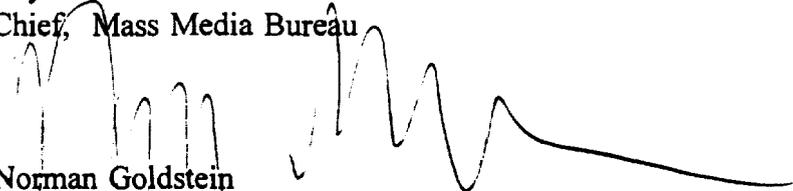


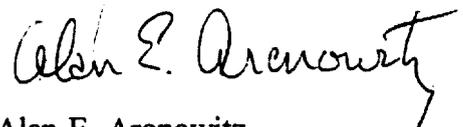
132. MMBI was reimbursed by BCCBF and/or Turro for the costs of preparing the  
July 27, 1995, letter to the FCC.

Respectfully submitted,

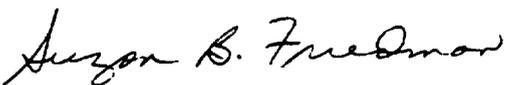
Roy J. Stewart  
Chief, Mass Media Bureau



Norman Goldstein  
Chief, Complaints & Political Programming Branch



Alan E. Aronowitz  
Attorney



Suzan B. Friedman  
Attorney

Federal Communications Commission  
2025 M Street, N.W., Suite 8210  
Washington, D.C. 20554  
(202) 418-1430

June 6, 1997

000038

ATTACHMENT I

000039

Network Affiliation Agreement

Bergen County Community Broadcast Foundation (Network) and Monticello Mountaintop Broadcasting Inc. (MMBI) enter into this network affiliation agreement on OCT. 17, 1994. This agreement will commence at 12:01 AM, Oct. 1, 1994 and terminate at 12:01 AM, Oct. 1, 2004.

Network will provide MMBI with twenty-four hours of programming on a seven day basis, 365 days a year. Network will also provide all local station identifications (Legal ID's), public affairs programming, and Emergency Broadcast System tests.

Network agrees to indemnify MMBI and hold it harmless from any and all fines, surcharges, forfeitures, levies, and any other monetary damages imposed by the F.C.C.

Network is responsible for delivery of usable audio programming to MMBI via satellite, phone lines or other suitable means. Network is responsible for all costs incurred for delivering Network audio. Network will abide by all applicable FCC rules concerning program content.

Network will compensate MMBI for carrying all network programming on a twenty-four hour basis, as follows:

Year One - \$8,575.00 per month

Year Two - \$8,975.00 per month

Year Three - the first six months - \$9,140.00 per month

Year Three - the second six months - \$5,400.00 per month

Year Four - \$5,400.00 per month

Year Five - \$4,675.00 per month

Remaining 5 years - Year 5 plus 5% or the CPI, whichever is greater.

All payments are due and payable, in advance, on the first of the month. MMBI will provide Network with a ten day grace period after the first of the month.

The monthly compensation to MMBI will be reduced by \$3,600.00 per month after the first thirty months of network affiliation.

000400

Both parties agree to abide by all applicable FCC rules and regulations.

MMBI agrees to allow translator W276AQ to rebroadcast 99.7 FM, Monticello New York.

This agreement will be binding to Network, its successors, assigns and/or transferees.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 17th day of OCTOBER, 19 94.

Signed, sealed and delivered in the presence of

Kathleen Kahyaoglu

Gerald Turro for Network  
Wesley Weis  
Wesley Weis for MMBI

STATE OF NEW JERSEY }  
COUNTY OF BERGEN } SS.:

BE IT REMEMBERED that on this 17 day of OCTOBER, 19 94 before me, the subscriber, a Notary Public of New Jersey, personally appeared Gerald Turro, Wesley Weis, who, I am satisfied, are the person(s) named in and who executed the within Instrument, and thereupon have acknowledged that they signed the same as act and deed, for the uses and purposes therein expressed.

Kathleen Kahyaoglu  
Notary Public of N.J.

KATHLEEN KAHYAOGLU  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES SEPT. 15, 1998

**ATTACHMENT II**

**000402**

FCC MAIL SECTION

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

0002  
Station  
File

JUN 21 2 49 PM '95

JUN 21 1995

IN REPLY REFER TO:  
1800C1-SB/RW  
95020241

DISPATCHED BY

Mr. Gerard A. Turro, Licensee  
Station W276AQ (FM), Fort Lee, NJ  
687 Orchard Street  
Oradell, NJ 07649

Dear Licensee:

The Commission recently received information that raises serious questions concerning the operation of Translator Stations W276AQ, Ft. Lee, NJ, W232AL, Pomona, NY and Aural Inter City Relay Station WMG-499, Dumont, NJ. Specifically, this information alleges that Mr. Gerard A. Turro, licensee of Stations W276AQ, W232AL and WMG-499, is originating all of the programming transmitted by these translator stations from a studio located at 75 Second Street, Dumont, NJ. The origination of programming by a translator station is a violation of Section 74.1231(b) and Section 74.531(c) of the Commission's Rules. Our information also suggests that Mr. Turro is simultaneously delivering this programming to Station WJUX (FM), Monticello, NY.<sup>1</sup> In addition, we are investigating whether Mr. Turro has engaged in an unauthorized assumption of control of Station WJUX (FM), Monticello, NY, licensed to Monticello Mountaintop Broadcasting, Inc., in violation of Section 310 (d) of the Communications Act of 1934, as amended, and Sections 73.3540 and 74.14 of the Commission's Rules.

