

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
)  
Amendment of Section 73.202(b) ) MB Docket No. 14-236  
Table of Allotments ) RM- 11739  
FM Broadcast Stations )  
(Bogata, Texas) )

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Accepted / Filed

MAR - 2 2015

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

Federal Communications Commission  
Office of the Secretary

COMMENTS

Liberman Broadcasting of Dallas Licensee LLC ("LBDL"), licensee of Station KZMP-FM, Pilot Point, Texas, by its counsel, hereby submits the following comments in response to the *Notice of Proposed Rule Making* ("NPRM") in the above referenced proceeding. LBDL is a party to a related rule making proceeding involving a pending Petition for Rule Making to allot Channel 286A to Grant, Oklahoma (the "Grant Petition") filed by Katherine Pyeatt ("Pyeatt").<sup>1</sup> LBDL will demonstrate how the two proceedings are related and respectfully requests that the Commission take no action on the Bogata proposal until the Grant, Oklahoma proceeding is resolved.<sup>2</sup> In support hereof, LBDL states as follows:

1. The Pyeatt proposal to allot Channel 286A to Grant, Oklahoma conflicts with LBDL's prior-filed application to implement an upgrade of facilities on Channel 285C0 for

<sup>1</sup> LBDL filed an Opposition to the Grant Petition. See, Opposition to Petition for Rule Making, filed December 8, 2014 (the "Pyeatt Opposition"). Although the Grant Petition was filed prior to the Bogata, Texas Petition for Rule Making, the Media Bureau has not yet issued an NPRM or taken any other action with respect to the Grant Petition.

<sup>2</sup> LBDL has filed Comments with respect to the NPRM in MB Docket No. 14-257, Wright City, Oklahoma, which is related for the same reasons. Both the Bogata, Texas and the Wright City, Oklahoma allotment proposals were advanced by Charles Crawford.

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Station KZMP-FM (File No. BPH-20141028AAK) (the “KZMP Application”).<sup>3</sup> Ms. Pyeatt has filed an informal objection to the KZMP Application, which LBDL has opposed.<sup>4</sup> Among other shortcomings, Pyeatt’s proposal fails to protect the authorized upgrade of Station KZMP-FM to Class C0. Although LBDL believes that the Grant Petition will be dismissed on that basis and the KZMP Application will be granted, since those actions have not yet taken place, LBDL believes it is prudent to suggest that the Bogata proposal be considered as part of an alternative solution.

2. In the recent case of Station WCAI(FM), Woods Hole, Massachusetts, the Chief of the Audio Division stated “we treat any application filed on the first business day after the date on which a competing construction permit expires as mutually exclusive with an earlier-filed ‘replacement’ modification application.<sup>5</sup> In such cases, we expect the applicants to use engineering solutions and good faith negotiation to resolve their mutual exclusivity.”<sup>6</sup> This policy was first set forth in *Eastern Mennonite University*, and Pyeatt argues that under this policy the Grant Petition and her application (File No. BNPH-20141029ACJ) must be considered mutually exclusive with the earlier-filed KZMP-FM replacement application. If the Media Bureau decides to treat these proposals as mutually exclusive, then the vacant channel at issue in the proposal herein, as well as Petitioner’s concurrent Wright City proposal, should be considered as potential parts of an overall solution to the LBDL/Pyeatt conflict and thus effectively mutually exclusive with Pyeatt’s proposal.

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<sup>3</sup> The KZMP Application requests a replacement for an expiring construction permit authorizing implementation of the same upgrade of Station KZMP-FM.

<sup>4</sup> See, Opposition to Informal Objection, in re KZMP-FM, Pilot Point, Texas, File No. BPH-20141028AAK, filed November 20, 2014.

<sup>5</sup> In re: *WCAI(FM), Woods Hole, Massachusetts*, letter of Peter H. Doyle, released January 6, 2015, DA 15-8, p.3, (“*Woods Hole*”), citing *Board of Trustees of Eastern Mennonite University* (“*Eastern Mennonite University*”), 29 FCC Rcd 5925, 5928 (2014).

<sup>6</sup> Citing *Streamlining Radio Technical Rules*, First Report and Order, 14 FCC Rcd 5272, 5273 n.2 (1999) (stating that mutually exclusive applications must be disposed of through “technical amendment, settlement between the applicants, auction or other means”); see generally 47 USC § 309(j)(6)(E).

3. The symbiotic relationship between the Bogata and Wright City Petitions and the Pyeatt Petition is inescapable. More specifically, Station KZMP-FM filed its application for Channel 285C0 on October 28, 2014. On October 29, 2014, Pyeatt filed the conflicting Petition for Rule Making to allot Channel 286A to Grant, Oklahoma and an application for that facility. LBDL immediately undertook a study of potentially available channels that could be used to resolve the conflict posed by Pyeatt's proposal. Two such channels were identified – Channels 247A and 295A.<sup>7</sup> On November 3, 2014, however, Charles Crawford filed the instant Petition for Rule Making to allot Channel 247A to Bogata, Texas. In addition, prior to that filing, on October 31, 2014, the same Charles Crawford filed a Petition for Rule Making to allot Channel 295A to Wright City, Oklahoma.

