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VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington DC 20554
Attn: Peter Doyle, Chief
Audio Division, Media Bureau

Federal Communications Commission
Office of the Secretary

**Re: RESPONSE TO OBJECTION AND
STATEMENT TO ORDER TO SHOW CAUSE**

**WWKS-FM, Cruz Bay, Virgin Islands
GARK, LLC
BLH-19970310KC
Facility ID No. 31084**

**WEVI, Frederiksted, Virgin Islands
Lifeline, LLC
BLH-20131018ABA
Facility ID No. 86811**

Dear Ms. Dortch:

Western New Life, Inc. ("Western New Life"), licensee of Station WNVE(FM), Ceiba, Puerto Rico, by its attorney, hereby opposes the Objection letter (the "Letter Objection") filed by Lifeline, LLC ("Lifeline"),¹ licensee of Station WEVI(FM), Frederiksted, Virgin Islands and responds to the Statement (the "Letter Statement") submitted by GARK, LLC ("GARK"), licensee of Station WWKS-FM, Cruz Bay, Virgin Islands.²

¹ Lifeline, LLC Letter Objection, filed January 9 or January 12, 2015. The Lifeline Letter Objection is dated January 9, 2014, but contains a stamped-in date of January 12 "FCC Mail Room, Received and Inspected." Western New Life has been unable to confirm whether the Lifeline Objection was filed on January 9 or 12.

² The Letter Statement, filed January 14, 2015, contains a letter from R.J. Watkins Group, LLC ("Watkins"), the proposed assignee of Station WWKS pursuant to a pending assignment application filed by Watkins and GARK (BALH-20131021AAV). That assignment application was granted on December 12, 2014, but the parties have not

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BACKGROUND

On July 17, 2014, Western New Life filed a minor change application for Station WNVE, Ceiba (BPH-20140717ACI), which proposed a channel change from Channel 269 to Channel 268 as well as a change in facilities. As part of its proposal, Western New Life requested a substitution of Channel 267A for Channel 271A at Frederiksted, Virgin Islands and the modification of the Station WEVI license, accordingly, and the substitution of Channel 271B for Channel 267B at Cruz Bay, Virgin Islands and the modification of the Station WWKS license, accordingly.

On December 15, 2014, the Commission, through its Media Bureau, Audio Division, sent a letter to the licensee of Stations WWKS (the "WWKS Show Cause Letter") and a letter to the licensee of WEVI (the "WEVI Show Cause Letter") (together, the "Show Cause Letters").³ The Show Cause Letters noted that the WWKS and WEVI licensees could be modified to specify operation on their new channels at both stations' currently licensed transmitter sites.

The Commission notified each of the affected stations of the proposed action and afforded each station 30 days to respond. The Show Cause Letters further noted that Western New Life had stated that it would reimburse both licensees for their reasonable costs incurred in connection with their proposed channel changes consistent with Commission policy.⁴

In its Letter Objection, Lifeline states that this is the second channel change that WNVE has sought involving Station WEVI. Lifeline claims that another change of channels will engender listener confusion and disruption. It further claims that Western New Life has not demonstrated any public benefit as a result of its proposed change. According to Lifeline, Western New Life has failed to provide "justification" for its proposal and has not shown that WNVE's service area will "greatly expand" as a result of the site and channel changes.⁵

Lifeline argues that Western New Life has not offered facts supporting its claim of expanded service. Lifeline hypothesizes that the relocation of the WNVE transmitter site will reduce the WNVE service population and land area and remove significant areas from the station's licensed service area. Also, according to Lifeline, because the WNVE proposal will require two stations to substitute channels, it claims that the public interest benefits must be shown by Western New Life to be "substantial" to make up for the disruption caused to listeners. Consequently, Lifeline concludes that the Commission cannot determine that the WNVE

yet closed. GARK states that it adopts the position contained in Watkins' Letter. Therefore, for the purpose of this Response, Western New Life will refer to the responding parties as Lifeline and GARK.

³ The WEVI Show Cause Letter was sent to that station's previous licensee, Frontline Missions International, Inc. However, based on the fact that Lifeline is opposing the proposed substitution of channels and the modification of the Station WEVI license, it appears that it received the WEVI Show Cause Letter.

⁴ See *Circleville, Ohio*, 8 FCC 2d 159 (1967).

⁵ Lifeline Letter Objection at p. 2.

