

Community of License Change – Section 307(b) Statement

CC Licenses, LLC, licensee of WPHR–FM, Channel 295B, Auburn, New York, Facility ID No. 25018 (the “Station”), submits this application for a construction permit for the minor modification of the Station to specify operations on Channel 295B1 at Solvay, New York, in lieu of operation on Channel 295B at Auburn, New York (the “Application” or the “Proposal”).

This exhibit, together with the Technical Exhibit to the Application, demonstrates that the proposed community of license change constitutes a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended. ^{1/} Furthermore, as set forth in the Technical Exhibit, the facilities specified in the Application are mutually exclusive, as defined in Section 73.207 of the Commission’s Rules, with the current assignment of the Station. As confirmed in the Technical Exhibit to this application, there is an assignment or allotment site for this 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 change qualifies for submission as a minor modification application 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. ^{2/} Here, grant of the Proposal would further the third priority by authorizing a first local aural transmission service for the community of Solvay, New York, and the community of Auburn, New York will continue to have local aural transmission services. ^{3/} Thus, the Proposal constitutes a preferential arrangement of allotments under Section 307(b) as compared to the existing allotment.

Solvay is 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. ^{4/} Solvay meets both criteria. Solvay (2000 Census population 6,845) is a village in Onondaga County, New York that is listed in the 2000 Census ^{5/} and it was incorporated in

^{1/} 47 U.S.C. Section 307(b).

^{2/} See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) (“*FM Assignment Policies*”). The four priorities are: (i) one full-time aural reception service to a community; (ii) a second full-time aural reception service to a community; (iii) one local transmission service to a community; or (iv) other public interest factors. The second and third criteria have equal priority. *Id.* at 91; see also *Report and Order, In the Matter of Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212, 14218 [¶ 10] (2006) (Section 307(b) priorities and policies used by Commission since 1982 continue to apply under new application procedures).

^{3/} See Technical Exhibit.

^{4/} See, e.g., *Cleveland and Ebenezer, Mississippi*, 10 FCC Rcd 8807, 8808 [¶ 6] (Allocations Br. 1995) (“The Commission’s long standing policy is to allot channels to communities composed of geographically identifiable population groupings. This requirement is generally satisfied if the community is either incorporated or listed in the U.S. Census.”); see also *Reydon, Oklahoma*, 18 FCC Rcd 3222, 3222 [¶ 2] (Ass’t Chief, Audio Div. 2003).

^{5/} See Profile of General Demographic Characteristics for Solvay village, New York, U.S. Census Bureau, Census 2000, at <http://censtats.census.gov/data/NY/1603668286.pdf> (copy at Attachment 1).

1895. 6/

Because the community of Solvay is located within the Syracuse, New York Urbanized Area (“Syracuse UA”), and the 70 dBu contour of the Station operating at maximum facilities from the proposed reference coordinates would reach more than 50 percent of the Syracuse UA, a *Tuck* analysis is appropriate. In a *Tuck* analysis, the Commission considers the following three criteria: (1) the extent to which the station will provide service to the entire urbanized area; (2) the relative populations and proximity of the suburban and central city of the urbanized area; and (3) the independence of the proposed community to the Urbanized Area. 7/

The latter criterion, which is the most important consideration and the most relevant to demonstrating that the proposed community of license is independent of the Urbanized Area, is further refined to eight factors: (1) the extent to which the community residents work in the larger metropolitan area, rather than the proposed community; (2) whether the smaller community has its own newspaper or other media coverage; (3) whether community leaders and residents perceive the proposed community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the proposed community has its own local government and elected officials; (5) whether the smaller community has its zip code and its own telephone book provided by a local telephone company; (6) whether the community has its own commercial establishments, health care facilities and transportation systems; (7) the extent to which the proposed community and the central city are part of the same advertising market; and (8) the extent to which the proposed community relies on the larger metropolitan area for various

6/ See Ongov.net Web site, *Village of Solvay Clerk Archival Records Listing*, at <http://www.ongov.net/Clerk/historicalrecords/village/solvay.html> (copy at Attachment 2).

