

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. _____
Table of Allotments)	
Vacant FM Allotment (Liberty, PA))	RM - _____
)	

To: Secretary, Federal Communications Commission

PETITION FOR RULEMAKING

Youngshine Media, Inc. ("Youngshine"), by its attorneys and pursuant to Section 1.401 of the Commission's Rules,¹ hereby petitions the Commission to amend Section 73.202(b) of the Commission's Rules² to reserve Channel 298A, allotted to Liberty, Pennsylvania, for noncommercial, educational ("NCE") use. As demonstrated herein, this Petition fully satisfies the criteria recently established by the Commission for NCE FM reservation requests.³

Specifically, as the attached Engineering Statement of David Dickmann of du Treil, Lundin and Rackley, Inc. ("Dickmann Statement") indicates, the proposed station would provide both a first and second NCE service to at least 10% of its proposed service area, and that area consists of at least 2,000 persons. In addition, the Dickmann Statement establishes a rebuttable presumption that all reserved band NCE FM Class A channels are technically precluded from operating at the reference coordinates for Liberty. Youngshine also hereby states its intention to apply for a

¹ 47 C.F.R. § 1.401.

² 47 C.F.R. § 73.202(b).

³ See In the Matter of Reexamination of the Comparative Standard for Noncommercial Educational Applicants, Second Report and Order, 18 FCC Rcd 6691 (2003) ("Second NCE FM Report and Order"), at ¶¶ 34-40. See also Public Notice, "Media Bureau Opens Window to Permit Noncommercial Educational Reservation Showings for Certain Vacant FM Allotments," DA 03-2990, rel. Sept. 30, 2003.

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construction permit to build a NCE facility on this channel, in the event that the Commission grants this Petition.⁴

I. Grant of the Petition Would Result in the Provision of Sufficient First and Second NCE FM Service to Liberty, PA.

Pursuant to the Second NCE FM Report and Order, a reservation request must initially demonstrate that maximum class facilities at the proposed allotment site's reference coordinates would provide a first or second NCE service to at least ten percent of the population within the proposed station's 60 dB μ service area, and that such population is at least 2,000 persons.⁵ The instant petition satisfies this criterion.

Specifically, the Dickmann Statement establishes that there are 24,139 persons (based on the 2000 U.S. Census) within the 60 dB μ contour of a Class A FM station located at the allotment reference coordinates for Liberty.⁶ The Dickmann Statement further demonstrates that 3,603 of those persons (14.9%) would receive first NCE service, and 8,875 (36.8%) would receive second NCE service.⁷ Thus, because over half of the population within the 60 dB μ contour of a Class A station in Liberty would receive first or second NCE service (and that area has more than 2,000 people), the first criterion of the Second Report and Order is satisfied.

⁴ Youngshine is a New Jersey not for profit corporation. It does not hold any other media interests in its own right. However, it is one of three mutually exclusive applicants for a new reserved band NCE FM construction permit, which will operate on 88.1 MHz in Hopatcong, New Jersey. That proceeding is currently pending at the Commission.

⁵ Second NCE FM Report and Order at ¶ 34.

⁶ Dickmann Statement at 1 and Figure 1. The maximum FM facility at Liberty is Class A, in light of the fact that Channel 298, a Class A allotment, is the only FM channel currently allotted to that community. See § 73.202(b) of the Commission's Rules, 47 C.F.R. § 73.202(b) (FM Table of Allotments).

⁷ See Dickmann Statement at 1 and Figure 1.

II. Liberty is Technically Precluded From Receiving First or Second NCE FM Service in the Reserved Band.

The Second NCE FM Report and Order also requires a reservation request to establish a rebuttable presumption that the proposed community is technically precluded from receiving a first or second NCE service in the reserved band. That showing is required to be based on a circle, centered in the proposed community of license and drawn with a radius one kilometer less than the distance to the predicted 60 dB μ signal contour of a maximum same-class facility. The showing must then establish that no rule-compliant same-class facility could be authorized at either: (a) *maximum* height above average terrain (“HAAT”) and effective radiated power (“ERP”) on any reserved band channel at four equally-spaced locations on the circle; and (b) *minimum* antenna HAAT and ERP on any reserved band channel at the reference coordinates for the community of license.⁸ The instant petition satisfies this criterion as well.