47 C. F. R. § 74.1231 (b), (e), (f), and (g) state, in pertinent part, that:

- (b) An FM translator may be used for the purpose of retransmitting the signals of a primary FM radio broadcast station or another translator station which have been received directly through space, converted, and suitably amplified.
- (e) An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized to retransmit. Precautions shall be taken to avoid unintentional retransmissions of such other signals.

---

<sup>1</sup>We note that WJUX (FM) changed call signs on April 14, 1995. Prior to this date the call sign was WXTM (FM). The call sign WJUX (FM) was previously assigned to Station WNJW (FM), Franklin Lakes, NJ, which is licensed to the Bergen County Community Broadcasting Foundation, with Mr. Turro serving as principal owner. Station WNJW (FM) is currently silent. Any reference to WJUX throughout this letter refers to the Monticello, NY, station.

000403

- (f) A locally generated radio frequency signal similar to that of an FM broadcast station and modulated with aural information may be connected to the input terminals of an FM translator for the purpose of transmitting voice announcements.
- (g) The aural material transmitted as permitted in paragraph (f) of this section shall be limited to emergency warnings of imminent danger and to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Originations concerning financial support are limited to a total of thirty (30) seconds an hour. . . . Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

47 C. F. R. § 74.531 (c) states:

- (c) An aural broadcast intercity relay station is authorized to transmit aural program material between . . . . FM radio stations and FM translator stations operating within the coverage contour of their primary stations.

The Commission has made no determination in this matter. In order that we may be more fully informed, please provide answers to the following:

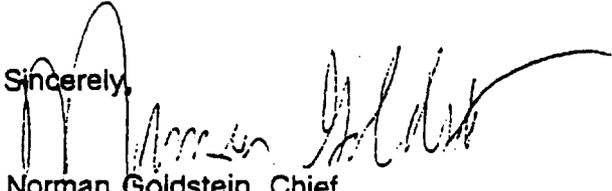
1. List the call sign, frequency, and community of license of the primary FM broadcast station(s) that is retransmitted by Stations W276AQ and/or W232AL.
2. Provide copies of any written communications that have granted permission to the licensee of Stations W276AQ and/or W232AL to rebroadcast such transmissions. These should include, but are not limited to, memoranda, correspondence, and programming contracts.
3. Since October 18, 1994, has Mr. Gerard A. Turro provided any programming for Stations W276AQ and/or W232AL from his studio location at 75 Second Street, Dumont, NJ? If so, provide a description of the programming and the dates, times and duration of all broadcasts.
4. At any time from October 18, 1994, to the present has the programming originated at the Dumont, NJ. studio been transmitted to Stations W276AQ and/or W232AL by aural intercity relay station WMG-499? If so, state the dates, times, and duration of all such transmissions.
5. Has Mr. Turro implemented the use of telephone lines now or at any time from October 18, 1994, to deliver programming to Stations W276AQ, W232AL or WJUX ? If so, state the dates, times, and duration of all such programming that has been conveyed by this method to each of the referenced stations.
6. State whether Mr. Gerard Turro has entered into a management agreement , a time brokerage agreement, or any other agreement concerning ownership, programming, staffing, sales, or operation of Station WJUX (FM). If the answer is in the affirmative, provide signed and dated copies of such agreements.

000404

7. With respect to Station WJUX (FM), describe in detail any involvement that Gerard A. Turro, or any individual employed by Mr. Turro or by other businesses in which Mr. Turro has an ownership interest, has had in the following aspects of the construction or operation of Station WJUX (FM):
- (a) paid the cost of constructing or outfitting the studio or transmitting facilities of Station WJUX (FM)
  - (b) guaranteed repayment of funds borrowed by the licensee of Station WJUX (FM) for the purchase of equipment or construction of the Station. If so, provide details regarding such loans or guarantee arrangements.
  - (c) controlled and had access to the WJUX's financial records and books;
  - (d) prepared and kept WJUX's financial records;
  - (e) paid WJUX's operating expenses;
  - (f) prepared and signed WJUX's checks;
  - (g) paid rent for WJUX's studio(s);
  - (h) paid rent for WJUX's antenna tower site or usage;
  - (i) interviewed, hired, or fired WJUX personnel;
  - (j) controlled what is or is not broadcast on WJUX;
  - (k) established or changed WJUX management;
  - (l) controlled and had access to WJUX's bank accounts; and
  - (m) prepared and paid WJUX's payroll, insurance, income and property taxes, withholding statements and social security obligations.