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proposal will serve the public interest and argues that the Commission must deny or dismiss the WNVE minor change application.⁶

For its part, GARK neither opposes nor supports the Western New Life proposal. GARK reminds Western New Life of its agreement to comply with the FCC's established requirement to reimburse the WWKS licensee for its reasonable costs incurred in connection with the channel change. GARK states that it wishes to make Western New Life aware that the WWKS antenna is old and that the station's consulting engineer has advised that it is likely that it will not be possible for the licensee to make the physical modifications to the antenna in order to retune it. Therefore, it is likely the antenna will have to be replaced if a channel change is made. Moreover, according to GARK, the WWKS transmitter is also old and may not be re-tunable, in which case it, also, would require replacement at Western New Life's expense.⁷

DISCUSSION

Lifeline contends that Western New Life has failed to demonstrate any public benefit resulting from its proposed changes. However, as documented by the attached Technical Analysis by Clifton G. Moor of Bromo Communications, Inc., the population served by the proposed channel and site changes will be over two times the population currently served by Station WNVE operating on its licensed channel from its licensed site. Station WNVE currently serves 121,929 persons in an area of 2,590.51 square kilometers. The WNVE proposal will serve 287,423 persons in an area of 4,999.01 square kilometers. This increased service clearly constitutes a public benefit. Moreover, while there will be a *de minimis* loss area, it will be only 8.86 square kilometers and, since the loss area is located in the mountains and in the El Yunque National Forest, there is zero population within the loss area.

Further, Lifeline provides no case precedent nor does it cite to any Commission policy in support of its claim that the public interest benefits from the WNVE proposal must be "substantial" because its proposal will involve the substitution of channels by two stations. Lifeline also does not provide any case support for its assertion that the Western New Life proposal cannot be approved because it involves a second channel change by WEVI. Each channel change proposal must be judged on its own set of facts. The Commission previously concluded that a channel change by WEVI was in the public interest and so modified the station license. The current proposal by WNVE also will provide public interest benefits and, therefore, the WEVI license should be modified to specify operation on a new channel.

Western New Life has stated that, consistent with the Commission's *Circleville* policy, it will reimburse the licensees of Stations WWKS and WEVI for their reasonable, necessary and prudent expenses associated with their involuntary channel substitutions. Western New Life appreciates the GARK advisory regarding possible costs involved in making its channel change. However, the Commission has stated that it is not necessary for the FCC to delay its decision on

⁶ *Id.* at pp. 2-3.

⁷ GARK Statement at p. 2 and Attached Watkins January 14, 2014 Letter Response at p. 2.

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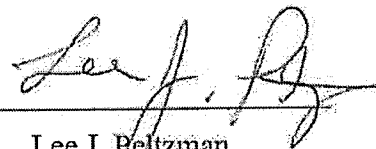
an application "pending the development 'of a workable [reimbursement] plan,' [since] the parties are responsible for negotiating the details and logistics of reimbursement."⁸ Western New Life is confident that it and GARK will be able to reach agreement and the FCC need not wait for the completion of reimbursement negotiations prior to acting on the WNVE application.

Neither Lifeline nor GARK has raised a substantial and material question of fact or demonstrated any public interest detriment that would result from modification of Station WEVI's license to specify operation on Channel 267A in lieu of Channel 271A at Frederiksted, Virgin Islands and modification of Station WWKS's license to specify operation on Channel 271B in lieu of Channel 267B at Cruz Bay, Virgin Islands. GARK does not oppose the Western New Life proposal and Lifeline cites to no applicable rule, case or policy that would suggest that the Western New Life proposal will disserve the public interest. To the contrary, the proposed channel substitutions and license modifications will serve the public interest since they will result in the approval of the WNVE proposed changes, which will promote the provision of expanded service at Ceiba. Therefore, the Commission should deny the Lifeline Objection.

For these reasons, the Commission should grant the Western New Life minor change application for Station WNVE and approve the related involuntary channel change for Station WEVI from Channel 271A to Channel 267A at Frederiksted, Virgin Islands and the involuntary channel change for Station WWKS from Channel 267B to Channel 271B at Cruz Bay, Virgin Islands.

Respectfully submitted,

WESTERN NEW LIFE, INC.