7/ See, e.g., *Saluda and Irmo, South Carolina*, 19 FCC Rcd at 1078-79 [¶ 3] (MB 2004).

municipal services. 8/

Here, the 70 dBu signal of the Station would cover 61 percent of the population and 62 percent of the area of the Syracuse UA. 9/ Such service does not preclude favorable consideration as a first local service. 10/ Solvay is approximately 5 miles from Syracuse, New York. 11/ This distance amply demonstrates the independence of the Solvay community from the Syracuse area. 12/ Although Solvay's population is substantially smaller than that of Syracuse, New York, 13/ the Commission has granted requests when the new community is separate and independent and not a "bedroom" community of the nearby metropolitan area. 14/ Furthermore, the Commission has granted first local preference under *Tuck* to communities of relative sizes much less than that of Solvay to Syracuse. 15/ These facts and figures demonstrate

8/ *Tuck*, 3 FCC Rcd at 5378 [¶ 36].

9/ See Technical Exhibit.

10/ See, e.g., *Bon Air, Chester, Mechanicsville, Ruckersville, Williamsburg and Fort Lee, Virginia*, 11 FCC Rcd 5758, 5760 [¶ 11] (MMB 1996) ("*Bon Air*") (finding community independent when station would place a city grade signal over 100% of the Urbanized Area).

11/ Attached as Attachment 3 are maps from the Census Bureau showing the boundaries of Solvay and the Syracuse UA, as well as a map with distances calculated from Internet map provider Google Maps.

12/ See, e.g., *Newcastle, Pine Haven, Warren AFB, Centennial, Casper, Wright, Douglas, and Kaycee, Wyoming, Rapid City, South Dakota, and Gering and Scottsbluff, Nebraska*, 19 FCC Rcd 10976, 10979 [¶ 9] (MB 2004) (finding community within Urbanized Area independent with a 4.3-mile separation from central city of Urbanized Area); *Bon Air*, 11 FCC Rcd 5758, 5760 [¶ 11] (finding community within an Urbanized Area independent with a three-mile separation from central city of Urbanized Area).

13/ The Solvay population (2000 U.S. Census population 6,845) is approximately 4.6 percent of the population of Syracuse (2000 U.S. Census population 147,306). See U.S. Census Bureau, at <http://quickfacts.census.gov/qfd/states/36/3673000.html> (copy at Attachment 4).

14/ See, e.g., *Ada, Newcastle, and Watonga, Oklahoma*, 11 FCC Rcd 16896, 16897 [¶ 3] (MMB 1996).

15/ See, e.g., *Arlington, The Dalles, Moro, Fossil, Astoria, Gladstone, Portland, Tillamook, Coos Bay, Springfield-Eugene, Manzanita and Hermiston, Oregon, and Covington, Trout Lake, Shoreline, Bellingham, Forks, Hoquiam, Aberdeen, Walla Walla, Kent, Colledge Place, Long Beach and Ilwaco, Washington*, 21 FCC Rcd 13226, 13229 [¶ 8] (2006) (proposed community, with less than 2.5 percent of the population of central city deemed a substantial population that supports consideration as a first local service); *Park City, Montana*, 19 FCC Rcd 2092, 2094 [¶ 12] (MB 2004) (finding community

Solvay's independence and are similar to or exceed those of other communities granted a first local preference under a *Tuck* analysis.

The following factors further demonstrate the independence of Solvay from Syracuse, New York.

(1) Extent to which community residents work in the larger metropolitan area.

Various business ventures located within Solvay (described below), including management and professional services, construction, transportation, manufacturing, and food service, provide employment opportunities within the community. According to the U.S. Census Bureau, approximately 14.6 percent of Solvay's residents work within the Village. ^{16/} This percentage compares favorably with other communities deemed independent under a *Tuck* analysis. ^{17/}

(2) Whether the community has its own newspaper or other media coverage.

Solvay residents can access local news coverage from the print newspaper, the *Post-Standard*, which is "Central New York's multimedia leader." ^{18/} While this news source does not exclusively cover the Solvay community, the Commission has found that a newspaper's coverage of a community's local needs and interests is sufficient for a favorable finding on the

independent when population of proposed community is less than one percent of that of central city of Urbanized Area).

^{16/} See U.S. Census Bureau, *Place of Work for Workers 16 Years and Over – Solvay village, New York*, at http://factfinder.census.gov/servlet/DTTTable?_bm=y&-state=dt&-context=dt&-ds_name=DEC_2000_SF3_U&-mt_name=DEC_2000_SF3_U_P027&-tree_id=403&-all_geo_types=N&-caller=geoselect&-geo_id=16000US3668286&-search_results=16000US3668286&-format=&-_lang=en (copy at Attachment 5).