You are requested to provide, within thirty (30) days of the date of this letter, all relevant information or documentation that is responsive to the foregoing or that you feel may be useful in helping the Commission make a determination in this matter. Failure to answer fully will constitute a violation under Section 73.1015 and may subject you to serious sanctions. Commission policy requires that responses to its inquiries be signed by an officer or director of the licensee organization.

Sincerely,



Norman Goldstein, Chief  
Complaints & Investigations Branch  
Enforcement Division  
Mass Media Bureau

000405

LAW OFFICES

**KOTEEN & NAFTALIN**  
1150 CONNECTICUT AVENUE  
WASHINGTON, D.C. 20036

TELEPHONE  
(202) 467-5700  
TELECOPY  
(202) 467-5915

BERNARD KOTEEN  
AN Y NAFTALIN  
RAINER K. KRAUS  
ARTHUR B. GOODKIND  
GEORGE Y WHEELER  
HERBERT D. MILLER, JR.  
MARGOT SMILEY HUMPHREY  
PETER M. CONNOLLY  
M. ANNE SWANSON  
CHARLES R. NAFTALIN  
GREGORY C. STAPLE  
MORTON J. POSNER

July 28, 1995

Mr. Norman Goldstein, Chief  
Complaints & Investigations Branch  
Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

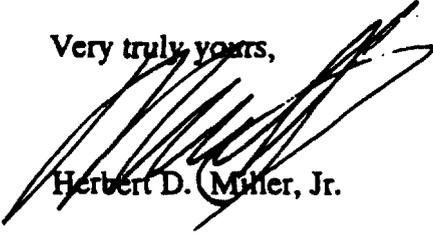
Dear Mr. Goldstein:

Transmitted herewith, on behalf of Mr. Gerard A. Turro, the licensee of FM translator stations W276AQ, in Fort Lee, New Jersey and W232AL, in Pomona, New York, is a response to your letter of June 21, 1995 concerning the operation of those facilities.

Your letter of June 21, 1995 requested a response by July 21, 1995. However, on July 20, 1995, you granted an informal request for an extension of time through today.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



Herbert D. Miller, Jr.

cc w/ enc Mr. Gerard A. Turro

bc: (w/enc.): Herman Hurst  
Wesley Weis  
Rainer K. Kraus, Esq.

000406

GERARD A. TURRO  
STATION W276AQ(FM), FORT LEE, NJ  
687 ORCHARD STREET  
ORADELL, NJ 07649

July 27, 1995

Mr. Norman Goldstein, Chief  
Complaints & Investigations Branch  
Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

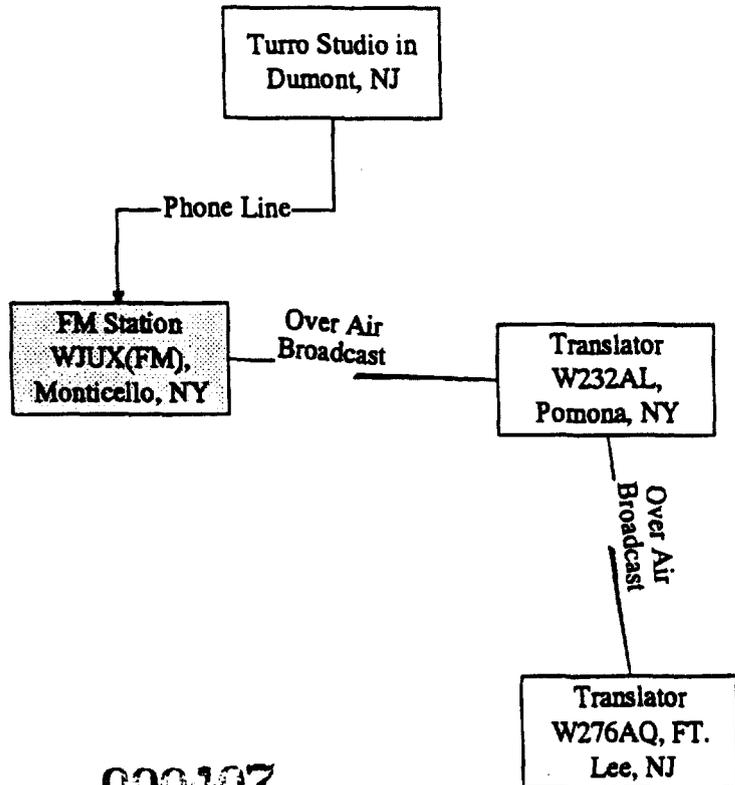
WJUX--FM

Dear Mr. Goldstein:

This is in response to your letter of June 21, 1995 concerning the operation of FM Translator Stations W276AQ, Fort Lee, New Jersey and W232AL, Pomona, New York, and Aural Inter City Relay Station WMG-499, Dumont, N.J.

According to that letter, you are in receipt of information to the effect that I originate programming for the Fort Lee and Pomona Translators from my studio in Dumont, NJ, and that I use Inter City Relay Station WMG-499 to deliver that programming to them for broadcast. You also indicate that I simultaneously deliver this programming to Station WJUX(FM), in Monticello, NY, and that you are investigating whether I have assumed control of that station.

