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February 7, 1995

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FEB -7 1995

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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Amendment of Section 73.202(b),
FM Table of Allotments
(Salem, West Virginia)

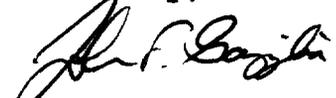
DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Transmitted herewith on behalf of Salem-Teikyo University is an original and four copies of a petition seeking the institution of a rule making proceeding to allot FM Channel 258A to Salem, West Virginia, and the reservation of Channel 258A as a non-commercial educational channel. As noted in the enclosed petition, there exists an additional equivalent channel that may be allotted to Salem, West Virginia in the event other expressions of interest are received during the course of this proceeding.

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))
Table of Allotments)
FM Broadcast Stations)
(Salem, West Virginia))

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch

PETITION FOR RULE MAKING

Salem-Teikyo University, by its attorneys, pursuant to Section 1.401 of the Commission's rules, hereby seeks the institution of a rule making proceeding looking toward the amendment of Section 73.202(b), the FM Table of Allotments, to add Channel 258A to Salem, West Virginia and to reserve Channel 258A as a non-commercial channel as follows:

| <u>City</u> | <u>Present</u> | <u>Proposed</u> |
|----------------------|----------------|----------------------------|
| Salem, West Virginia | 289A | *258A ^{1/} , 289A |

Channel 258A may be allotted to Salem, West Virginia consistent with all Commission spacing requirements. See Engineering Report of Charles A. Hecht & Associates, Inc. (attached).

The reservation of Channel 258A for non-commercial educational use will not preclude the allotment of an additional commercial channel to Salem in the event such interest is expressed. The attached engineering report of Charles A. Hecht & Associates, Inc. shows that it is possible to allot Channel 277A at Salem and make it available to commercial applicants who may

^{1/} Channel 258A may be allotted to Salem, West Virginia at the U.S. Atlas reference coordinates of 39° 16' 58" North Latitude, 80° 33' 33" West Longitude.

also wish to provide service to Salem, West Virginia in the event that interest is expressed.

1. Salem-Teikyo University is prepared to provide non-commercial educational service to the community of Salem, West Virginia. It should be noted that there are no non-commercial stations presently providing local transmission service to Salem, West Virginia. Unfortunately, as shown in the attached engineering report of Charles A. Hecht & Associates, Inc., a study of the entire FM reserved band reveals that there are no frequencies available for use for a non-commercial station at Salem, West Virginia. Based upon the interference standards set forth in Section 73.509 of the Commission's rules, it is not possible to apply for a minimum Class A facility at Salem in the reserved band. Both the use of a directional antenna and the effects of terrain on such an application were considered. There are no non-commercial educational channels available for use at Salem because of the community's proximity to Clarksburg, West Virginia and Morgantown, West Virginia.

2. Generally, non-commercial educational stations operate within the reserved portion of the FM band (Channels 201 - 220). Exceptions have been made, however, where channels in the non-commercial educational band are not available because of foreign allotments (Canadian or Mexican), or because of potential interference to operations on VHF television channel 6. See generally Buhl, Minnesota, 9 FCC Rcd 2606 (1994); Butte, Montana, 8 FCC Rcd 2530 (1994). Even absent Canadian or Mexican preclusion, or potential interference to VHF television channel 6, however, the Commission has proposed the reservation of an FM

channel on the FM commercial band as a non-commercial channel. See Collegeville, Minnesota, 9 FCC Rcd 3119 (1994). In Collegeville, Minnesota, the allotment of a non-commercial educational channel on the commercial band was proposed even though there was no preclusion from foreign allotments or from Channel 6. Rather, there were no non-commercial educational channels available for use at Collegeville because of the community's proximity to other non-commercial stations. A like situation obtains here as Salem's proximity to a number of other non-commercial stations precludes the allotment of a first non-commercial service to Salem.

