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November 4, 2005

VIA HAND DELIVERY

Ms. Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
Portals II – 12th Street Lobby
Filing Counter – TW-A325
445 12th Street, SW
Washington, D.C. 20554

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NOV - 4 2005

Federal Communications Commission
Office of Secretary

Re: MB Docket No. 05-143
RM-11221, 11286
Reply Comments
(Romney and Wardensville, West Virginia)

Dear Ms. Dortch:

Transmitted herewith, on behalf of Hardy County Broadcast Associates, is an original and four (4) copies of its Reply Comments in MB Docket No. 05-143. Please contact undersigned counsel in the event the Commission has any questions with respect to this filing.

Sincerely,



Lee J. Peltzman
Counsel for
HARDY COUNTY BROADCAST ASSOCIATES

LJP/kdm

Enclosure

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**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 05-143
Table of Allotments)	RM-11221, 11286
FM Broadcast Stations)	
(Romney and Wardensville, West Virginia))	

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To: Office of the Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

NOV - 4 2005

Federal Communications Commission
Office of Secretary

REPLY COMMENTS

Hardy County Broadcast Associates (“HCBA”), by its counsel and pursuant to the Commission’s Public Notice, dated October 20, 2005 (Report No. 2734), hereby submits its Reply Comments in support of HCBA’s counterproposal (RM-11286) in the above-captioned proceeding. In its counterproposal, HCBA requested that the Commission amend Section 73.202(b) of its rules - - the FM Table of Allotments - - to allot Channel 239A to Wardensville, West Virginia in lieu of the petition filed by Cornwell & Ailes, Inc. (“C & A”) seeking to allot Channel 239A to Romney

I. Background

The Commission initiated the instant proceeding with the release of its *Notice of Proposed Rule Making*, DA 00-743, released March 23, 2005 (“*NPRM*”). Therein, the Commission proposed to allot Channel 239A to Romney “as the community’s first local service.” In response to the *NPRM*, HCBA submitted its counterproposal, proposing instead that

Channel 239A be allotted to Wardensville, West Virginia as that community's first local aural transmission service.

II. Discussion

In its counterproposal, HCBA demonstrated that adoption of its counterproposal would better serve the public interest and the Commission's FM allotment priorities as set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) then would the proposal set forth in the *NPRM*. While the *NPRM* referred to the C & A proposal as providing a first service for Romney, in fact, there are already two FM stations licensed to Romney: WDZN(FM) and WWSB(FM). The C & A proposal would, therefore, be a third service at Romney. In contrast, the community of Wardensville currently has no broadcast facilities. The Commission FM allotment priorities clearly reflect the determination that preference be given to proposals to serve presently underserved areas. In light of this mandate, HCBA submits that overwhelming weight should be given to its proposal that would result in the provision of a first local transmission service to Wardensville.

As demonstrated in its counterproposal, Wardensville, West Virginia easily meets the definition of and has all of the attributes required for a "community" for FCC allotment purposes. It is listed in the 2000 U.S. Census and is therefore presumed to have the status of a community. *See Arnold and Columbus, California*, 7 FCC Rcd 6302 (1992). Moreover, as set forth by HCBA in its counterproposal, Wardensville is a thriving community, with its own local government providing services to community residents as well as numerous businesses. The community is also home to five churches.

The Commission should favor a first local transmission service at Wardensville over a third local service at Romney under its FM allotment priorities. As such, in view of the above,

HCBA respectfully requests that the Commission adopt its counterproposal and allot Channel 239A to Wardensville, West Virginia.

Respectfully submitted,

HARDY COUNTY BROADCAST ASSOCIATES

By: 

Lee J. Peltzman
Its Counsel
Shainis & Peltzman, Chartered
1850 M Street
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Date: November 4, 2005

CERTIFICATE OF SERVICE

I certify that on this 4th day of November, 2005, I caused to be sent by U.S. mail, postage prepaid, copies of the foregoing Counterproposal to the following:

Deborah A. Dupont, Esq.*
Federal Communications Commission
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Washington, DC 20554

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Karen McNeill

*Via Hand Delivery