It is true that programming which I produce at my studio in Dumont, NJ is broadcast by WJUX(FM) and rebroadcast by both translator facilities. However, the programming is delivered *via* telephone line to WJUX(FM), which broadcasts it pursuant to a network affiliation agreement between us, information concerning which is provided elsewhere in this letter. The programming as broadcast by WJUX(FM) is currently received off-air by an antenna located at the Pomona, NY translator facility, which rebroadcasts it pursuant to a rebroadcast agreement between us. The Pomona translator rebroadcasts are, in turn, received by an antenna located at the Ft Lee, NJ translator facility, which rebroadcasts it, again pursuant to a rebroadcast agreement between us. Intercity Relay facility WMG-499 was used to provide telemetry to W276AQ until recently; however, I took WMG-499 off the air pursuant to a letter from Michael B. Hayden, Chief, Microwave



000-107

Branch dated June 6, 1995. Copies of that letter, and of a June 13, 1995 letter to Mr. Hayden from my consulting engineer, Mr. William J. Getz, are provided in Attachment A to this letter. Both the Pomona and Ft. Lee translators continue to receive the signal of WJUX(FM) off air as before, and to rebroadcast it, even though WMG-499 is not operating.<sup>1</sup>

I am aware of a February 15, 1995 letter to you from Messrs Roy R. Russo and Richard A. Helmick on behalf of Universal Broadcasting of New York, Inc., the licensee of standard broadcast station WVNJ, in Oakland, New Jersey. While no copy of that letter was sent to me by its authors or by the Commission, my attorneys were able to obtain a copy from the Commission's complaint files. According to an engineering statement associated with that letter, the signal of WJUX(FM) as received at a location near my Ft. Lee translator is inadequate to provide the high quality signal which I rebroadcast. For the reasons set forth in the attached engineering statement (Attachment B to this letter), that conclusion is simply wrong; an acceptable signal generally can be received off-air at the Ft. Lee translator site. However, since a better signal can generally be received off-air at the Pomona translator, that is where the WJUX(FM) signal is received for rebroadcast, as noted above. A Cassette tape of WJUX(FM) broadcasts, as received off air at the Ft. Lee translator site from the Pomona translator and from WJUX(FM) directly, accompanies this letter.

Also according to the engineering statement associated with the Russo-Helmick letter, monitoring of Inter City Relay Station WMG-499 suggested that WJUX(FM) programming was being transmitted by that facility. That is true. I was using the WJUX(FM) signal to modulate the WMG-499 carrier, only. I was not retransmitting the WMG-499 signal. As explained in the June 13, 1995 letter to Mr. Hayden at Attachment A,

"It should be noted that the WMG-499 microwave link is in use 24 hours per day. However, only the 30-second messages and any emergency transmissions are broadcast over W276AQ. The microwave link operates in this manner for two primary reasons:

- (1) The microwave equipment is not manufactured to operate on an intermittent basis. Switching the equipment on and off every hour for a 30-second transmission will eventually lead to equipment failure.
- (2) Turro recognizes the secondary nature of the multiplexed return telemetry link. In an effort to make the 951.0 MHz transmission readily identifiable, the link must be operational 24 hours a day. In the event WMG-499 causes interference, the offended party will have the ability to easily identify the transmission source. In a once an hour, 30 second message, it would be extremely difficult to identify the interfering source." (Attachment A).

The WMG-499 signal was not being used as a source of WJUX(FM) programming. It was used to insert 30-second messages pursuant to Section 74.1231(g) of the Rules and for remote control purposes to switch from the Ft. Lee main transmit antenna to its authorized auxiliary antenna. It was also available to relay emergency warnings to the translator for broadcast to the 825,380 residents

---

<sup>1</sup> Until approximately January 10, 1995, the Pomona translator rebroadcast Briar Cliff Manor, New York station WRGX(FM). During that period, the WJUX(FM) signal was received directly off-air at the Ft. Lee translator rather than *via* the Pomona translator.

of Bergen County who currently have no local FM service. Removing WMG-499 from service had no impact on the ability of the translators continue to rebroadcast the signal of WJUX(FM), picked up off-air, as before.

I have no ownership or other interest in the licensee of WJUX(FM), present or future, and I have no desire to acquire any. WJUX(FM) is the first of what I hope will be many affiliates of my "Jukebox Radio" network, and my efforts have been directed to expanding that network. The first step was to establish and refine the format, a continuing process, and to obtain WJUX(FM) as an initial outlet to test its commercial viability. Jukebox Radio programming has been very successful, particularly in the areas served by my Ft. Lee and Pomona translators. I have had tentative discussions with the licensees of several other radio stations about affiliating, and am now exploring the feasibility of various means of satellite delivery.

The specific questions asked by your June 21, 1995 letter are answered below.

