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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Petition of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 99-362
Table of Allotments	)	RM-9730
FM Broadcast Stations	)	
(Canton and Morristown, New York)	)	

**REPLY COMMENTS OF CARTIER COMMUNICATIONS INC.  
AND WATERS COMMUNICATIONS INC.**

Cartier Communications Inc. ("Cartier") and Waters Communications Inc. ("Waters") (collectively, the "Petitioners"), pursuant to Section 1.420(b) of the Commission's Rules and by their attorneys, hereby file their Reply Comments in this proceeding. For the reasons discussed below, the Commission should adopt the channel substitutions proposed in this rule making proceeding, modify Section 73.202(b) of its rules for the specified communities, and modify the authorizations for WVNC(FM) and WNCQ(FM) accordingly.<sup>1</sup> The Commission should adopt the proposed channel substitutions for either of the following reasons: (1) no other timely filed expressions of interest were filed in this proceeding; or (2) the substitutions qualify as an incompatible channel swap.

The *Notice of Proposed Rule Making* ("NPRM")<sup>2</sup> proposes the following channel substitutions: (1) substitution of Channel 275C3 for Channel 244A at Canton, New York and modification of license of WVNC(FM) accordingly; and (2) substitution of Channel 244C3 for Channel 275A at Morristown, New York and modification of license for WNCQ(FM)

<sup>1</sup> The *Notice of Proposed Rule Making* authorizes the filing of reply comments by February 22, 2000. Thus, these Reply Comments are timely filed.

<sup>2</sup> DA 99-2843 (Chief, Allocations Branch) (rel. Dec. 17, 1999).

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accordingly. The Commission adopted the *NPRM* in response to a petition for rule making filed by Petitioners.<sup>3</sup>

Petitioners were the only parties to file Comments in this proceeding. In their Comments, Petitioners described how the proposed channel substitutions would serve the public interest by permitting WVNC(FM) and WNCQ(FM) to upgrade their stations and provide wide-area service to the public. Petitioners showed that the proposed channel substitutions qualify as an “incompatible channel swap” in accordance with precedent.

The Commission does not need to rule on whether the proposed channel substitutions qualify as an incompatible channel swap, however. Section 1.420(g)(1) of the Commission’s rules permits the Commission to grant the channel substitutions because no other expressions of interest were filed. *See Colonial Heights, Tennessee*, 11 FCC Rcd 18079 (Chief, Policy and Rules Division) (1996); *Glen Arbor, Michigan*, 6 FCC Rcd 147 (Acting Chief, Allocations Branch 1990). Since no other expressions of interest were filed in this proceeding, the Commission should grant the proposed channel substitutions.

### CONCLUSION

The Commission should adopt the proposed channel substitutions for either of the following reasons: (1) there are no other timely filed expressions of interest in this proceeding; or (2) the substitutions qualify as an incompatible channel swap. Either reason

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<sup>3</sup> Cartier has assigned WVNC(FM) to Radio Power Inc. Mr. Timothy D. Martz is the sole shareholder of Cartier and Radio Power. Radio Power reaffirms its interest in the upgrade for WVNC(FM) and will timely file an application for construction permit for WVNC(FM) and construct the station expeditiously if the Commission grants the rule making petition. For convenience of reference, Petitioners will continue to refer to Cartier instead of Radio Power.

standing alone is sufficient to warrant adoption of the proposed channel substitutions. Together they present an overwhelming case for the Commission to adopt the *NPRM*, modify Section 73.202(b) of the Commission's Rules for each community, and modify the authorizations for WVNC(FM) and WNCQ(FM) accordingly.

**WHEREFORE**, for the foregoing reasons, Cartier Communications Inc. and Waters Communications Inc. respectfully request that the Commission issue a Report and Order granting the proposed channel substitutions for Canton and Morristown as proposed in the *NPRM* and modify the authorizations for WVNC(FM) and WNCQ(FM) accordingly.

Respectfully submitted

**CARTIER COMMUNICATIONS INC.  
WATERS COMMUNICATIONS INC.**

  
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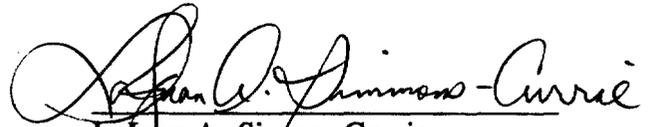
February 22, 2000

Their Attorney

Certificate of Service

I, Lajuan A. Simmons-Currie, a secretary with the law firm of Rini, Coran & Lancellotta, do hereby certify that I have caused a copy of the foregoing "Reply Comments and of Cartier Communications Inc. and Waters Communications Inc." to be mailed, first-class, postage prepaid this 22nd day of February 2000:

\*Ms Leslie K. Shapiro  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

  
Lajuan A. Simmons-Currie

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\*Via Hand Delivery