3. As noted above, there exists an additional commercial allotment that may be made to Salem, West Virginia at the city reference coordinates on Channel 277A in the event there are any other expressions of interest for a Class A channel in the community. See Romney, West Virginia, 9 FCC Rcd 7173 (1994); Rosendale, New York, 8 FCC Rcd 947 (1993); Sioux Falls, South Dakota, MM Docket No. 85-175, RM-4908, released January 28, 1986 (Commission notes that there is at least one other equivalent channel available in moving forward with the allotment of a non-commercial educational channel on the non-reserved band). Since there is an additional commercial channel that may be allotted to Salem if expressions of interest are filed, no party will be prejudiced by the reservation of Channel 258A for non-commercial educational use.

4. The public interest would be well served by the allotment of Channel 258A to Salem, West Virginia and its reservation as a non-commercial educational channel. A number of years ago,

the petitioner (which was then Salem College) had licensed to it WITB-FM on 91.1 MHz. That license was allowed to lapse. The present administration of Salem-Teikyo University would like to resume broadcasting a non-commercial educational service. Unfortunately, the frequency of 91.1 MHz is no longer available due to facility changes and improvements by other stations in close proximity on the reserved band. Thus, Salem-Teikyo University is seeking the allotment of Channel 258A on the non-reserved band, and its reservation for non-commercial educational use. Salem-Teikyo University has a present intention to apply for the channel if it is allotted, and if authorized, to build a station promptly.

WHEREFORE, for the reasons above, a rule making proceeding should be instituted looking toward the allotment of Channel 258A to Salem, West Virginia, and the reservation of Channel 258A as a non-commercial channel.

Respectfully submitted,
SALEM-TEIKYO UNIVERSITY

By: 
John F. Garziglia
Its Attorney

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February 7, 1995

ENGINEERING REPORT COVERING
PETITION FOR RULEMAKING
ON BEHALF OF SALEM-TEIKYO UNIVERSITY
SALEM, WEST VIRGINIA

JANUARY 1995

ENGINEERING REPORT COVERING
PETITION FOR RULEMAKING
ON BEHALF OF SALEM-TEIKYO UNIVERSITY
SALEM, WEST VIRGINIA

SUMMARY

This engineering report is submitted on behalf of Salem-Teikyo University (Salem-Teikyo), in support of a Petition for Rulemaking. The purpose of this petition is to request to assign Channel 258A for noncommercial educational (NCE) use to Salem, West Virginia.

It will be demonstrated in this report that Channels 201-220, which are designated for (NCE) use, cannot be allocated to Salem due to interference considerations. In addition, another channel is available for commercial use at Salem.

ALLOCATION STUDY

An allocation study of the entire NCE band was conducted to ascertain if there was a channel suitable for use at Salem. Based on interference standards set forth in Section 73.509 of the Rules, it is not possible to allocate the minimum Class A facility acceptable for filing with the Commission at Salem. Use of a directional antenna was considered as were the effects of terrain. The following is a tabulation of the results of the allocation study. Only the primary precluding stations are listed. In many cases, there are additional facilities which constrain Salem-Teikyo from using one of the designated NCE channels.

| <u>CHANNEL</u> | <u>PRECLUSION</u> | <u>CHANNEL</u> | <u>PRECLUSION</u> |
|----------------|---------------------|----------------|---------------------|
| 201 | WKJL Clarksburg, WV | 211 | WZWA Clarksburg, WV |
| 202 | WKJL Clarksburg, WV | 212 | WZWA Clarksburg, WV |
| 203 | WKJL Clarksburg, WV | 213 | WZWA Clarksburg, WV |
| 204 | WKJL Clarksburg, WV | 214 | WZWA Clarksburg, WV |
| 205 | WVPW Buckhannon, WV | 215 | WVPM Morgantown, WV |
| 206 | WVPW Buckhannon, WV | 216 | WVPM Morgantown, WV |
| 207 | WVPW Buckhannon, WV | 217 | WVPM Morgantown, WV |
| 208 | WZWA Clarksburg, WV | 218 | WVHF Clarksburg, WV |
| 209 | WZWA Clarksburg, WV | 219 | WVHF Clarksburg, WV |
| 210 | WZWA Clarksburg, WV | 220 | WVHF Clarksburg, WV |

CHANNEL 258A PROPOSAL

An allocation study was conducted as per Section 73.207(b)(1) of the Rules with regard to locating a channel suitable for use at Salem. The study indicated that use of Channel 258A and 277A is possible at Salem as no shortspacings will be created to any licensed or proposed facility. The U.S. Atlas reference coordinates for Salem were employed in the allocation study. The reference coordinates are: Latitude 39° 16' 58" and Longitude 80° 33' 33". No site restrictions are required. The allocation study results are tabulated below in metric units.