As described in the Dickmann Statement at 1-3, no rule-compliant *maximum* Class A facility⁹ could be authorized at any of the four equally-spaced locations on the circle.¹⁰ At each point, Mr. Dickmann investigated whether a new NCE facility would cause prohibited contour overlap with respect to any licensed or authorized *NCE FM* facilities in the reserved band, based on criteria set forth in sections 73.509 and 73.313 of the Commission’s rules,¹¹ and with respect

⁸ Second NCE FM Report and Order at ¶ 35.

⁹ Section 73.211(b)(1) of the Commission’s rules establishes that the maximum facilities of a Class A FM station permit operating with an antenna located at 100 meters HAAT and with 6 kW of ERP. 47 C.F.R. § 73.211(b)(1).

¹⁰ Figure 2 accompanying the Dickmann Statement consists of a circle centered at the reference coordinates for Liberty (41-33-30 North Latitude; 77-6-18 West Longitude, based on the 2000 U.S. Census), with a 27 kilometer radius, which is one kilometer less than the distance to the predicted 60 dB μ signal contour of a maximum Class A facility. See Section 73.211(b)(1) of the Commission’s rules, 47 C.F.R. § 73.211(b)(1). The Figure also depicts four equally-spaced locations on that circle, beginning at 0 degrees True North.

¹¹ 47 C.F.R. §§ 73.509, 73.313.

to any *commercial* stations operating on Channels 221-223, just outside of the reserved band, pursuant to criteria set forth in sections 73.207 and 73.313 of the Commission's rules.¹² In each case, Mr. Dickmann found that prohibited overlap would occur. The results of his findings are summarized at Figure 3.

The Dickmann Statement also establishes that no rule-compliant same-class facility could be authorized at *minimum* antenna HAAT and ERP on any reserved band channel at the reference coordinates for Liberty.¹³ At that location, Mr. Dickmann determined, as referenced in Figure 3 of his Statement, that a minimum Class A FM facility would serve fewer than 2,000 persons within its 60 dB μ contour, and therefore would not satisfy the criteria of the Second Report and Order.¹⁴

Based on the Dickmann Statement, Youngshine is thus also able to demonstrate that Liberty is currently technically precluded from receiving a first or second NCE service in the reserved band.

¹² 47 C.F.R. §§ 73.207, 73.313.

¹³ Sections 73.313(e) and 73.211(a) of the Commission's rules establish that the minimum facilities of a Class A FM station permit operating with an antenna that may be located at 30 meters HAAT and 0.1 kW ERP. 47 C.F.R. §§ 73.313(e), 73.211(a).

¹⁴ Second Report and Order at ¶¶ 34, 36.

III. Conclusion

Youngshine has demonstrated satisfaction of each of the criteria set forth in the Second NCE FM Report and Order. Specifically, the operation of a new NCE FM station on Channel 298A in Liberty, PA will provide persons within its service area with sufficient levels of first and second NCE FM service. In addition, as provided in the Dickmann Statement, it is not technically feasible for Liberty to receive NCE FM service from a channel in the reserved FM band. Grant of the instant petition is therefore in the public interest.

Respectfully submitted,

YOUNGSHINE MEDIA, INC.

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Dated: November 21, 2003
160799.2

TECHNICAL EXHIBIT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO RESERVE FM CHANNEL 298A
FOR NONCOMMERCIAL, EDUCATIONAL USE
AT LIBERTY, PENNSYLVANIA

Technical Narrative

This technical narrative and associated exhibits have been prepared in support of a Petition for Rule Making to amend Section 73.202(b) by designating the channel 298A allotment at Liberty, Pennsylvania for noncommercial, educational ("NCE") use. The requested change is in accordance with the criteria established in the Second Report and Order ("Second R&O") in MM Docket No. 95-31 and is filed in response to the Public Notice (DA 03-2990) announcing an open window for such filings with respect to certain vacant FM allotments. The channel 298A allotment at Liberty, Pennsylvania appears in Appendix A to the Public Notice.

