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November 18, 1994

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NOV 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

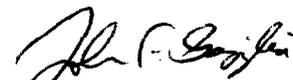
Re: **Petition for Rule Making Seeking
to Amend Section 73.202(b)
of the Commission's Rules
FM Table of Allotments
(Tell City, Indiana and Hawesville, Kentucky)**

Dear Mr. Caton:

Transmitted herewith on behalf of WLME, Inc. is an original and four copies of a Petition for Rule Making seeking the institution of a rule making proceeding looking toward an amendment of Section 73.202(b) of the Commission's rules, the FM Table of Allotments, to substitute Channel 246A for Channel 289A at Hawesville, Kentucky, and the modification of the license of WKCM-FM to specify operation on Channel 246A; and to substitute Channel 289A for Channel 245A at Tell City, Indiana, and the modification of the construction permit of WSXC(FM) to specify operation on Channel 289A.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,



John F. Garziglia

Enclosure

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. _____
Table of Allotments)	RM No. _____
FM Broadcast Stations)	
(Tell City, Indiana and)	
Hawesville, Kentucky))	

To: Chief, Allocations Branch

PETITION FOR RULE MAKING

WLME, Inc., the licensee of WKCM-FM, Hawesville, Kentucky, by its attorneys, pursuant to Section 1.401 and Section 1.420 of the Commission's rules, hereby seeks the commencement of a rule making proceeding looking toward an amendment of Section 73.202(b) of the Commission's rules, the FM Table of Allotments, to substitute Channel 246A for Channel 289A at Hawesville, Kentucky, and a modification of the license of WKCM-FM to specify operation on Channel 246A; and to substitute Channel 289A for Channel 245A at Tell City, Indiana, and a modification of the construction permit of WXSC(FM) to specify operation on Channel 289A. In support thereof, the following is submitted:

1. The following changes are proposed to the FM Table of Allotments, Section 73.202(b) of the Commission's rules:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Tell City, Indiana	245A	289A ^{1/}
Hawesville, Kentucky	289A	246A ^{2/}

In Modification of FM Broadcasting Licenses to Higher Class Co-Channel or Adjacent Channels, 60 RR 2d 114, 120 (1986), the Commission stated it would consider variations of the mutual exclusivity rule that would allow licensees to upgrade while protecting their interest in existing facilities. See Pikeville, Kentucky; Clincho, Virginia and Matewan, West Virginia, 6 FCC Rcd 3732, 3733 note 6 (1991) (incompatible channel swap approved). Since the proposed Channel 246A allotment at Hawesville, Kentucky is mutually exclusive with the existing Channel 245A allotment at Tell City, Indiana, it is requested that this proposal be treated as an incompatible channel swap. See also South Hill and Lawrenceville, Virginia, 7 FCC Rcd 7843 (1992) (swap of Class A channels).

2. Hancock Communications, Inc. is seeking a modification of its channel of operation to Channel 246A to enable WKCM-FM to increase its facilities to six kilowatts at its present tower

^{1/} The reference coordinates for Channel 289A at Tell City, Indiana are 37° 51' 12" North Latitude, 86° 43' 14" West Longitude, a site restriction approximately 12.4 kilometers southeast of Tell City. See Exhibit No. 1 (Channel Study for Channel 289A).

^{2/} The proposed reference coordinates for Channel 246A at Hawesville, Kentucky are 37° 55' 33" North Latitude, 86° 43' 19" West Longitude, the transmitter site of WKCM-FM. See Exhibit No. 2 (Channel Study for Channel 246A).

site. Carolyn S. Hagedorn, the permittee of WXSC(FM), Tell City, Indiana, has agreed to this change. See Exhibit No. 3 (Consent of Carolyn S. Hagedorn). She further states that once the channel for WXSC(FM) is modified, she will file an application for a modification to her construction permit to reflect the channel substitution, to change transmitter sites if necessary, and thereafter to expeditiously construct modified facilities.^{3/} WLME, Inc. has agreed to reimburse the permittee of WXSC(FM) for her reasonable and prudent out-of-pocket expenses incurred in filing for and prosecuting the application to change channels once the WXSC(FM) construction permit is modified.

3. It is well settled that petitions for rule making seeking a modification for Class A channels to allow for six kilowatt operation are in the public interest. See e.g. Seminole, Oklahoma, 7 FCC Rcd 6811 (1992); Walton and Rochester, Indiana, 7 FCC Rcd 5486 (1992); South Hill and Lawrenceville, Virginia, 7 FCC Rcd 3942 (1992); Oakhurst and Firebaugh, California, 8 FCC Rcd 1544 (1993); and Edmond, Oklahoma, 7 FCC Rcd 7533 (1992). The public interest would likewise be well served by modifying the channel of operation for WKCM-FM to Channel 246A to allow for six kilowatt operation at its present transmitter site.

^{3/} Carolyn S. Hagedorn on January 23, 1992, filed for an extension of her construction permit. (FCC File No. BMPH-920123JP). An Application for Review, filed October 12, 1994, of the Commission's denial of that extension request is now pending. In the event the Application for Review is denied and the construction permit for WXSC(FM) is cancelled, the proposed channel substitutions may be made in any event as the Tell City allotment would be vacant.

