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JUL 29 1992

Federal Communications Commission
Office of the Secretary

July 29, 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

RE: ASF Broadcasting Corp.
BPH-911230MB
Channel 280A
Westerville, Ohio

Dear Ms. Searcy:

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JUL 29 1992

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

Federal Communications Commission
Office of the Secretary

In Re Application of:)
)
ASF BROADCASTING CORP.) File No. BPH-911230MB
)
Application for Construction)
Permit for a new FM station,)
Channel 280A, Westerville,)
Ohio)

To: Chief, Audio Services
 Division

SUPPLEMENT TO PETITION TO DENY AND DISMISS THE APPLICATION
OF ASF BROADCASTING CORP.

Ohio Radio Associates, Inc. ("ORA"), by its attorneys, pursuant to Sections 73.3584(a) and 73.3587 of the Commission's Rules, hereby submits this supplement to petition to deny and dismiss the application of ASF Broadcasting Corp. ("ASF"). On March 26, 1992, ORA filed a petition to deny and dismiss the application of ASF. In support of its supplement, ORA submits the following comments.

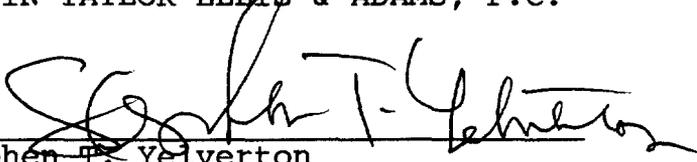
ORA, in its petition to deny and dismiss, contended that the application of ASF must be dismissed with prejudice because it proposes a short-spacing of 6.84 km. In a comparative hearing, a short-spaced application cannot be considered where other applications propose fully-spaced and technically suitable tower sites. See, e.g., North Texas Media, Inc. v. FCC, 778 F.2d 28, 34 (D.C. Cir. 1985). ORA and one other applicant in this proceeding propose such acceptable tower sites and no party has contested their availability and suitability.

ORA submits this supplement to report a recent Commission decision reaffirming the policy of dismissal of short-spaced applications in comparative hearings where fully-spaced and technically suitable tower sites are not shown to be unavailable. Jemez Mountain Broadcasters, FCC 92-273, paras. 2 and 12, rel. July 1, 1992. Although this case involved a waiver of Section 73.207 and the Commission now allows short-spaced applicants to be processed under Section 73.215¹ without the need for a formal waiver under Section 73.207, this does not change the result. In MM Docket No. 87-121, 6 FCC Rcd. 5356 (1991), the Commission ruled that applications would be granted under Section 73.215 only in those exceptional circumstances where no fully-spaced tower sites are available and only in cases of necessity. Supra, 5360, at para. 27. ASF, of course, can make no such showing.

WHEREFORE, in view of the foregoing, ORA requests that the Commission deny and dismiss the application of ASF.

Respectfully submitted.

MAUPIN TAYLOR ELLIS & ADAMS, P.C.

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July 29, 1992
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¹ASF requests processing under Section 73.215.

CERTIFICATE OF SERVICE

I, Sue W. Swinson, a secretary in the law offices of Maupin Taylor Ellis & Adams, P.C., do hereby certify that on this 29th day of July, 1992, I have caused to be hand delivered or mailed, U.S. mail, postage prepaid, a copy of the foregoing "Supplement to Petition to Deny and Dismiss the Application of ASF Broadcasting Corp." to the following:

Dennis Williams, Chief*
FM Branch
Room 332
Federal Communications Commission
Washington, D.C. 20554

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