Need for New NCE Service

Figure 1 demonstrates that the proposed reservation of channel 298A for NCE service meets the first criteria for such a reservation as established in the Second R&O. As can be seen in this figure, the 60 dBu contour for a maximum class A facility at the allotment reference coordinates will provide a first or second NCE FM service to 12,478 persons which is more than the minimum of 2,000 persons as established in the Second R&O and more than ten percent of the 24,139 persons within the predicted 60 dBu service area.

Technical Preclusion Showing

Based on the criteria established in the Second R&O, it can be demonstrated that the proposed reservation of channel 298A at Liberty, Pennsylvania meets the Commission's criteria for a rebuttable presumption of technical preclusion since, based on these criteria, use of a non-commercial, educational, reserved-band channel for a same-class facility is precluded at Liberty.

The attached Figure 2 shows the boundaries of the community of Liberty along with the center point of that community, a 27-km reference circle about the center point (one km less than the class A reference distance of 28 km), and the four points on that reference circle used to establish the rebuttable presumption of technical preclusion. Attached as Figure 3 is a table summarizing the reasons that use of reserved-band channels is precluded at each of five points. The preclusions are based on the following assumptions:

- At the center point, the preclusion study is based on an assumed, minimum class A facility of 0.100 kW at 30 meters HAAT.
- At the four points on the 27-kilometer circle about Liberty, the preclusion study is based on an assumed, maximum class A facility of 6 kW ERP at 100 m HAAT.
- Circular polarization was assumed in all cases.

Methodology

Population counts are based on the 2000 US Census of Population and were performed by means of a computer program which sums the population of all US Census blocks having centroids within the specified boundary.

For the 20 reserved-band channels, technical preclusion was determined based on either prohibited overlap with another reserved-band station based on the criteria of 47 CFR 73.509, or, in the case of channels 218, 219 and 220, failure to meet the separation requirements to commercial stations based on the criteria of 47 CFR 73.207.

The predicted coverage, protected and interfering contours for all stations were calculated in accordance with the provisions of 47 CFR 73.313. In accordance with current FCC practice, no consideration was given to terrain roughness correction factors. The average terrain elevations from 3 to 16 kilometers from the proposed site along the 36 radials, evenly spaced at 10-degree intervals were determined using the N.G.D.C. 3-second terrain database.

The antenna radiation center heights above average terrain in the individual radial directions and the corresponding effective radiated powers were used in conjunction with the F(50,50) and F(50,10) curves of 47 CFR 73.333 (Figure 1 and Figure 1a) to determine distances to the coverage, protected and interfering contours.

Proposed Change in Table of Allotments

Accordingly, Petitioner requests modification of the FM table of allotments (47 CFR 73.202(b)) as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Liberty, PA	298A	*298A