By: 
Lee J. Peltzman
Its Counsel

cc (via e-mail): John F. Garziglia, Esq.
Jerrold D. Miller, Esq.
Kathleen Victory, Esq.
Rodolfo F. Bonacci

⁸ *Pine Rock, Alabama, et al.*, Report and Order, DA 14-1683, released November 21, 2014, *quoting* *Castle Rock and Colorado Springs, Colorado et al.*, Report and Order, 7 FCC Rcd 7688, 7690 (MMB 1992) (the time and manner of reimbursement are matters left to the good faith negotiations of the parties).

WNVE Radio Station
307(b) Analysis
Ceiba, PR
January 2015

This Analysis will examine gains experienced by WNVE (FM) when it is allowed to relocate from Channel 269A to Channel 268A. Both channels will remain allocated at Ceiba, PR. This request is filed by Western New Life, Inc., WNVE, licensee.

This filing is a Form 301 Application. Fortunately, the actual transmitter site is known and can be analyzed rather than relying on a hypothetical site where the station will never be constructed. The licensed site for Channel 269A and the proposed site for Channel 268A are both on the Puerto Rican mainland. The 60 dBu coverage of both sites is attached. The population served by the licensed site is 121,929 persons while the proposed population served is 287,423. This represents an increase of 165,494 persons or more than doubling the population served by the current license. Much of the area served by both the licensed and proposed facilities is ocean. However, the 60 dBu area of the licensed 269A is 2590.51 SQ KM while the proposed site is 4999.01 SQ KM. The potential service area for Puerto Rican FM stations is much larger than stations in the continental United States. The class-maximum height for a Puerto Rican Class A is 240 meters HAAT.

Due to terrain, there is a small loss area between the coverage for the two channels. A detailed depiction of the loss area is included. This small area is 8.86 SQ KM. Because this loss area is in the mountains and in the El Yunque National Forest, there is zero population in the loss area.

There are many stations that serve 100% of the combined 60 dBu area of the licensed and proposed stations. The numbers on the following lists represent contours on the associated maps. Those stations which serve 100% of the combined 60 dBu area are:

AM

1	WALO	1240	Humacao
2	WAPA	680	San Juan
3	WBMJ	1190	San Juan
6	WDHP	1620	Frederiksted
8	WFAB	890	Ceiba
9	WGIT	1660	Canovanas
11	WIAC	740	San Juan
12	WIDA	1400	Carolina
14	WIPR	940	San Juan
15	WIVV	1370	Island of Vieques
16	WKAQ	580	San Juan
17	WKVM	810	San Juan
18	WMDD	1480	Fajardo
21	WOSO	1030	San Juan
22	WPAB	550	Ponce
23	WQBS	870	San Juan
24	WQII	1140	San Juan

27	WSKN	1320	San Juan
29	WSTX	970	Christiansted
30	WUNO	630	San Juan
33	WVOZ	1520	San Juan
24	WVWI	1000	Charlotte Amalie
35	WXEW	840	Yabucoa

FM

13	WRXD	243B	Fajardo
19	WVOZ	299B	Carolina

A total of 25 AM and FM stations place a .5 mV/m AM or a 60 dBu FM contour over the entire combined WNVE 60 dBu area. Therefore the subject area is well served. In some instances the .5 mV/m contour extends past this map. If there is a station in the list with no corresponding contour on the map, then the contour extends past the map.

The following stations serve a portion of the combined WNVE 60 dBu area:

AM

4	WBQN	1160	Barcelona	50%
5	WCMA	1600	Bayamon	50%
7	WEXS	610	Patillas	66%
10	WGYA	1590	Guayama	10%
13	WIGT	1690	Charlotte Amalie	90%
19	WMSW	1120	Hatillo	33%
20	WNEL	1430	Cagus	66%
25	WRRE	1460	Juncos	66%
26	WRSJ	1560	Bayamon	90%
28	WSTA	1340	Charlotte Amalie	95%
31	WUVI	1090	Charlotte Amalie	95%
32	WVJP	1110	Caguas	95%

FM

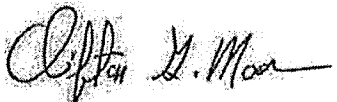
1	WCAD	289B	San Juan	75%
2	WFID	239B	Rio Piedras	66%
3	WGOD	250B	Charlotte Amalie	66%
4	WIOA	260B	San Juan	80%
5	WIUJ	275A	Charlotte Amalie	20%
6	WIVI	241B1	Charlotte Amalie	30%
7	WKAQ	284B	San Juan	80%
8	WMEG	295B	Guayama	90%
9	WODA	234B	Bayamon	90%
10	WOYE	247A	Rio Grande	50%