CHANNEL 258A

| <u>CALL</u> | <u>CHAN</u> | <u>CITY & STATE</u> | <u>BEAR</u> | <u>DIST</u> | <u>REQ</u> | <u>MARGIN</u> |
|-------------|-------------|-------------------------|-------------|-------------|------------|---------------|
| WDNE-FM | 257A | Elkins, WV | 125.5 | 79.9 | 72.0 | 7.9 |
| WVPW | 205B | Buckhannon, WV | 180.7 | 27.6 | 15.0 | 12.6 |
| WJLS-FM | 258B | Beckley, WV | 194.5 | 194.1 | 178.0 | 16.1 |
| WPQR-FM | 257A | Uniontown, PA | 45.2 | 95.0 | 72.0 | 23.0 |
| ALLOC | 255B1 | Elkins, WV | 123.4 | 72.5 | 48.0 | 24.5 |
| WSHH | 259B | Pittsburgh, PA | 19.9 | 139.4 | 113.0 | 26.4 |
| WBYG-CP | 258A | Point Pleasant, WV | 250.4 | 144.4 | 115.0 | 29.4 |
| WCLG-FM | 261A | Morgantown, WV | 52.9 | 63.6 | 31.0 | 32.6 |
| WHCM | 256B1 | Parkersburg, WV | 270.3 | 94.7 | 48.0 | 46.7 |

CHANNEL 277A

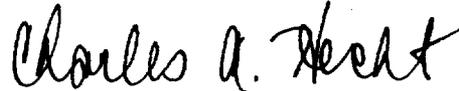
| <u>CALL</u> | <u>CHAN</u> | <u>CITY & STATE</u> | <u>BEAR</u> | <u>DIST</u> | <u>REQ</u> | <u>MARGIN</u> |
|-------------|-------------|-------------------------|-------------|-------------|------------|---------------|
| WANB-FM | 276A | Waynesburg, PA | 29.3 | 74.7 | 72.0 | 2.7 |
| WRKY | 278B | Steubenville, OH | 357.4 | 117.8 | 113.0 | 4.8 |
| WTUS | 274A | Mannington, WV | 56.1 | 36.7 | 31.0 | 5.7 |
| WTCR-FM | 277B | Huntington, WV | 239.1 | 186.5 | 178.0 | 8.5 |
| WVHF-FM | 224A | Clarksburg, WV | 87.6 | 21.0 | 10.0 | 11.0 |
| WXKX | 276A | Parkersburg, WV | 274.9 | 87.1 | 72.0 | 15.1 |
| WNMR | 280A | New Martinsville, WV | 327.9 | 51.7 | 31.0 | 20.7 |
| WEZI-CP | 277A | New Market, VA | 117.5 | 162.0 | 115.0 | 47.0 |

CONCLUSION

It has been shown that no designated NCE channels are available for use by Salem-Teikyo at Salem. It has also been shown that two commercial channels are available for use that fully conform to FCC spacing requirements and do not necessitate site restrictions. Of the two available commercial channels, Salem-Teikyo requests Channel 258A be assigned to Salem, West Virginia for NCE use.

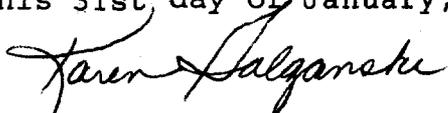
The foregoing was prepared by or under the immediate supervision of Charles A. Hecht of Charles A. Hecht & Associates, Inc., Pittstown, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. All statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements, he believes them to be true and correct.

Respectfully submitted,



Charles A. Hecht
for Charles A. Hecht & Assoc., Inc.
16 Doe Run
Pittstown, New Jersey 08867
(908) 730-7959

SWORN AND SUBSCRIBED TO before me
this 31st day of January, 1995.



Karen Galganski, Notary Public of NJ
My Commission expires 6/14/95