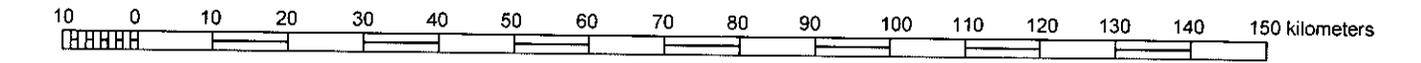
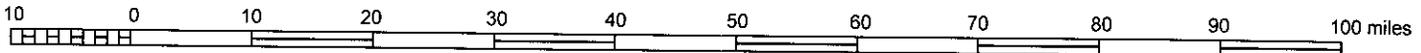
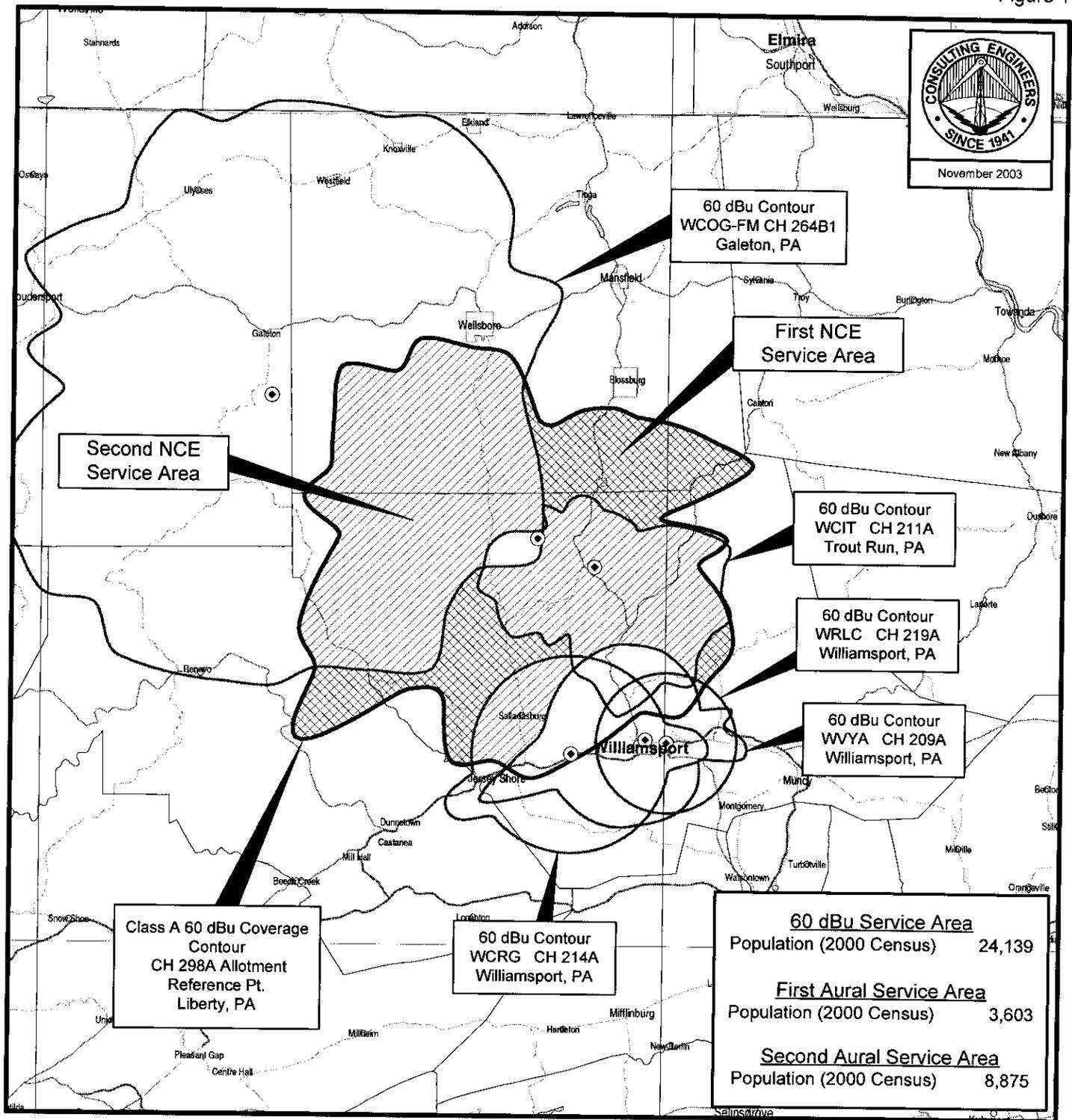
*reserved for non-commercial, educational use