^{17/} See, e.g., *Charles Town, West Virginia and Stephens City, Virginia*, 21 FCC Rcd 1521 [¶ 5] (MB 2006) (11 percent of employed residents working in proposed community, along with the presence of local businesses, supports a favorable *Tuck* finding); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610, 3610 [¶ 4] (MMB 1996) (13 percent of the workforce working in specified community sufficient to support a favorable *Tuck* finding).

^{18/} See The Post-Standard Web site, at <http://www.post-standard.com/> (copy at Attachment 6).

issue. 19/ In addition to these nearby news publications, Solvay residents may stay abreast of local news by visiting the Village's Web site where information of interest to the community is listed. 20/ Such a Web site resource is considered by the Commission when evaluating this factor. 21/ Moreover, Solvay residents may access the latest news headlines from local television and radio stations and newspapers at additional Web sites that serve as another resource for residents. 22/ Lastly, Solvay residents can access job postings through links on the Solvay Public Library's Center for Workplace Competency Web page or community bulletin board. 23/

(3) Whether community leaders and residents perceive the proposed community as being an integral part of, or separate from, the larger metropolitan area. Solvay community leaders and residents have preserved their sense of community and documented their unique history in the *Solvay Stories* book series, which serve as a "100-year diary of Solvay . . . its Days and its People" and a "Photo Journey Through Time." 24/ In *Solvay Stories*, *Solvay Stories II*, and *Solvay Stories III*, author Judith LaManna Rivette compiles the short stories and photographs of many residents, from age twelve to ninety-two, who are "loyal to their home town and [delight] in their connections to it and each other, connections that run from the early 1900s to

19/ See *Lake City, Chattanooga, Harrogate, and Halls Crossroads, Tennessee*, 20 FCC Rcd 18961, 18964 [¶ 14] (MB 2005) ("*Lake City*").

20/ See Village of Solvay Web site – News, at <http://villageofsolvay.com/index.php?module=news> (copy at Attachment 7).

21/ See, e.g., *Centre Hall, Mount Union, and Huntingdon, Pennsylvania*, 20 FCC Rcd 458, 460 [¶ 5] (MB 2005) (*Tuck* factor supported when community, lacking local newspaper, had its own Web site).

22/ See City-Data Web site, at <http://www.city-data.com/city/Solvay-New-York.html>; Each Town Web site, at <http://www.eachtown.com> (copies at Attachment 8).

23/ See Solvay Public Library, *Center for Workplace Competency*, at <http://www.solvaylibrary.org/WPC.htm> (copy at Attachment 9).

the present.” 25/ Contributors to the *Solvay Stories* series paint a picture of Solvay’s distinct flare, explaining that, unlike other communities, Solvay residents have their own language and communicate with “Solvay Speak” and chant favorite holiday phrases original to the village, such as Halloween’s “Hotchy-Potchy, Give me something good to eat.” 26/

Solvay’s lengthy history is not only captured in books, but also in the famous meatball mix at Ascioti’s Meat Market. The Ascioti family has run the store since 1914, employees have remained loyal for 30 years, and customers have returned decade after decade for the secret recipe that one Solvay wife pretends is her own. This 94-year-old store, which has stood in the same location in the heart of the Village, illustrates residents’ dedication to their community and the strong Italian-American presence in Solvay. 27/ One article reports that “[f]amilies who immigrated from small towns in Italy have lived generations as neighbors [in Solvay], with children buying their parents’ homes, creating a closeness that is hard to duplicate.” 28/ Solvay residents celebrate their ethnic heritage as the most Italian community in central New York by enjoying the Tyrol Club’s monthly polenta dinners, teaching the romance language to seventh graders in the Solvay Union School District, and partaking in the annual three-day festival that grew out of the Feast of Assumption. 29/ The “Italian fabric of the village” defines Solvay, which is why the residents say “. . . there are two types of people –

24/ See Judith LaManna Rivette, *Oh, How Upstate Books*, at <http://www.ohhowupstate.com/>; Molly English-Bowers, *Talking Pictures*, SYRACUSE NEW TIMES 7 (Jan. 9, 2008) (copies at Attachment 10).

