

Community of License Change – Section 307(b)
Dannemora New York to Keeseville New York and Saranac Lake New York to Dannemora New
York

Radioactive, LLC (“Radioactive”), the holder, pursuant to the winning bid in Auction No. 37 of construction permits to build a new unbuilt FM station on Channel 250C2, Dannemora, New York, FCC File No. BNPH – 20050103AEC (Facility ID No. 164249) and a new unbuilt FM station on Channel 296C3, Saranac Lake, New York, FCC File No BNPH-20050103AHN (Facility ID No. 164251) (the “Permits”), submits contingently-filed applications for minor modifications of the Permits to specify operation on Channel 250C2 at Keeseville, New York in lieu of operation on Channel 250C2 at Dannemora, New York, and operation on Channel 296A at Dannemora, New York, in lieu of operation on Channel 296C3 at Saranac Lake, New York, respectively (the “Applications”). Expedited action on these Applications, which involves unconstructed permits issued on June 6, 2005, and December 9, 2005, respectively, pursuant to Auction No. 37, is requested, so that new service to Keeseville and Dannemora may be promptly instituted.

This exhibit, together with the Technical Exhibits to the Applications, demonstrate that the proposed community of license changes constitute a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 307(b)). Furthermore, as set forth in the Technical Exhibits, the facilities specified in the Application are mutually exclusive, as defined in Section 73.207 of the Commission’s Rules, with the current assignments of the Permits awarded pursuant to auction. As confirmed in the Technical Exhibits, there is an assignment or allotment site for each facility at the proposed community of license that fully complies with Sections 73.207 and

73.315 of the Commission's Rules without resort to Sections 73.213 or 73.215 of the Commission's Rules. The applicant will comply with the local public notice provisions of Sections 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f) of the Commission's Rules, and understands that the exception contained in Section 73.3580(e) of the Commission's Rules does not apply to an application proposing to change the community of license of an FM station. Consequently, this proposed community of license changes qualify for submission as minor modification applications pursuant to Section 73.3573(g) of the Commission's Rules.

In determining whether a proposed community of license change constitutes a preferential arrangement of allotments under Section 307(b) of the Act, the Commission considers whether the proposal would serve one or more of the Commission's four priorities. Here, grant of the Applications would satisfy the third priority by authorizing a first local aural transmission service at Keeseville, New York. The Applications constitute a preferential arrangement of allotments under Section 307(b) as compared to the existing allotments/assignments. Keeseville, New York has a population of 1,850 persons(2000 Census). Dannemora, New York has a population of 4,129 persons (2000 Census). Saranac Lake has a population of 5,041 persons (2000 Census). By adopting the proposed changes, Saranac Lake will continue to have three operating radio stations plus a fourth allocation that is currently an unbuilt permit. This gives Saranac Lake one station per 1260 persons. Dannemora will have two local radio stations, or one station per 2,065 persons. Keeseville will be provided with a first local aural transmission service, or one station per 1850 persons, resulting in a more equitable distribution of service than the current allotment of five services to Saranac Lake, two to Dannemora and none to Keeseville.

Keeseville clearly constitutes a community suitable for allotment purposes.

Commission precedent holds that a community that is either incorporated or a Census-Designated Place presumptively qualifies as a community for allotment purposes and thereby merits its own local transmission service. Keeseville meets this qualification on both grounds. Keeseville Village is listed in the 2000 Census. The Village of Keeseville is incorporated and has a local government. The Village Office is located at 1790 Main Street, Keeseville, New York, and houses the Mayor, the Village Court, and other government offices. Keeseville is also home to the government offices for the Town of Chesterfield, in which the incorporated Village of Keeseville is located. Under Commission precedent, these indicia of community confirm that Keeseville, New York is a place deserving of its own aural transmission service.

As to Dannemora, the Commission has previously determined that it is a community suitable for allotment purposes, most recently in connection with the allotment of Channel 250C2, which the applicant acquired the Permit for through Auction 37. Dannemora continues to be a community suitable for allotment purposes. As noted above, Commission precedent holds that a community that is either incorporated or a Census-Designated Place presumptively qualifies as a community for allotment purposes and thereby merits its own local transmission service. Dannemora meets this qualification under either criteria. Dannemora (2000 Census population 4,129 persons) is a village in Clinton County, New York, listed in the Census. Moreover, Dannemora is incorporated.

In sum, grant of the Applications would further the public interest in the fair, efficient, and equitable distribution of radio services.