David E. Dickmann

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November 17, 2003

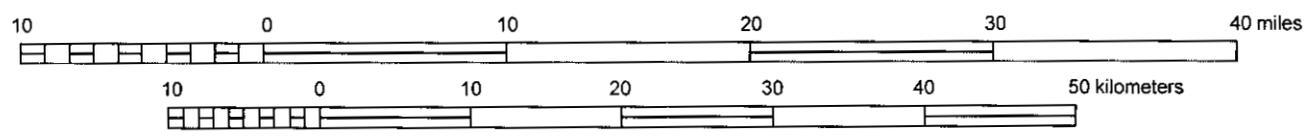
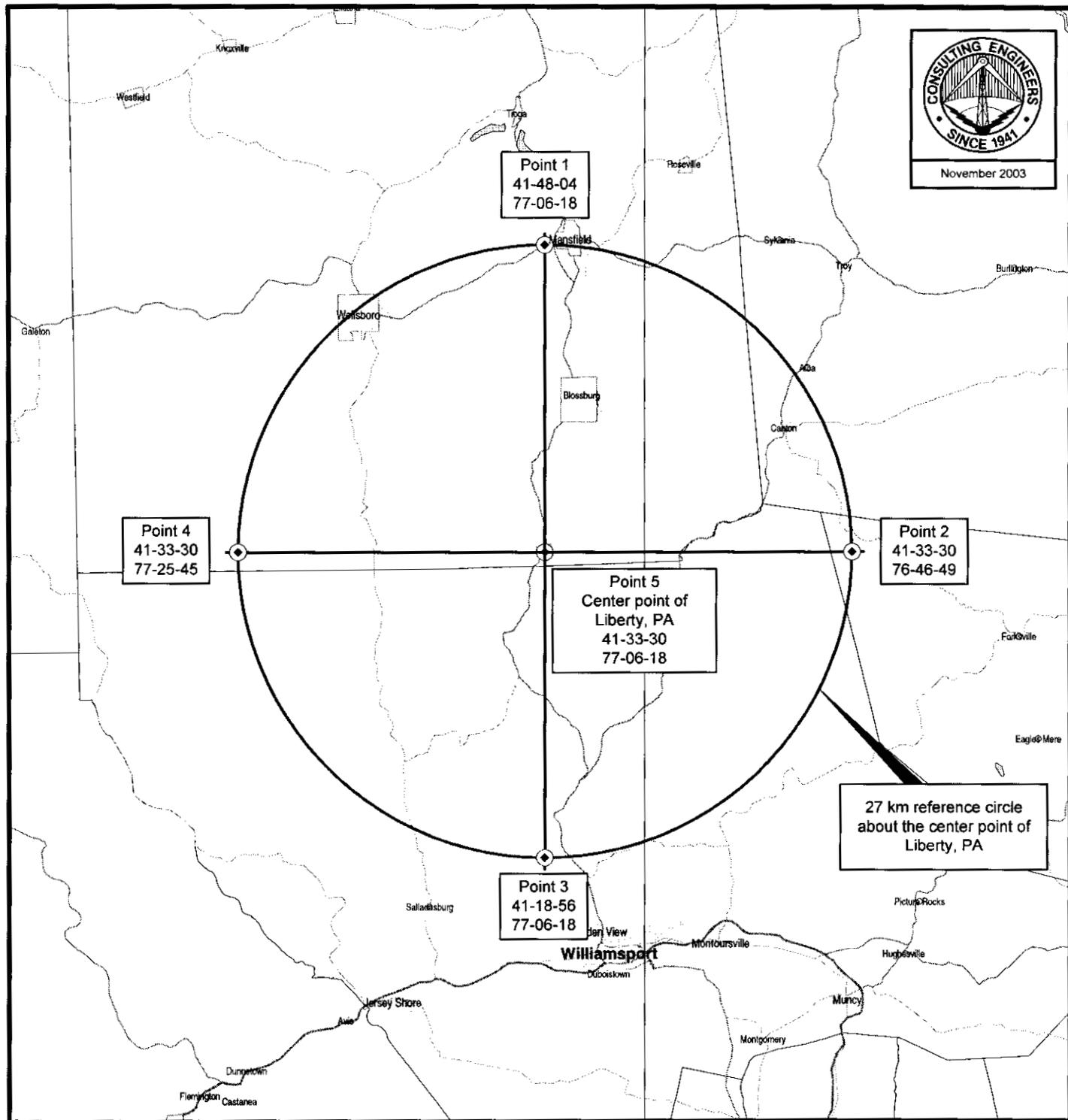
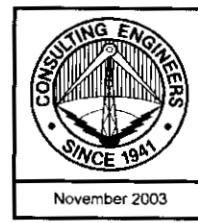