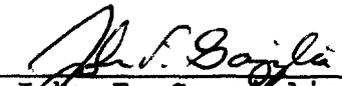
4. WLME, Inc. hereby certifies that it has a present intention to apply for Channel 246A when allotted, and when authorized, to construct the modification of its facility promptly and commence operation on Channel 246A.

WHEREFORE, for the above, it is respectfully requested that Channel 246A be allotted to Hawesville, Kentucky, and the license of WKCM-FM, Hawesville, Kentucky be modified to specify operation on Channel 246A; and that Channel 289A be allotted to Tell City, Indiana, and the construction permit for WXSC(FM), Tell City, Indiana be modified specify operation on Channel 289A.

Respectfully submitted,

WLME, INC.

By: _____


John F. Garziglia
Its Attorney

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1776 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-0600

November 18, 1994

PEPPER & CORAZZINI
WASHINGTON DC 20006

Tell City, Indiana Channel 289A Reference Coordinates

REFERENCE		CLASS A	DISPLAY DATES
37 51 12 N		Current rules spacings	DATA 10-28-94
86 43 14 W		CHANNEL 289 -105.7 MHz	SEARCH 11-18-94

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
WKCMFM	289A	Hawesville	KY	359.1	8.05	115.0	-106.95 *
WUZR	289A	Bicknell	IN	328.1	114.56	115.0	-0.44 *
WASEFM	288A	Fort Knox	KY	96.3	71.75	72.0	-0.25 *
WQNF	290A	Valley Station	KY	65.4	75.77	72.0	3.77
WQNF.A	290A	Valley Station	KY	65.4	75.91	72.0	3.91
WWHK	288A	Greenville	KY	210.7	84.86	72.0	12.86
WYNGFM	287B	Evansville	IN	287.8	82.10	69.0	13.10
WLLSFM	292A	Hartford	KY	199.1	48.16	31.0	17.16
WXLNFM	289A	Eminence	KY	67.6	145.57	115.0	30.57
WJPSFM	291A	Newburgh	IN	280.4	62.41	31.0	31.41
WLACFM	290C	Nashville	TN	183.2	202.05	165.0	37.05
WTLCFM	289B	Indianapolis	IN	14.5	223.23	178.0	45.23
WQRK	288A	Bedford	IN	10.4	119.03	72.0	47.03

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Hawesville, Kentucky Channel 246A Reference Coordinates

REFERENCE		CLASS A	DISPLAY DATES
37 55 33 N		Current rules spacings	DATA 10-28-94
86 43 19 W		CHANNEL 246 - 97.1 MHz	SEARCH 11-18-94

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
WXSC.C	245A	Tell City	IN	48.5	10.27	72.0	-61.73 *
AP246	246C2	Goodlettsville	TN	174.5	176.16	166.0	10.16
ALOPEN	246C2	Goodlettsville	TN	174.9	177.79	166.0	11.79
WAMZ	248C1	Louisville	KY	80.0	88.37	75.0	13.37
AP246	246C2	Goodlettsville	TN	181.4	179.93	166.0	13.93
AP246	246C2	Goodlettsville	TN	181.6	179.95	166.0	13.95
AP246	246C2	Goodlettsville	TN	175.2	182.24	166.0	16.24
AP246	246C2	Goodlettsville	TN	182.2	182.51	166.0	16.51
AP246	246C2	Goodlettsville	TN	184.5	183.75	166.0	17.75
WRUL	247B	Carmi	IL	277.6	131.06	113.0	18.06
AP246	246C2	Goodlettsville	TN	181.8	184.07	166.0	18.07
AP246	246C2	Goodlettsville	TN	174.7	188.52	166.0	22.52
AP246	246C2	Goodlettsville	TN	175.6	190.29	166.0	24.29
WENS	246B	Shelbyville	IN	17.3	202.42	178.0	24.42
WGZBFM	243A	Corydon	IN	62.6	69.69	31.0	38.69
WGZBFM	243A	Corydon	IN	68.8	76.07	31.0	45.07

CONSENT TO MODIFICATION OF FACILITIES

Carolyn S. Hagedorn, the permittee of WXSC(FM), Tell City, Indiana, hereby consents to the filing of an FCC petition for rule making by WLME, Inc. seeking a substitution of Channel 289A (or other equivalent Class A channel) for Channel 245A at Tell City, Indiana and a modification of the WXSC(FM) construction permit to specify operation on Channel 289A (or other equivalent Class A channel). It is understood that a change in the reference coordinates of WXSC(FM) may be necessary due to the change in channel for WXSC(FM). Once the channel for WXSC(FM) is modified, I hereby state my intention to file an application for a modification to my construction permit to reflect such a channel substitution, to change transmitter sites if necessary, and thereafter to expeditiously construct the modified facilities. It is my understanding that WLME, Inc. agrees to reimburse me for my reasonable and prudent out of pocket expenses incurred in filing for and prosecuting the application to change channels once the WXSC(FM) construction permit is modified.



Carolyn S. Hagedorn

CERTIFICATE OF SERVICE

I, Tracey S. Westbrook, a secretary in the law firm of Pepper & Corazzini, do hereby certify that a true copy of the foregoing "Petition for Rule Making" was sent this 18th day of November, 1994 by U.S. first class mail, postage prepaid, to the following:

Carolyn S. Hagedorn
Bradley & McCulloch, P.A.
5100 Indian School Road, N.E.
P.O. Box 26447
Albuquerque, New Mexico 87125-6447



Tracey S. Westbrook