1. W232AL, Pomona, rebroadcasts the signal of WJUX(FM), Monticello, NY. W276AQ, Fort Lee, rebroadcasts the signal of W232AL. WJUX(FM) operates on a frequency of 99.70 MHz. W232AL operates on a frequency of 94.3 MHz. Until on or about January 10, 1995, W232AL rebroadcast the signal of WRGX(FM), Briar Cliff Manor, New York. WRGX(FM) operates on a frequency of 107.1 MHz. During the period when W232AL was rebroadcasting the signal of WRGX(FM), the signal of WJUX(FM) was received directly off air at W276AQ and rebroadcast.
2. Copies of rebroadcast consents are provided in Attachment C to this letter.
3. Since October 21, 1994, I have provided programming for Station WJUX(FM) from my studio at 75 Second Street, Dumont, NJ, pursuant to the agreement noted in response to question 6. That programming has consisted of music, news, weather, sports, public affairs programming, commercials, public service announcements, etc. It has been delivered by telephone line twenty-four hours per day, seven days per week, since that time, with minor outages due to technical difficulties. Translators W276AQ and W232AL have rebroadcast the WJUX(FM) programming, as noted in response to question 1, above. In addition, until I removed WMG-499 from service, I used that facility to transmit emergency warnings and hourly 30 second messages for broadcast by W276AQ, pursuant to Section 74.1231(g) of the Rules. Those 30 second messages and emergency messages were prepared for broadcast at my Dumont, NJ studio.
4. Until I deactivated WMG-499, the programming created at my Dumont, NJ studio was used to modulate the WMG-499 carrier, as noted above. However, as also noted above, WJUX(FM) was received off-air, and the WMG-499 signal was rebroadcast by W276AQ only when the hourly 30 second messages and emergency messages were being relayed.
5. The programming created at my Dumont, NJ studio has been delivered by telephone line to WJUX(FM), continuously since October 21, 1994. No such programming has been delivered by telephone line to either W276AQ or W232AL.
6. On October 16, 1994, I entered into a Network Affiliation Agreement with the licensee of WJUX(FM). A copy of the agreement, as amended, is provided in Attachment D to this letter.
7. Neither I, nor any individual I employ, nor any business in which I have an ownership interest, has

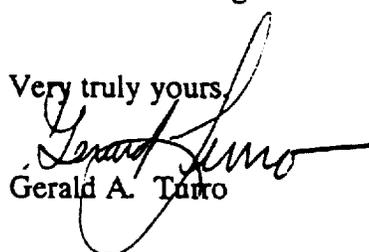
- a. Paid the cost of constructing or outfitting the studio or transmitting facilities of Station WJUX(FM). However, I did assist Mr. Weiss (whom I have known for many years) in installing some of his equipment at WJUX(FM), including the transmitter, without charge. I also provided \$40,000 to Mr. Weiss as an inducement to enter into our network affiliation agreement.
- b. Guaranteed repayment of funds borrowed by the licensee of Station WJUX(FM) for the purchase of equipment or construction of the Station;
- c. Controlled or had access to the WJUX(FM) financial records and books;
- d. Prepared or kept WJUX(FM)'s financial records;
- e. Paid WJUX(FM)'s operating expenses, with the exception of its telephone bills. I do not recall the circumstances under which the bills came to me from the telephone company, but I paid them upon receipt. Steps are now being made to have the telephone bills sent to the licensee of WJUX(FM) for payment. I acted as the chief operator for WJUX(FM) until May 1, 1995, without charge.
- f. Prepared or signed WJUX(FM)'s checks;
- g. Paid rent for WJUX(FM)'s studio(s);
- h. Paid rent for WJUX(FM)'s antenna tower site or usage;
- I. Interviewed, hired, or fired WJUX(FM) personnel, with the following exception. At some time during the Fall of 1994, Mr. Weis asked me to interview an individual he was considering hiring as the station's chief engineer, to determine his qualifications. Nothing came of this, and I ultimately became the WJUX(FM) chief engineer, a position which I held until May 1, 1995.
- j. Controlled what is or is not broadcast on WJUX(FM). In that connection, the licensee of WJUX(FM) has complete discretion in the exercise of its licensee responsibilities, including the right in its sole discretion to delete or preempt network programming and to broadcast other programming which it deems appropriate.
- k. Established or changed WJUX(FM) management;
- l. Controlled or had access to WJUX(FM)'s bank accounts; or
- m. Prepared or paid WJUX(FM)'s payroll, insurance, income and property taxes, withholding statements and social security obligations.

It is my understanding and belief that all of my arrangements with the licensee of WJUX(FM), including those for the rebroadcast of WJUX(FM) programming *via* translator, are entirely consistent with Commission rules and policies. In that connection, I am providing at Attachment E to this letter copies of my January 31, 1991 letter to Mr. Alan Schneider, Chief, Auxiliary Services Branch, and a November 19, 1991 response from Mr. Roy Stewart, Chief, Mass Media Bureau. Mr. Stewart's letter clarifies that the licensee of a translator station can properly

enter into an otherwise permissible programming arrangement with the licensee of the primary station, provided that the translator station receive no "financial support, directly or indirectly, from the primary station to cover any costs associated with the operation and maintenance of the translator station" (Attachment E). W276AQ and W232AL receive no direct or indirect financial support from WJUX(FM), to cover any of the costs associated with their operation and maintenance, or otherwise. Mr. Stewart's letter also notes that any time brokerage agreement between the primary station and the translator must reflect "a bona fide, arms-length transaction between the primary station and the translator; the licensee of the translator station will have to pay the primary station a rate charge comparable to the amount charged other purchasers of brokered airtime, or an amount consistent with such charges in the local broadcast community. . ." (Attachment E). While I do not believe that the Network Affiliation Agreement with WJUX(FM) is a "brokerage agreement," I believe that it meets the requirements set forth in Mr. Stewart's November 19, 1991 letter, fully.