NCE FM SERVICE ANALYSIS

PROPOSED NCE RESERVATION
CHANNEL 298A

LIBERTY, PENNSYLVANIA

du Treil, Lundin & Rackley, Inc. Sarasota, Florida



CLASS A REFERENCE CIRCLE
PROPOSED NCE RESERVATION
CHANNEL 298A
LIBERTY, PENNSYLVANIA

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

Technical Preclusion Analysis
CH 298A Liberty, Pennsylvania

Reserved-Band Channel	Reason for Preclusion									
	Point 1		Point 2		Point 3		Point 4		Point 5	
	Station	Reason	Station	Reason	Station	Reason	Station	Reason	Station	Reason
201	WPTC	60/40 dBu overlap	WPTC	60/40 dBu overlap	WPTC	60/40 dBu overlap	WPTC	60/40 dBu overlap		
202	WCII	60/54 dBu overlap	WPTC	60/54 dBu overlap	WPTC	60/54 dBu overlap	WPTC	60/54 dBu overlap		
203	WCII	60/40 dBu overlap	WCII	60/40 dBu overlap	WPTC	60/100 dBu overlap	WCII	60/40 dBu overlap		
204	WCII	60/54 dBu overlap	WCII	60/54 dBu overlap	WPTC	60/100 dBu overlap	WSQA	60/40 dBu overlap		
205	WQSU	60/40 dBu overlap	WQSU	60/40 dBu overlap	WQSU	60/40 dBu overlap	WQSU	60/40 dBu overlap		
206	WNTE	60/100 dBu overlap	WQSU	60/54 dBu overlap	WQSU	60/54 dBu overlap	WQSU	60/54 dBu overlap		
207	WNTE	60/54 dBu overlap	WNTE	60/54 dBu overlap	WVYA	60/100 dBu overlap	WNTE	60/54 dBu overlap		
208	WNTE	60/40 dBu overlap	WNTE	60/40 dBu overlap	WVYA	60/54 dBu overlap	WNTE	60/40 dBu overlap		
209	WNTE	60/54 dBu overlap	WNTE	60/54 dBu overlap	WVYA	60/40 dBu overlap	WNTE	60/54 dBu overlap		
210	WNTE	60/100 dBu overlap	WTLR	60/40 dBu overlap	WVYA	60/54 dBu overlap	WTLR	60/40 dBu overlap		
211	WNTE	60/100 dBu overlap	WCIT	60/40 dBu overlap	WVYA	60/100 dBu overlap	WTLR	60/54 dBu overlap		
212	WCIT	60/54 dBu overlap	WCIT	60/54 dBu overlap	WVYA	60/100 dBu overlap	WCIT	60/54 dBu overlap		
213	WCIH	60/54 dBu overlap	WCRG	60/54 dBu overlap	WCIT	60/100 dBu overlap	WCIT	60/100 dBu overlap		
214	WCRG	60/40 dBu overlap	WCRG	60/40 dBu overlap	WCIT	60/100 dBu overlap	WCIT	60/100 dBu overlap		
215	WCIH	60/100 dBu overlap	WCRG	60/54 dBu overlap	WCRG	60/54 dBu overlap	WCRG	60/54 dBu overlap		
216	WSQE	60/40 dBu overlap	WSQE	60/40 dBu overlap	WCRG	60/100 dBu overlap	WSQE	60/40 dBu overlap		
217	WSQE	60/54 dBu overlap	WSQE	60/54 dBu overlap	WCRG	60/100 dBu overlap	WGRC	60/40 dBu overlap		
218	WSQX-FM	60/40 dBu overlap	WRLC	60/54 dBu overlap	WRLC	60/54 dBu overlap	WRLC	60/54 dBu overlap		
219	WRLC	60/40 dBu overlap	WRLC	60/40 dBu overlap	WRLC	60/40 dBu overlap	WRLC	60/40 dBu overlap		
220	WNBQ	short spaced	WRLC	60/54 dBu overlap	WRLC	60/54 dBu overlap	WRLC	60/54 dBu overlap		

Minimum Class A facility has less than 2000 persons within its 60 dBu contour.

Figure 3

CERTIFICATE OF SERVICE

I, Genet Teferi, a secretary at the law firm of Fleischman and Walsh, L.L.P., hereby certify that a copy of the foregoing "Petition for Rulemaking" was served this 21st day of November, 2003, via hand delivery, upon the following:

Rolanda F. Smith
Audio Division – Media Bureau
Federal Communications Commission
Room 2-B450
445 12th Street, S.W.
Washington, D.C. 20554



Genet Teferi