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May 2, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Portals II Building, TW-A325
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 00-42
RM-9826
Charleroi and Duquesne, Pennsylvania;

Dear Ms. Salas:

On behalf of Keymarket Licenses, LLC, we are herewith filing an original and four (4) copies of its "Comments" in the above-referenced docket to reallocate Channel 252A from Charleroi, Pennsylvania to Duquesne, Pennsylvania.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: 
Allan G. Moskowitz

No. of Copies rec'd 014
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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
)
 Amendment of Section 73.202(b),)
 Table of Allotments,)
 FM Broadcast Stations.)
 (Charleroi and Duquesne, Pennsylvania))

MM Docket No. 00-42
 RM-9826

RECEIVED
 MAY 02 2000
 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

TO: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

COMMENTS

Keymarket Licenses, LLC (“Keymarket”), licensee of Radio Station WOGI-FM, Charleroi, Pennsylvania, by its counsel and pursuant to Section 1.420 of the Commission’s Rules, hereby submits its “Comments” in response to the “Notice of Proposed Rulemaking” (“NPRM”) released March 10, 2000 in the above-referenced docket. The NPRM proposed, at Keymarket’s request, that Section 73.202(b) of the Commission’s Rules be amended to reallocate Channel 252A from Charleroi to Duquesne, Pennsylvania and modify Radio Station WOGI-FM’s license accordingly. In support thereof, the following is respectfully shown:

Public Interests Benefits

1. Keymarket’s proposed reallocation scheme would serve the public interest and the Commission’s allotment priorities by proposing a new first service to Duquesne, Pennsylvania, located in Allegheny County approximately 20 miles southeast of Pittsburgh. Duquesne, with a 1990 U.S. Census Population of 8,525, was established in the late 18th Century and was finally incorporated on September 12, 1891. The city is governed by a mayor and four member city

council. Duquesne provides police and volunteer fire and sewage services and, up until recently, provided water to the community. Duquesne has its own public school system, a public park, restaurants, shopping and its own post office. Duquesne has social and charitable organizations such as the Moose and the American Croatian Club. There are 19 separate churches in Duquesne. Duquesne, therefore, has the social, economic and governmental indices to qualify as a community for allotment purposes. FM Channel Assignments (Biltmore Forest, North Carolina) 63 RR2d 251 (1987).¹ However, no AM or FM stations are currently licensed to Duquesne either commercial or non-commercial. Consequently, the reallocation of Channel 252A to Duquesne will constitute the first local service to a sizable community which presently has no service.

2. In contrast, full service commercial Radio Station WESA(AM) will continue to provide local service on 940 kHz to Charleroi, Pennsylvania. Consequently, the proposed reallocation of Channel 252A from Charleroi to Duquesne and the modification of WZKT(FM)'s license will not deprive Charleroi of its only local service.

3. The proposed reallocation complies with the Commission's Rules and would serve the Commission's allotment priorities and public interest. In Amendment Of The Commission's Rules Regarding Modification of FM and TV Authorizations To Specify a New Community of License, 4 FCC Rcd. 4870 (1989), recons granted in part, 5 FCC Rcd. 7094 (1990) (hereinafter, "Community of License"), the Commission stated the proposed channel must be mutually exclusive with the existing channel and the new community must be preferred over the existing community under the Commission's allotment priorities. Since we are merely proposing the

¹ Keymarket respectfully requests that the Commission incorporate by reference the "Petition for Rulemaking" filed by Keymarket to initiate this docket.

reallotment of Channel 252A from Charleroi to Duquesne, the proposal is mutually exclusive with the current use of Channel 252A.

4. Further, the new community, Duquesne, will obtain a first local service, whereas Charleroi, Pennsylvania will retain existing service from a commercial AM station. Under the Commission's allotment criteria, first local service is preferred over additional local services. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d. 88 (1982).

Gain and Loss Study

5. As indicated in the attached Engineering Statement of William J. Getz of Carl T. Jones Corporation, and in response to the NPRM's request for the provision of gain and loss area studies, the proposed reallocation of Channel 252A and relocation of Radio Station WOGI-FM, from Charleroi, Pennsylvania to Duquesne, Pennsylvania will provide a primary service to a gain area of 1,497 square kilometers which contains a population of 1,126,252 persons. In contrast, the loss area covers a service area of 1,495 square kilometers encompassing only 128,304 persons. The entire gain and loss areas are served by at least five (5) full-time aural services. Consequently, the reallotment of Channel 252A from Charleroi, Pennsylvania to Duquesne, Pennsylvania and the relocation of Radio Station WOGI-FM will result in a net gain in population of approximately 1,000,000 persons. Moreover, as indicated in Keymarket's Petition for Rulemaking, WOGI-FM, as presently licensed, only provides 60 dBu service to 375,050 persons while the station operating from the proposed reference coordinates would provide the 60 dBu service to 1,497,423 persons, nearly four times the amount of population presently served by the station.

