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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

John R. Feore, Jr.
Dow, Lohnes & Albertson, P.L.L.C
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036-6802

Dear Mr. Feore, Jr.:

This is in response to the petition for rule making which you submitted on December 24, 1997, on behalf of American Radio Systems License Corp. ("American Radio"). American Radio requests the substitution of Channel 231B1 for Channel 231A at Brighton, New York, and the modification of Station WZNE's license to specify the higher class channel. To accommodate the upgrade at Brighton, American Radio also requests that Channel 246A be substituted for Channel 230A at Dansville, New York, and the license of Station WDNY be modified to specify the alternate Class A channel at a new transmitter site.

An initial engineering review shows that the Dansville channel cannot be allotted in compliance with the Commission's technical requirements. Specifically, the petition proposes the allotment of Channel 246A at Dansville at coordinates 42-22-26 North Latitude and 77-44-25 West Longitude, which represents a site restriction of 21.2 kilometers (13.2 miles) from the Dansville community reference coordinates. However, the Commission assumes that a station operating on a Class A channel can provide city-grade coverage to all of its community only if the transmitter is located no more than 16.2 kilometers from the community reference coordinates. Therefore, we find that the Dansville allotment will not provide the requisite signal level to all of the station's community of license.

An initial legal review of the request also shows that while American Radio has served the licensee of Station WDNY with a copy of its petition for rule making, the licensee of Station WDNY has not at this time agreed to the change in its transmitter site. In fact, American Radio states that it "will soon enter in a written agreement with Dan-Way-Coa Broadcasting Co., Inc. . . whereby the latter will not object to the proposed modification of Station WDNY(FM) and the former will compensate the latter for its compliance with this proposal." However, Commission policy requires that where a petition requires a station to relocate its transmitter site, the consent of the licensee must be shown at the time the petition is filed. See Marina, Salinas and Seaside, California, 5 FCC Rcd 628 (1990), at fn. 5.

Accordingly, for the reasons set forth above, the petition filed by American Radio is not acceptable for consideration.

Sincerely,

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

bcc: Dockets Branch, Room 230

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