If I can provide additional information which would be useful in resolving this matter, please let me know.

Very truly yours,

  
Gerald A. Turo

Enc.

000421

**ATTACHMENT A**

**Correspondence between  
Michael B. Hayden, Chief, Microwave Branch and Mr. William J. Getz**

**000422**

FEDERAL COMMUNICATIONS COMMISSION  
1270 FAIRFIELD ROAD  
GETTYSBURG, PA 17325-7243

JUN 06 1995

IN REPLY REFER TO:  
7140-03  
1700B

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Gerard A. Turro  
75 2nd Street  
Dumont, NJ 07628

Dear Mr. Turro,

On June 9, 1993, you applied for an intercity relay station for the expressed purpose of inserting 30 second messages seeking or acknowledging financial support for the operation of FM translator station W276AQ. You indicated that the messages would be inserted in programming received from WJUX(FM), (now WNJW), Franklin Lakes, New Jersey.

It now appears that this intercity relay station, WMG-499, is no longer needed for the stated purpose. In this regard, we note that WJUX/WNJW, Franklin Lakes, has been silent since October 25, 1994, so WMG-499 cannot possibly be used for insertion of messages.

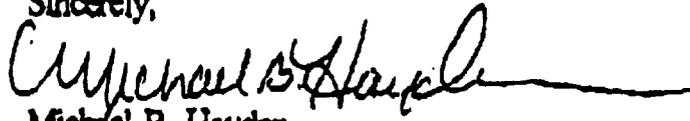
More importantly, a review of our rules indicates that this intercity relay station may have been granted in error. Under Section 74.531 of the Commission's rules, the primary purpose of an aural intercity relay station is to transmit programming material between broadcasting stations, for simultaneous or delayed broadcasting. Here your sole purpose is to insert original broadcast information. While the rules allow multiplexing of an aural intercity relay transmitter, such use must be for an ancillary purpose, and not for the sole purpose, as you have expressly indicated. Additionally, while an intercity relay station may be used to transmit programming between a noncommercial educational FM radio station and a co-owned noncommercial educational FM translator station, the translator must be operating on a reserved channel (Channel 201-220). Here, however, W276AQ is operating on non-reserved channel 276.

In sum, use of intercity relay station WMG-499 in conjunction with WJUX/WNJW is no longer needed. Secondly, its original use was inconsistent with the intent of the rules.

000423

Your use of a dedicated, fixed link, aural intercity relay station for intermittent message insertions is inconsistent with the expressed purpose of those stations. In accordance with Section 308(b) of the Communications Act of 1934, as amended, you are directed to show cause why WMG-499 should not be revoked and your operating authority for the aural intercity relay station cancelled. Your written response should be directed to FCC Microwave Branch, 1270 Fairfield Road, Gettysburg, PA 17325, within 30 days of the date of this correspondence. Until this matter is resolved, you are further advised that WMG-499 may only be used consistent with the rules and/or in accordance with the expressed terms of the license authorizing use of WMG-499. Any other use is strictly prohibited and must be immediately terminated.

Sincerely,



Michael B. Hayden  
Chief, Microwave Branch

turo.csl

000-124

**CARL T. JONES**  
**CORPORATION**

June 13, 1995

Via U.S. Mail and Facsimile

Mr. Michael B. Haydon, Chief  
FCC Microwave Branch  
1270 Fairfield Road  
Gettysburg, PA 17325

Dear Mr. Hayden:

This letter is prepared on behalf of Gerard A. Turro ("Turro"), licensee of intercity relay ("ICR") station, WMG-499. The ICR station is associated with broadcast station W276AQ, Fort Lee, New Jersey.

By letter dated June 6, 1995, the Microwave Branch advised the licensee of WMG-499 to terminate operation of the ICR station. The purpose of this letter is to request that the Microwave Branch reevaluate its initial decision that, as stated in your letter, "use of intercity relay station WMG-499 in conjunction with WJUX [formerly WNJW] is no longer needed [and] its original use was inconsistent with the intent of the rules". It is submitted that the licensee is operating WMG-499 in accordance with the expressed terms of the license authorizing use of WMG-499 and, as a result, the microwave license should not be revoked.

At the time the WMG-499 license was granted, W276AQ rebroadcasted the programming of WJUX(FM) [now WNJW(FM)], Franklin Lakes, New Jersey. The WMG-499 license authorizes Turro to transmit 30 second messages originating from 75 Second Street, Dumont, NJ to the translator. The Dumont transmit location served as the main studio location for WNJW(FM), Franklin Lakes, NJ. The Dumont transmit location now serves as a remote control point and secondary studio location for WJUX(FM) [formerly WXTM(FM)], Monticello, NY.

