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Mr. David M. Pujals
1403 Locust Avenue
Fairmont, West Virginia 26554

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JUL 29 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Pujals:

This is in response to your request, dated January 22, 1998, for the allotment of Channel 256A at Whitehall, West Virginia, as the community's first local aural transmission service.

Your request is procedurally defective and unacceptable for consideration at this time. In order for the Commission to consider your request, you must file a petition to institute a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. The petition for rule making must include a technical showing to demonstrate that the proposal is consistent with Sections 73.207(b)(1) and 73.315 of the Commission's Rules.

Section 307(b) of the Communications Act of 1934, as amended, mandates that the Commission fairly, equitably, and efficiently distribute frequencies "... among the several States and communities." The Commission has defined "communities" as geographically identifiable population groupings. Generally, if a community is incorporated or is listed in the U.S. Census, that is sufficient to demonstrate its status. Absent such recognizable community factors, the petitioner must present the Commission with sufficient information to demonstrate that such a place has social, economic, cultural, or governmental indicia to qualify it as a "community" for allotment purposes. See, e.g., Oak Grove, Florida, 5 FCC Rcd 3774 (1990); Hannibal, Ohio, 5 FCC Rcd 3315 (1990); and Statenville, Georgia, 5 FCC Rcd 2685 (1990). Whitehall not listed in the 1990 U.S. Census, and you have not shown that Whitehall is an incorporated community, or has the requisite indicia to qualify as a "community" for allotment purposes. In the past, we have rejected claims of "community" status where a nexus has not been demonstrated between the political, social and commercial organizations and the community in question. See Gretna, et al, Florida, 6 FCC Rcd 633 (1991), and cases cited therein. Although Whitehall is listed in the 1998 Rand McNally Commercial Atlas and is attributed with a population of 200 persons, mere geographical location is not sufficient to establish "community" status. Therefore, you must provide specific information to demonstrate whether Whitehall has any commercial, social, economic, cultural, or religious organizations, municipal services, or governmental units that identify themselves specifically with that locality.

Section 1.52 of the Commission's Rules, requires that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. If represented by counsel, it must be signed by at least one counsel of record in his individual name. In the absence of such filing, a pleading may be returned as

unacceptable. Section 1.401(b) of the Rules concerning rule making proceedings places petitioners on notice that their proposals must conform with the requirements of Section 1.52 regarding subscription and verification. See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes, 5 FCC Rcd 3911, 3919, n.41 (1990).

Lastly, in accordance with the requirements of Section 1.420 of the Commission's Rules, a signed original and four copies of each petition for rule making must be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

For the reasons stated above, we are returning your request for a Class A allotment at Whitehall, West Virginia. If you wish to pursue your proposal, you may resubmit it in accordance with the requirements of Sections 1.52, 1.420, 73.207(b)(1) and 73.315 of the Commission's Rules.

Sincerely,

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

Enclosures

bcc: FCC Reference Center (room 239 via Secretary's Office (Room 222) (2 copies)

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Petition filed: 1/22/98