APPLICATION FOR CONSTRUCTION PERMIT (BPED-900905ML)  
NON-COMMERCIAL FM RADIO STATION  
ALLENTOWN, PENNSYLVANIA

Channel 207A

0.125 kW (V)

245 Meters

The following calculations are performed in order to determine, whether the proposed FM station has a significant environmental effect. The calculations to determine power densities ( $\text{mW}/\text{cm}^2$ ) and power density levels of all TV and FM facilities are computed by using the following equation:

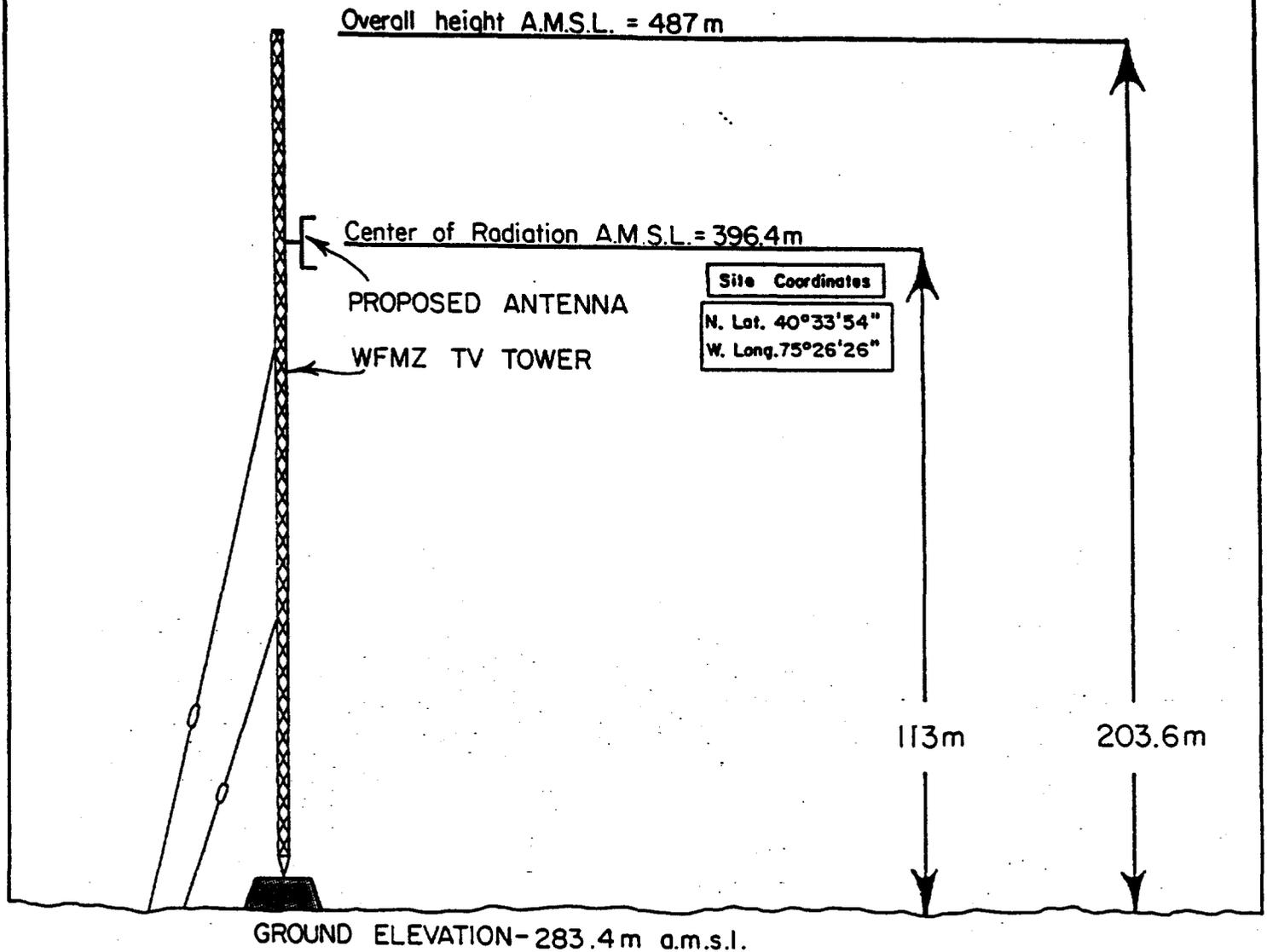
$$\text{Power density in } \text{mW}/\text{cm}^2 \text{ (S)} = \frac{(33.4)(F^2)[(.4)(\text{Visual ERP}) + \text{Aural ERP}]}{(\text{Distance from Center of Radiation})^2}$$

In the above equation, ERP is the total power of horizontal and vertical polarization in kilowatts, distance to a location is in meters and F is the relative field strength towards the location from the vertical plane pattern. For the proposed FM facility, the total ERP is 0.125 kW and the center of radiation is 113 meters above ground. At a depression angle of 90 degrees F is assumed to be 1.0, that is the "worst case" assumption. Therefore, maximum power density for the proposed FM facility at the base of the tower is  $0.000333 \text{ mW}/\text{cm}^2$  or 0.03 percent of the FM permitted maximum. For television station WFMZ-TV "worst case" power density near the tower base, F is 1.0 and aural power is 22 percent of visual. Therefore worst case WVTM-TV power density is  $0.92 \text{ mW}/\text{cm}^2$ . This 34.3 percent of the maximum permitted for operation on channel 69 ( $2.68 \text{ mW}/\text{cm}^2$ ). In the case of station WFMZ(FM) the calculated power density for "worst case",  $F=1$ , is  $0.065 \text{ mW}/\text{cm}^2$  or 6.5 percent of the FM maximum.

Therefore, the total calculated "worst case" power density at the base of the tower is less than 41 percent of the permitted maximum. Thus, the proposal is in compliance with OST Bulletin No. 65 and the ANSI Standards.

To assure that personnel working on the tower is not excessively exposed, the applicant will reduce power or turn the transmitter off, as necessary, to make sure that such persons will not be exposed to excessive levels of Radiofrequency Radiation.

MARCH 1993



CORRECTED

EXHIBIT VB-1

BEACON BROADCASTING CORPORATION  
AMENDMENT TO APPLICATION FOR CONSTRUCTION PERMIT (BPED-900905ML)  
NON-COMMERCIAL FM RADIO STATION  
ALLENTOWN, PENNSYLVANIA

Channel 207A

0.125 kW (V)

245 Meters

LECHMAN & JOHNSON, INC.  
TELECOMMUNICATIONS CONSULTANTS  
18801 TRADE SHOW AVENUE SUITE 100  
UPPER MERIDON, MD 20779  
(301) 390-0910

**APPENDIX B**