By letter dated November 30, 1994, (copy attached) Turro notified the FCC that the Fort Lee translator station changed its associated primary station from WNJW(FM), Franklin Lakes, NJ, to WJUX(FM), Monticello, New York. The Fort Lee translator receives the WJUX(FM) signal over the air and rebroadcasts the programming to Bergen County. The current state of WNJW(FM), Franklin Lakes, NJ, has no bearing on the operation of WMG-499 or W276AQ. The Microwave Branch reasons that because WNJW(FM) is currently silent, WMG-499 is no longer needed.

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In light of the information provided herein, it is clear that WMG-499 continues to be used precisely as authorized. The 30-second messages, permitted pursuant to Section 74.1231(g) of the FCC Rules, are delivered from the authorized transmit location to the authorized receive location using the authorized transmitting frequency.<sup>1</sup> In addition, WMG-499 would be used to relay emergency warnings to the Fort Lee translator for broadcast to the population of Bergen County (825,380 persons) which currently lacks a local FM service.<sup>2</sup>

It should be noted that the WMG-499 microwave link is in use 24 hours per day. However, only the 30-second messages and any emergency transmissions are broadcast over W276AQ. The microwave link operates in this manner for two primary reasons:

(1) The microwave equipment is not manufactured to operate on an intermittent basis. Switching the equipment on and off every hour for a 30-second transmission will eventually lead to equipment failure.

(2) Turro recognizes the secondary nature of the multiplexed return telemetry link. In an effort to make the 951.0 MHz transmission readily identifiable, the link must be operational 24 hours a day. In the event WMG-499 causes interference, the offended party will have the ability to easily identify the transmission source. In a once an hour, 30-second message, it would be extremely difficult to identify the interfering source.

It is submitted that this material clearly identifies the need for WMG-499. In addition, the microwave link serves a substantial public interest because of its integral role in emergency management in Bergen County. Your letter incorrectly states that the "sole purpose of WMG-499 is to insert original broadcast information". The licensee

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<sup>1</sup> The WMG-499 microwave link is also used for remote control purposes. The microwave link provides remote control capability to switch from the Ft. Lee main transmit antenna to its authorized auxiliary antenna. This is critical to the operation of W276AQ because of frequent operational problems with the main transmit facility.

<sup>2</sup> The attached letter from the Bergen County Office of Emergency Management demonstrates the clear need for the emergency service the WMG-499 link provides. Section 74.1231(g) of the FCC Rules recognizes this need and sets forth an explicit mechanism whereby local programming may be delivered to a translator station as necessary to protect life and property.

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submits that it is the main purpose, not the sole purpose. The remote control capabilities is an ancillary function of WMG-499, and Turro recognizes this fact.

Your letter states that Turro's, "use of a dedicated, fixed link, aural intercity relay station for intermittent message insertions is inconsistent with the expressed purpose of these stations". However, the insertion of the original broadcast information to an FM translator station is a permitted function of an inter-city relay station under Section 74.1231 of the FCC Rules. This type of ICR station is authorized on a secondary basis only. The Microwave Branch apparently confuses the WMG-499 authorization with that of a *protected* intercity relay station associated with a full service broadcast station. WMG-499 is authorized to operate on a *secondary basis only* as described in Section 74.1231 of the FCC Rules. Because of the intermittent nature of the authorization, the station receives no protection from interference. This secondary authorization is the "penalty" WMG-499 inherits because of the intermittent nature of its operation. The penalty is not that the license should be revoked as suggested by the Microwave Branch.

Given the facts that the WMG-499 microwave link causes no interference, operates in accordance with the expressed terms of its license, and serves the public interest, the WMG-499 license should not be revoked. The licensee recognizes the secondary nature of the authorization, and respectfully requests the reinstatement of the permanent operating authority for WMG-499. Until such a time as permanent authority is reissued, the licensee herein requests Special Temporary Authority to operate the microwave station as originally authorized.

In the event there are any questions concerning this matter, please contact the undersigned.

Sincerely,



William J. Getz

Attachments

cc: Gerry Turro  
Art Goodkind, Esq.

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**ATTACHMENT B**

**Engineering Statement**

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**CARL T. JONES**  
CORPORATION

STATEMENT OF HERMAN E. HURST, JR.  
REGARDING THE OPERATION OF  
W276AQ, FORT LEE, NEW JERSEY AND  
W232AL, POMONA, NEW YORK

Prepared for: Gerard A. Turro

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Gerard A. Turro ("Turro") to prepare this statement in technical support to the response to FCC letter dated June 21, 1995 concerning the operation of W276AQ, Fort Lee, New Jersey, and W232AL, Pomona, New York. The purpose of this statement is to provide the FCC with the requested clarification relating to the FM translator stations during the period from October 18, 1994 until the present.

During the time period from October 18 through October 25, 1994, W276AQ (hereinafter, "Fort Lee translator") rebroadcast noncommercial educational FM station WNJW(FM) [formerly WJUX(FM)], Franklin Lakes, New Jersey. W232AL, Pomona, New York, (hereinafter, "Pomona translator") rebroadcast the signal received from the Fort Lee translator.