6. Keymarket hereby reiterates that should the Commission grant the instant proposal to reallot Channel 252A from Charleroi, Pennsylvania to Duquesne, Pennsylvania, and

to modify Radio Station WOGI-FM's license accordingly, Keymarket will file an application for the new facilities and, when granted, will implement that application expeditiously.

7. In conclusion, Commission's grant of the instant proposal will provide numerous benefits to the listening public. Duquesne, Pennsylvania, a long-established community of over 8,500 persons, will gain its first local aural outlet while Charleroi will still retain a radio station. Moreover, the instant proposal will provide a net primary service gain of 997,948 persons and increase the population served fourfold. Keymarket submits that its instant proposal should, therefore, be adopted.

WHEREFORE, for the foregoing reasons, Keymarket Licenses, LLC respectfully requests that the Commission amend its Table of Allotments to reallocate Channel 252A from Charleroi, Pennsylvania to Duquesne, Pennsylvania and modify the license of Radio Station WOGI-FM accordingly.

Respectfully submitted,

Keymarket Licenses, LLC

By: 
Allan G. Moskowitz
Its attorney

CARL T. JONES
CORPORATION

**STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF COMMENTS IN
MM DOCKET NO. 00-42, RM-9826**

Petitioner: Keymarket Licensees, LLC

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 Keymarket Licensees, LLC, lead petitioner in the above referenced proceeding, and licensee of WOGI-FM [formerly WZKT(FM)], Charleroi, Pennsylvania, to prepare this statement and the associated exhibit as Comments in support of a Petition to Amend the FM Table of Allotments, Section 73.202(b) of the FCC Rules. On March 1, 2000, the Allocations Branch adopted a Notice of Proposed Rulemaking ("NPRM") setting forth the petitioner's requests to modify Section 73.202(b) of the FCC Rules in the following manner:

	<u>Present</u>	<u>Proposed</u>
Charleroi, PA	252A	----
Duquesne, PA	----	252A

STATEMENT OF WILLIAM J. GETZ
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The NPRM also requested that the petitioner provide gain and loss area studies related to the proposed arrangement of allotments. The requested information is provided herein.

Exhibit 1 shows the primary service (60 dBu maximum Class A circle) gain and loss areas attributable to petitioner's proposed reallocation of Channel 252 to Duquesne. The Class A facility in Duquesne will provide primary service to a gain area (represented on Exhibit 1 as the green shaded area) of 1,497 km² which contains a population of 1,126,252 persons. As shown in Exhibit 1, the gain area is served by a minimum of 18 and a maximum of 25 FM services.

The loss area associated with a Class A facility in Duquesne relative to a Class A facility in Charleroi (represented on Exhibit 1 as the blue shaded area) covers a land area of 1,495 km² and contains a population of 128,304 persons. As shown in Exhibit 1, the gain area is served by a minimum of 13 and a maximum of 30 FM services.¹

The proposed arrangement of allotments will allow for WOGI-FM to provide a first local service to Duquesne, Pennsylvania. In addition, the instant proposal will allow WOGI-FM to provide new primary service to 997,948 persons.

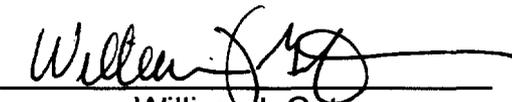
¹ Because it was found that both the entire gain area and the entire loss area is served by 5 or more full-time FM services, inclusion of the many more AM services available to the gain and loss area is not necessary.

STATEMENT OF WILLIAM J. GETZ
PAGE 3

For the FM stations considered herein, the primary service coverage is the maximum Class circles computed without considering terrain effects.² The area and population figures were determined using appropriate computer software applications.³

This statement and the associated exhibit were prepared by me or under my direct supervision and are believed to be true and correct.