11	WPRM	256B	San Juan	90%
12	WQML	254A	Culebra	40%
14	WSTX	262B	Christiansted	5%
15	WTOK	237B	San Juan	50%
16	WVGN	297A	Charlotte Amalie	10%
17	WVIS	291B	Vieques	95%
18	WVJZ	287B	Charlotte Amalie	50%
20	WWKS	267B	Cruz Bay	15%
21	WXYX	264B	Bayamon	50%
22	WYAS	221A	Luquillo	80%
23	WYQE	225A	Naguabo	90%
24	WZIN	282B	Charlotte Amalie	80%
25	WZNT	229B	San Juan	90%
26	WZOL	252A	Las Piedras	40%

A total of 36 AM and FM stations cover a portion of the WNVE combined service area.

In conclusion, The Western New Life proposal to move WNVE (FM) from Channel 269 to Channel 268 would more than double the number of persons served in the 60 dBu contour. Although there is an extremely small loss area (due to terrain), there is no population in that area.

All information in this report is sworn to be accurate to the knowledge of the undersigned:

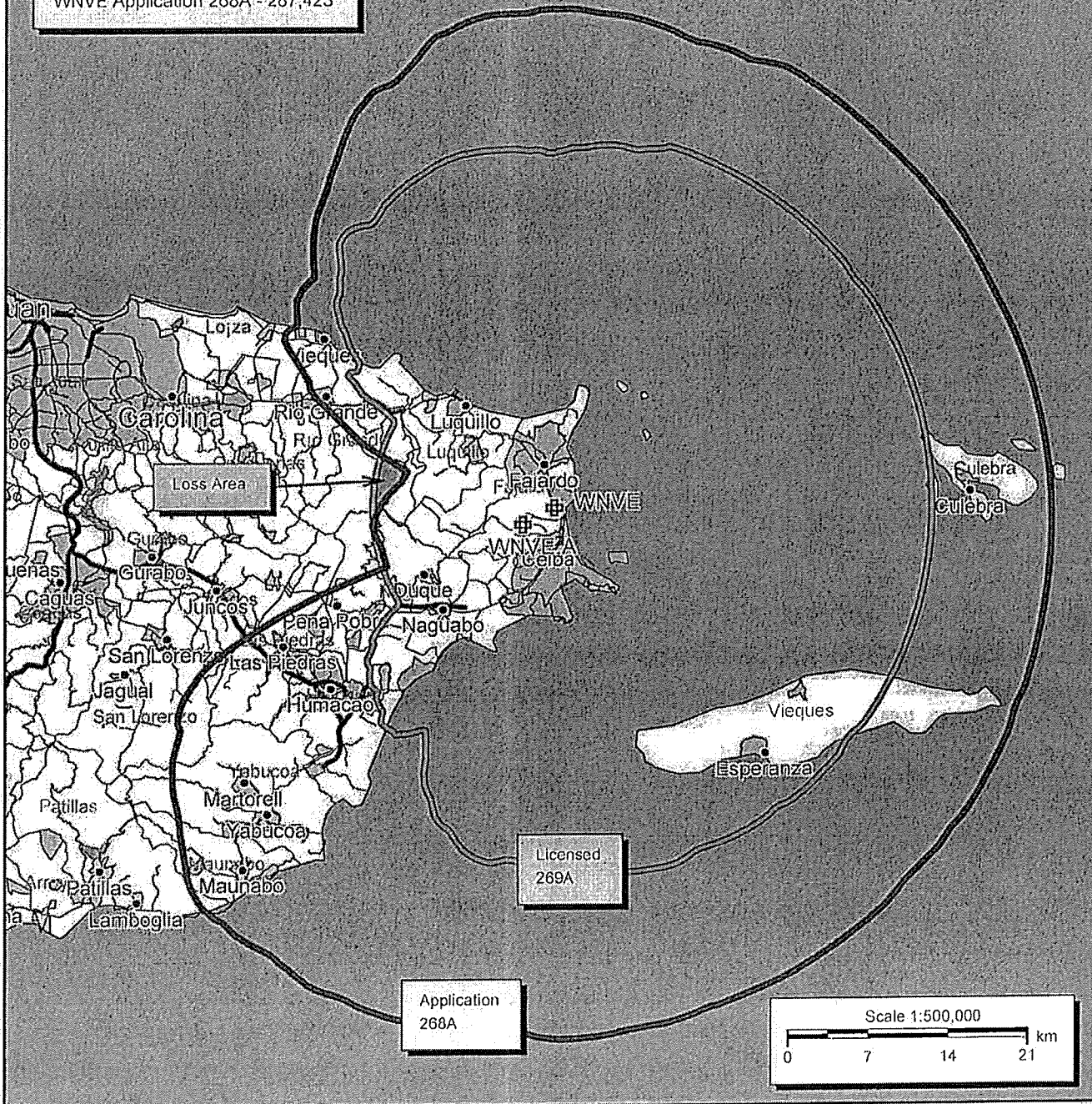


Clifton G. Moor

January 23, 2015

Bromo Communications, Inc.

Population Served
WNVE License 269A - 121,929
WNVE Application 268A - 287,423



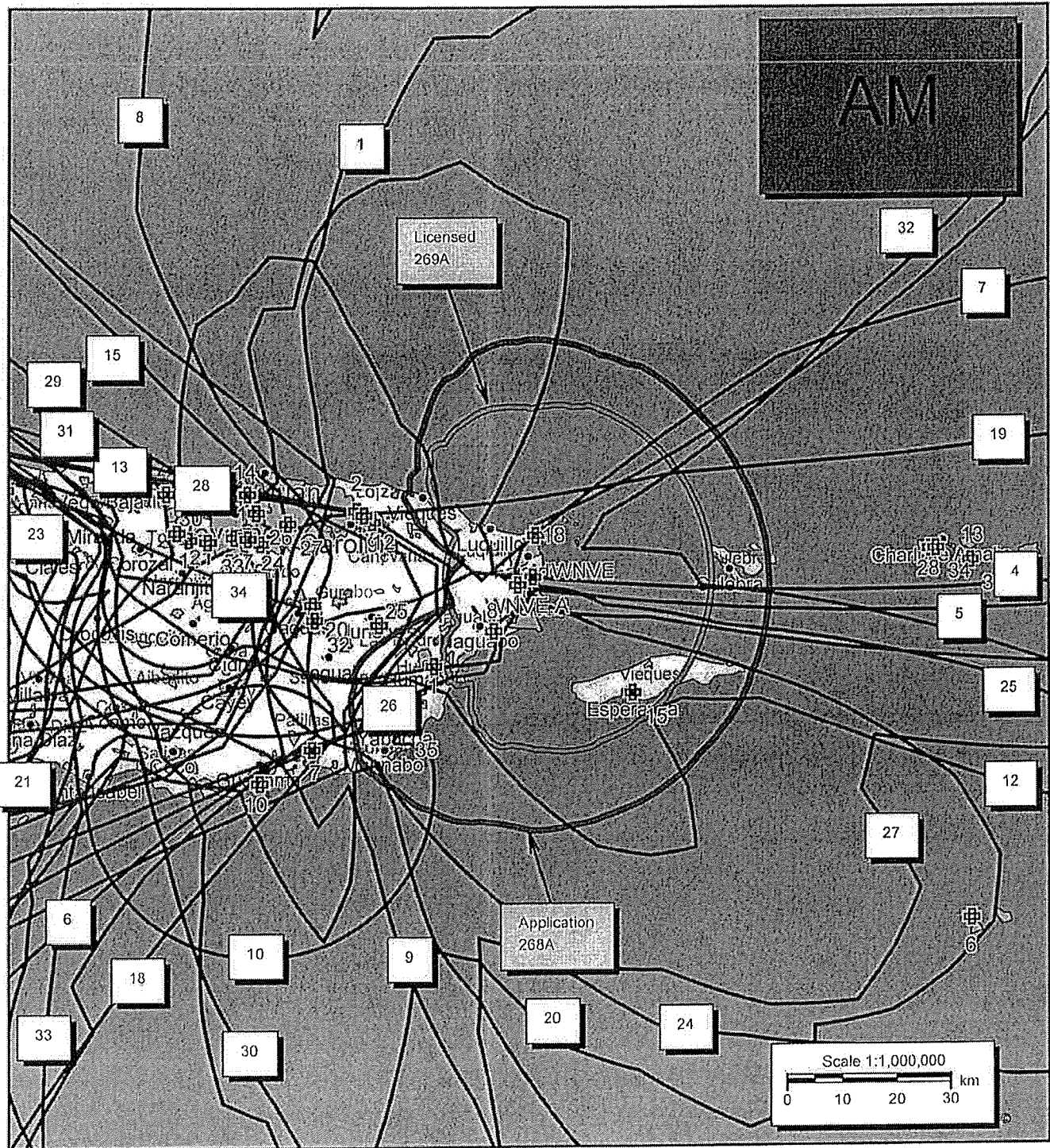
WNVE (269A) VS WNVE (268A)

60 dBu Coverage

Ceiba, PR

Bromo Communications, Inc.