On October 25, 1994, noncommercial educational FM station WNJW(FM) temporarily went silent. The Fort Lee translator changed its primary station to full service

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FM station WJUX(FM) [formerly WXTM(FM)], Monticello, New York. The directional receive antenna located at Fort Lee received the WJUX(FM) broadcast signal directly through space. To avoid potential adjacent channel interference to the reception of WJUX(FM), a specially designed 3-cavity filter manufactured by EMR Corporation in Phoenix, Arizona, was added to the receiver subsystem. This filter provides a 40 dB discrimination between the WJUX(FM) carrier and carriers removed  $\pm 10$  kHz. The off-air signal received from WJUX(FM) was then suitably converted, amplified and rebroadcasted over the Fort Lee translator.

During the time that the Fort Lee translator rebroadcast WJUX(FM), the Pomona translator changed its primary station to full service FM station WRGX(FM), Briarcliff Manor, New York. The directional receive antenna located at Pomona received the WRGX(FM) broadcast signal directly through space, suitably converted and amplified the signal and rebroadcasted the WRGX(FM) signal over the Pomona translator.

On January 10, 1995, after the consummation of the sale of the W232AL translator, the Pomona translator station began receiving programming material over-the-air from full service FM station WJUX(FM), Monticello, New York.<sup>1</sup> A directional, high gain receive antenna and the specially designed EMR Corporation filter (moved from the Fort Lee location) are used to receive the WJUX(FM) over-the-air signal. The aural

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<sup>1</sup> The prior licensee of W232AL, Pomona, New York, was Wesley R. Wels and Gerard A. Turro. On December 23, 1994, the FCC granted Assignment of License Application (FCC File No. BALFT-941019TC) authorizing the assignment of the W232AL license to Gerard A. Turro.

programming material is then converted, suitably amplified, and rebroadcast over the Pomona translator in accordance with Section 74.1231 of the FCC Rules. Another directional receive antenna located at the Fort Lee translator receives the over-the-air signal from the Pomona translator. The received signal is then converted and suitably amplified for rebroadcasting on the Fort Lee translator. It is my understanding that no alternate means of program delivery is used.<sup>2</sup> The Fort Lee translator has the ability to receive *directly through space* either the WJUX(FM) broadcast signal or the Pomona translator's broadcast signal depending on signal quality.

As stated in Turro's attached letter, it has been alleged that the signal of WJUX(FM) is inadequate to supply the quality signal rebroadcast over the Fort Lee translator.<sup>3</sup> This is simply untrue. On July 6, 1995, I listened to the over-the-air reception of the WJUX(FM) signal at both translator locations. I can attest to the good quality of the WJUX(FM) signal at both the Pomona translator and at the Fort Lee translator. The accompanying cassette tape was made by Mr. Turro at the Fort Lee site, and clearly demonstrates the good quality of both the WJUX(FM) signal (99.7 MHz) and the signal received from the Pomona translator (94.3 MHz). In addition to the cassette tape which

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<sup>2</sup> Aural Inter-City Relay station WMG-499, an auxiliary broadcast station associated with W276AQ, was being used to deliver once-an-hour, 30-second messages and emergency messages to the Fort Lee Translator. However, as explained in the attached letter, WMG-499 is presently silent.

<sup>3</sup> See February 15, 1995, letter to FCC from Messrs Roy R. Russo and Richard A. Helmick on behalf of Universal Broadcasting of New York, Inc., licensee of standard broadcast station WVNJ, Oakland, New Jersey.

proves that the high fidelity receive signal is present in reality, as demonstrated below, theory also shows that the system will perform reliably.

The reliable, high fidelity, over-the-air signal that WJUX(FM) provides to both the Pomona and Fort Lee translator locations is not surprising when the unique propagation characteristics of the radio path and the transmit and receive equipment are considered. The Pomona translator receives a better quality signal from WJUX(FM) than does the Fort Lee translator. As a result, the Fort Lee translator currently rebroadcasts the over-the-air signal from Pomona.

The distance and bearing from the WJUX(FM) transmitter site to the Pomona receive location is 82.7 km (51.4 miles) at 137.3 degrees true. Radio station WJUX(FM), a monophonic broadcast facility, currently operates with an Effective Radiated Power (ERP) of 6.0 kW at an antenna Height Above Average Terrain (HAAT) of 100 meters. The WJUX(FM) antenna HAAT along the 137.3 degree radial is 133 meters. Using the FCC's F(50,50) propagation curves, the predicted received field strength at the Pomona translator is 36.4 dBu (66  $\mu\text{V}/\text{m}$ ). In reality, and according to alternate prediction methods, the received signal level is even higher.<sup>4</sup>

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<sup>4</sup> According to the Longley-Rice prediction model, which considers the propagation characteristics unique to a given radio path, the received signal at Pomona is expected to be between 110  $\mu\text{V}/\text{m}$  and 200  $\mu\text{V}/\text{m}$ . The Longley-Rice model predicts a received signal at Fort Lee between 8  $\mu\text{V}/\text{m}$  and 14  $\mu\text{V}/\text{m}$ .