25/ See *id.*

26/ See *id.*

27/ See Dick Case, *Ascioti’s Keeps on Grinding*, POST-STANDARD B1 (Feb. 24, 2008) (copy at Attachment 11).

28/ See Diana LaMattina, *There’s No Place in CNY More Italian than Solvay*, POST-STANDARD A1 (Nov. 6, 2006) (copy at Attachment 12).

29/ See *id.*

either you're from Solvay or you want to be.” 30/

(4) Whether the proposed community has its own local government and elected officials. Solvay is governed by an elected Board of Trustees, which includes a Mayor, Deputy Mayor, two 1st Ward Trustees, two 2nd Ward Trustees, and two 3rd Ward Trustees. 31/ The Village of Solvay also is served by the following officials: Clerk/Treasurer, Comptroller, Attorney, Engineer, Auditor, Code Enforcer, Electric Department Supervisor, Highway Superintendent, Judge, Judicial Clerk, and Zoning Board. 32/

(5) Whether the community has its own zip code and its own telephone book provided by a local telephone company. Solvay shares its zip code, 13209, with Syracuse, New York. 33/ The U.S. Postal Service, however, indicates that cities in a zip code may be referred to by more than one name and lists “Solvay, NY” as “acceptable city names in 13209.” 34/ While Solvay does not have its own telephone book, this is a factor that has not been determinative of independent status. 35/

(6) Whether the community has its own commercial establishments, health care facilities and transportation systems. There are a variety of commercial establishments within Solvay, which, among others, include KinaneCo, Roma Restaurant, Canetta’s Collision Services, Bob’s Tire Sales & Auto Repair, Hair We go Again, Charisma Hair Design, Travel Express of Solvay, Bob Forestri Brick Stone & Tile, Superior Waste Removal, Blair Real Estate, Tek

30/ See *id.*

31/ See Village of Solvay Web site - Departments, at <http://villageofsolvay.com/index.php?module=departments> (copy at Attachment 7).

32/ See *id.*

33/ See U.S. Postal Service, *Find a city by ZIP Code Results* (copy at Attachment 13).

34/ See *id.*

Cleaners & Tailors, Just Rosie's Boutique, Landis Plastics, Europe Travel Agency, Frank's Barber Shop, Abell Press, Floral Tributes, Sciuga Custom Builders, and Fantastic Aquariums. 36/ Solvay also is home to "the oldest independent commercial bank headquartered and operating in Onondaga County." Solvay Bank, which has existed since 1917, is a community-focused enterprise that helps to maintain the local economy by focusing on small businesses and reinvesting in the Village through loans. 37/ The Village of Solvay relies on private health care services provided by various dentists, as well as West Side Physical Therapy. 38/ There are also six churches in the Solvay community, a factor which the Commission has considered favorably under *Tuck*. 39/

(7) Extent to which the proposed community and the central city are part of the same advertising market. Solvay, being located in Onondaga County, is part of the Syracuse Designated Market Area and Syracuse Arbitron Metro market. Advertisers may reach Solvay residents through the newspaper and Web sites that cover the Village of Solvay, among others, and the public library bulletin board 40/

(8) Extent to which the proposed community relies on the larger metropolitan area for various municipal services. The Village of Solvay provides many services directly to its

35/ See, e.g., *Bon Air*, 11 FCC Rcd at 5760 [¶ 11] (community that qualifies for local transmission service does not have its own telephone book provided by the local telephone company).

36/ See Village of Solvay Businesses (copy at Attachment 14).

37/ See Solvay Bank Web site, at <http://www.solvaybank.com>; Kristina Martino, *Solvay Bank Prospers With Focus on Small Biz*, BUS. J. CENT. N.Y. 17 (Nov. 2, 2007) (copies at Attachment 15).

38/ See Solvay Health Care Providers (copy at Attachment 16).

39/ See Village of Solvay Businesses (copy at Attachment 14); St. Cecilia's Church Web site, at <http://www.stcecilias.com>; Solvay United Methodist Church Web site, at <http://ncnyumc.org/churches/solvay/> (copies at Attachment 17); see, e.g., *Talladega and Munford, Alabama*, 20 FCC Rcd 13010, 13011 [¶ 3], 13012 [¶ 6] (MB 2005).