DATED: April 20, 2000

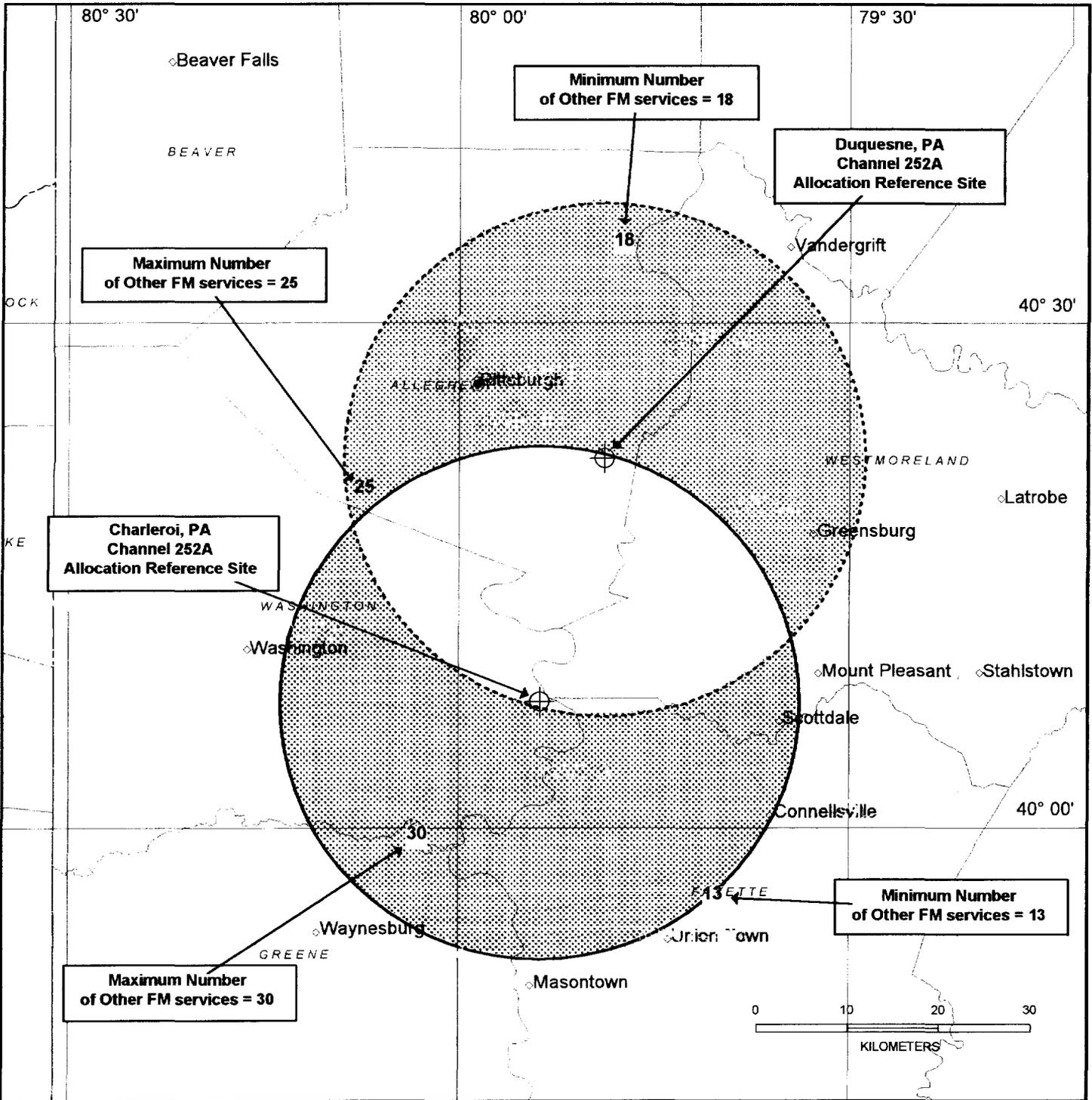


William J. Getz

² For the Class A, Class B and Class B1 FM stations considered herein, the primary service circles represented on the attached exhibit are the 60 dBu contour (28.3 km radius circle), the 54 dBu contour (65.0 km radius circle) and the 57 dBu contour (44.7 km radius circle), respectively.

³ The population was determined using the computerized block centroid retrieval methodology, recognized by the U.S. Census Bureau as a more accurate means of determining population within a given area than the uniform distribution method. See the October 9, 1992 *Letter from Chief, Audio Services Division to Larry W. Hill*, reference No. 1800B3-ESR.

Primary Service 60 dBu Gain Area (Green Shaded) = 1,497 km² Population = 1,126,252
 Primary Service 60 dBu Loss Area (Blue Shaded) = 1,495 km² Population = 128,304



WOGI(FM), CHARLEROI, PA [CURRENT ALLOC]
 Ch. 252A [MAX CLASS A CIRCLE RADIUS = 28.3 KM]
BLACK SOLID CONTOUR

WOGI(FM), DUQUESNE, PA [PROPOSED ALLOC]
 Ch. 252A [MAX CLASS A CIRCLE RADIUS = 28.3 KM]
BLACK DASHED CONTOUR

OTHER FM AURAL PRIMARY SERVICES (Red Circles)
 CLASS A [MAX CLASS A 60 dBu CIRCLE RADIUS = 28.3 KM]
 CLASS B1 [MAX CLASS B1 57 dBu CIRCLE RADIUS = 44.7 KM]
 CLASS B [MAX CLASS B 54 dBu CIRCLE RADIUS = 65 KM]

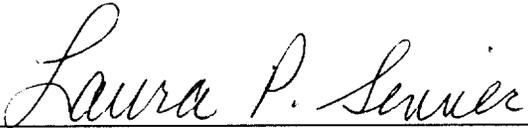
**RULEMAKING GAIN/LOSS STUDY
 AND OTHER FULL-TIME AURAL SERVICES
 CHARLEROI AND DUQUESNE, PA
 MM DOCKET NO. 00-42, RM-9826
 APRIL, 2000**

CARL T. JONES
 CORPORATION

CERTIFICATE OF SERVICE

I, Laura P. Sinner, of the law firm Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 2th day of May, 2000, a copy of the foregoing "Comments" was hand-delivered to the following:

Sharon P. McDonald
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554



Laura P. Sinner