



FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 13 7 30 AM '00

September 13, 2000

~~Imaging Center~~
Imaging Center
CY level

Mr. F. William LeBeau
Hogan & Hartson, L.L.P.
555 13th Street, N.W.
Washington, D. C. 20004-1109

Dear Mr. LeBeau:

This is in response to the proposal you filed on behalf of Clear Channel Broadcasting Licenses, Inc., requesting the reallocation of Channel 250C2 from St. Augustine, Florida, to Neptune Beach, Florida, and modification of the license for Station KGNE-FM (formerly Station WFSJ-FM) accordingly. We have reviewed your proposal and find that it is unacceptable for rule making.

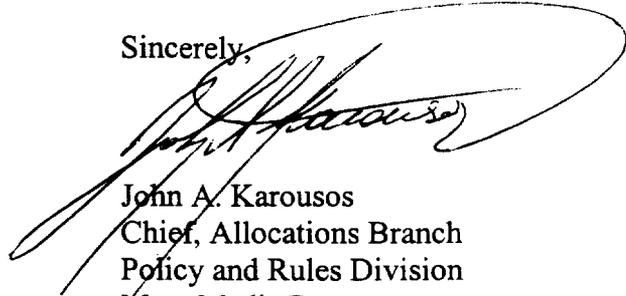
Although you are not relocating the transmitter, changing the channel or upgrading the class, your proposal for a change of community constitutes a new rule making proceeding which is analyzed under Section 73.207 of the Commission's Rules. Using the reference coordinates as you have specified for Station KGNE-FM, 30-06-14 and 81-28-11, your proposal for Neptune Beach is short spaced to Station WNUE, Channel 251C1, Titusville, Florida, Station WSKY-FM, Channel 249A, Micanopy, Florida, and Station WXTB, Channel 250C, Clearwater, Florida. We recognize that Station KGNE-FM operates under Section 73.215 with respect to Stations at Clearwater, Micanopy and Titusville and that the stations at Clearwater and Titusville also operate under Section 73.315 of the Commission's Rules. However, in authorizing the use of contour protection at the application stage, the Commission specifically noted that it did not contemplate the use of directional antennas to create short-spaced allotments. See Report and Order, in MM Docket No. 87-121, 4 FCC Rcd 1681 (1989).

In Killeen and Cedar Park Texas, the Commission recently authorized a change of community for Station KLNC(FM) to specify Cedar Park as the community of license. See MM Docket No. 98-176, 15 FCC Rcd 1945 (2000). In that proceeding, Station KLNC(FM) was not upgrading or changing its transmitter site but was a pre-1964 "grandfathered" short spaced station and would continue to be short-spaced whether licensed to Cedar Park or Killeen. Although the proposed reallocation of Station KGNE-FM, St. Augustine, is similar, Station KGNE-FM operates under Section 73.215 of the Rules while Station KLNC(FM), Killeen, operated as a fully spaced station with other stations providing contour protection. The reallocation to Cedar Park was granted as no new short spacing would be created and no existing short-spacing exacerbated with respect to existing stations operating under Section 73.215 of the Rules. In this situation, Station KGNE-FM availed itself of the provisions of Section 73.215 and thereby created

an allotment inconsistent with the separation requirements set forth in Section 73.207 of the Rules. As such, in this petition for rule making, Station KGNE-FM itself would be creating a short-spaced allotment in contravention of the Report and Order in MM Docket No. 87-121 and Section 73.207 of the Rules.

Based on the above discussion, we are returning your petition for St. Augustine and Neptune Beach, Florida.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Karousos", is written over a large, light-colored oval shape.

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

Attachment