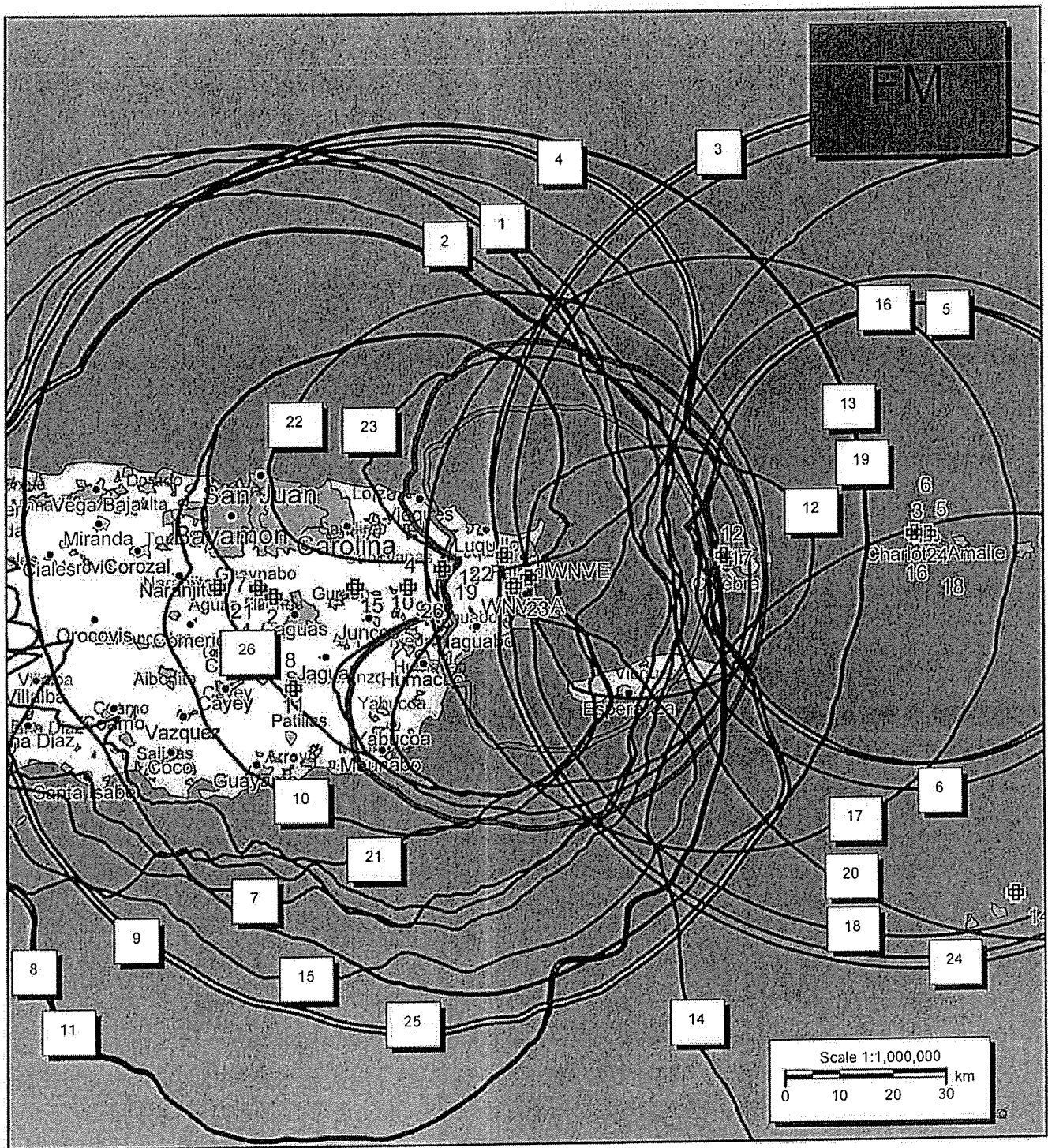
January 2015



WNVE (269A) VS WNVE (268A)
0.5 mV/m Services
Ceiba, PR

Bromo Communications, Inc.