40/ See *supra* notes 18, 20, 22 and 23.

residents. Solvay's police department, which is comprised of a Police Chief, seven full-time police officers, four part-time police officers, and three civilian employees, not only responds to approximately 8,100 calls for service each year, but also embraces community outreach and partners with Village citizens to launch programs, such as Solvay's neighborhood watch. ^{41/} The Solvay Fire department has served Solvay residents for more than 100 years, as it was organized in 1895. ^{42/} In addition to providing emergency services, the Solvay Fire Department also facilitates the Explorer Program where it trains 14- to 18-year-old students how to respond to a fire and rescue scene by changing air tanks, setting up ladders, hitting hydrants, and performing CPR. ^{43/} The Village of Solvay Electric Department provides electricity to manufacturing facilities, factories, and commercial and residential establishments, and, like the Fire Department, has been established for more than 100 years. During this time, this Solvay utility has become the third largest public power system in New York State with 5,300 customers. ^{44/}

Solvay also boasts the last general collection Carnegie library in Onondaga County. Completed in 1905, the Solvay Public Library was funded in part by a \$10,000 grant from Andrew Carnegie that was matched by the Solvay Process Company. ^{45/} While the exterior of the yellow brick building appears as it did in Andrew Carnegie's lifetime, the interior

^{41/} See Solvay Police Department Web site, at <http://www.solvaypd.com> (copy at Attachment 18).

^{42/} See Solvay Fire Department Inc. Web site, at http://members.aol.com/_ht_a/wagonsfd2020/myhomepage/ (copy at Attachment 19).

^{43/} See Solvay Fire Department Explorers Web site, at <http://www.geocities.com/sfdexplorer/Post608.html> (copy at Attachment 20).

^{44/} See New York Power Authority Municipal & Cooperative Customers, *Solvay Home Page*, at <http://www.nypa.gov/partners/solvay.htm> (copy at Attachment 21).

^{45/} See Solvay Public Library Web site, at <http://solvaylibrary.org> (copy at Attachment 9); *A Legacy of Libraries: Solvay Public Library*, POST-STANDARD, 131 (Mar. 1, 2008) (copy at Attachment 22).

has recently been transformed by a 5,500-square-foot addition, a larger circulation desk, a computer lab, and a larger Solvay Process archive room, containing historic local materials. 46/ The Solvay Public Library's historical significance is not the only thing that draws residents through its doors; it also provides numerous services to Village members, including: public computers and Internet access, community meeting rooms, story hour for pre-school children, summer reading clubs, adult book discussion groups, art exhibits, community bulletin boards, college catalogs, homework help, and the Center for Workplace Competency. 47/ The Solvay Public Library proves to be a useful resource for Solvay's youth, who attend Solvay Elementary School, Solvay Middle School, and Solvay High School in the Solvay Union Free School District. 48/ When engaging in extracurricular activities, Solvay residents can enjoy the gym and swimming pool at the Solvay-Geddes Community Your Center, which was "built . . . for Solvay," or they can cheer on a Solvay-Lakeland Tigers Little League game. 49/ Because Solvay provides services of its own and is not dependent on Syracuse, New York for municipal services, credit should be awarded under this *Tuck* factor. 50/

The Commission has found that an applicant only has to meet a majority of the eight sub-factors to make a successful *Tuck* showing. 51/ Here, these indicia of community

46/ See *id.*

47/ See *id.*

48/ See Solvay Union Free School District Web site, at <http://solvayschools.org> (copy at Attachment 23).

49/ See Dick Case, *Group's Founding Mothers Helped Build Center*, POST-STANDARD, B1 (Sept. 14, 2006); Solvay-Lakeland Tigers Web site, at

<http://www.eteamz.com/SolvayLakelandTigers/index.cfm?subsite=4607124> (copies at Attachment 24).

50/ See *Talladega and Munford*, 20 FCC Rcd at 13012 [¶ 5].

51/ See *Lake City*, 20 FCC Rcd at 18966 [¶ 21] (finding that a showing of five of the eight *Tuck* factors supports a finding of independence); *Chillicothe, Dublin, Hillsboro, and Marion, Ohio*, 20 FCC

confirm that Solvay is a place deserving of its own local aural transmission service and grant of the Application would further the public interest in the fair, efficient, and equitable distribution of radio services.

Rcd 6305, 6308 [¶ 9] (MB 2005) (stating all of the *Tuck* factors need not favor a reallocation proponent; rather, a majority of the factors must be present).