January 2015



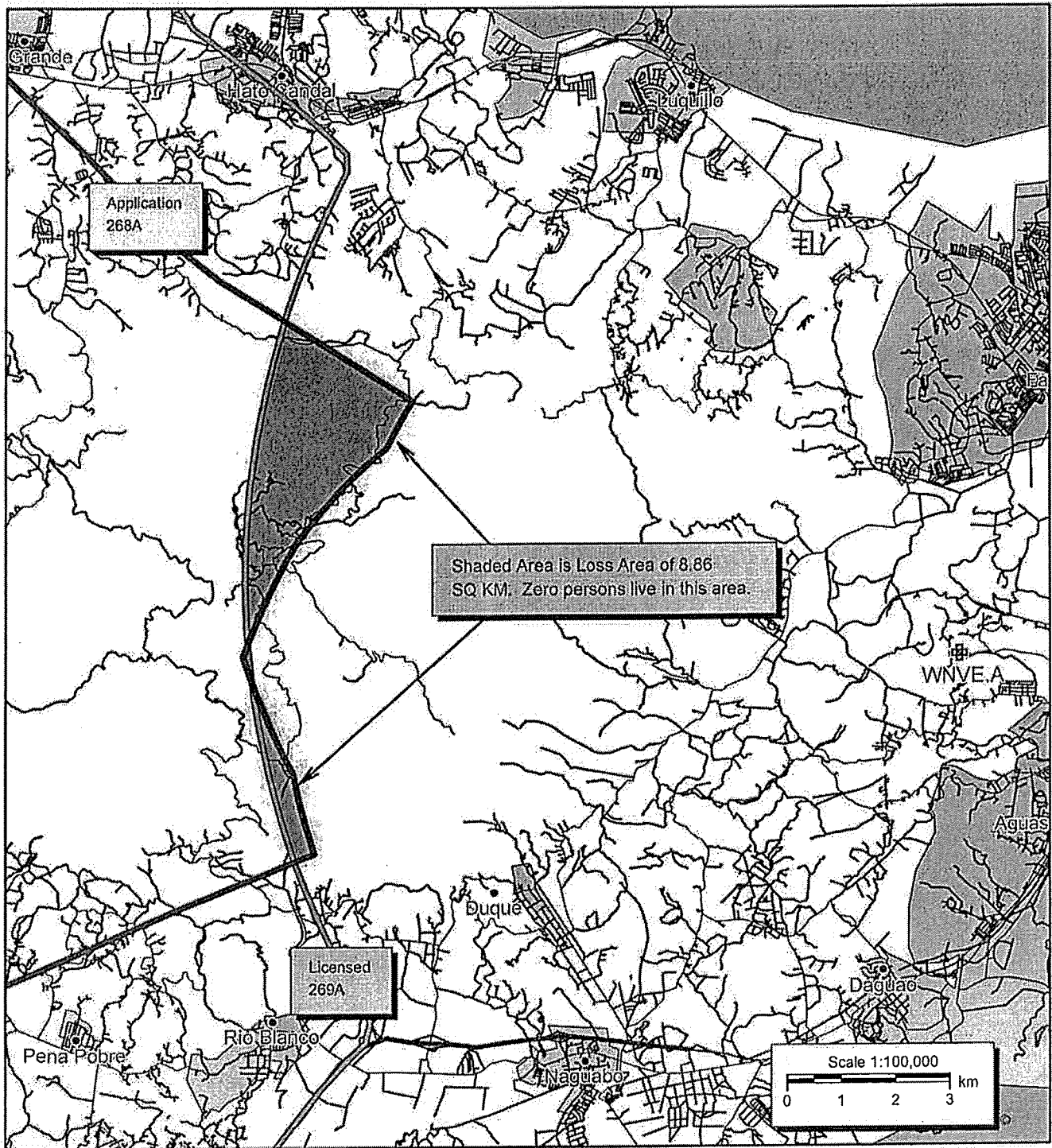
WNVE (269A) VS WNVE (268A)

60 dBu Services

Ceiba, PR

Bromo Communications, Inc.

January 2015



WNVE (269A) VS WNVE (268A)

60 dBu Loss Area Detail

Ceiba, PR

Bromo Communications, Inc.

January 2015