4. In its Pyeatt Opposition, LBDL described this remarkable sequence of three filings in a period of less than a week. Pyeatt responded by stating that “[w]hile I fully acknowledge that Mr. Crawford and I share a business address and that on occasion we share information about Commission rules, practices and procedures, I am not responsible for any petitions for rule making which he may have filed.”<sup>8</sup> Whether or not Pyeatt had any responsibility for the filing of the Crawford petitions, those filings could not have been a coincidence. Indeed, if Charles Crawford was interested in establishing new FM outlets in Wright City or Bogata, he could have filed allotment petitions for the same channels at any time over the past several years. Rather, it seems clear that the timing of the filings was carefully planned to complement the Pyeatt filing, box in KZMP-FM, and avoid the sort of settlement the Commission suggests in the *Eastern Mennonite University* case. As LBDL's consulting

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<sup>7</sup> See attached channel studies in Exhibit 1.

<sup>8</sup> See Declaration of Katherine Pyeatt attached to Reply to Oppositions dated December 31, 2014 in the Grant, Oklahoma rule making proceeding.

engineer, Joseph M. Davis of Chesapeake RF Consultants, LLC, stated in his Engineering Statement,<sup>9</sup>

“Upon receipt of a copy of Pyeatt’s PRM on October 30, 2014, a channel search was conducted for a suitable alternative Class A channel that could be allotted to Grant, OK in lieu of Channel 286A. Identification of an alternate channel for Grant, OK would allow both proposals (LBDL and Pyeatt) to proceed without conflict. The channel study showed that not one, but two alternate channels existed that would be fully-spaced and within the 16.1 km principal community contour distance from Grant, OK. Either Channel 295A or Channel 247A could easily serve as an alternative to Channel 286A. However within days of Pyeatt’s Channel 286A PRM being filed on October 29, 2014, additional petitions were subsequently filed for these exact two alternate channels for use at nearby communities....Those filings assured the preclusion of any alternate channels for Grant, OK.”

5. LBDL is not aware of any other parties, besides Charles Crawford, who have expressed an interest in filing an application for the Bogata, Texas, channel. In these circumstances, LBDL respectfully requests that the Bureau delay action on the pending Bogata proposal to allot Channel 247A until it disposes of the Grant Petition. Deferring action will preserve the possibility -- in the event the KZMP Application and the Grant Petition actually are treated as conflicting proposals -- of resolving the distribution of channels pursuant to the Bureau’s dictate, using good faith negotiations. LBDL submits that the instant proposal, along with the prior-filed Wright City proposal and the Pyeatt Petition, should not be treated as a free-standing bid to provide service to Bogota. To the contrary, it is part of a single, coordinated plan

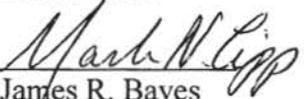
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<sup>9</sup> See Opposition to Informal Objection to the KZMP Application at Exhibit 3.

to lock up three channels and frustrate LBDL's application to implement the upgrade of Station KZMP-FM, and must be treated as such.

Respectfully submitted,

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March 2, 2015

Its Counsel

EXHIBIT 1

Grant247r\_Channel\_Study

REFERENCE 33 55 18.0 N. CLASS = A DISPLAY DATES  
 02-03-15 95 25 37.0 W. Current Spacings to 3rd Adj. DATA  
 02-03-15 SEARCH  
 ----- Channel 247 - 97.3 MHz

| Call Lat.                                  | Channel Lng. | Location Ant | Power      | Azi HAAT    | Dist   | FCC   | Margin |
|--|--------------|--------------|------------|-------------|--------|-------|--------|
| 1656651% APP                               | 247A         | Bogata       |            |             |        |       |        |
| 33 33 21.0                                 | 95 18 28.1   | CX           | 6.000 kw   | 164.8 100 M | 42.05  | 115.0 | -73.0  |
| Charles E. Crawford BNP20141103ABS         |              |              |            |             |        |       |        |
| 1656962% RSV-A                             | 247A         | Bogata       |            |             |        |       |        |
| 33 33 21.0                                 | 95 18 28.0   |              | 6.000 kw   | 164.8 100 M | 42.05  | 115.0 | -73.0  |
| Charles E. Crawford                        |              |              |            |             |        |       |        |
| R16637% ADD                                | 247A         | Bogata       |            |             |        |       |        |
| 33 33 21.0                                 | 95 18 28.0   |              | 6.000 kw   | 164.8 100 M | 42.05  | 115.0 | -73.0  |
| Charles Crawford                           |              |              |            |             |        |       |        |
| KYAL-FM LIC                                | 246C         | Muskogee     |            |             |        |       |        |
| 0.56                                       |              |              | OK         | 1.9         | 165.56 | 165.0 |        |
| 35 24 48.0                                 | 95 21 55.0   | CX           | 100.000 kw | 600 M       |        |       |        |
| Kmmmy, Inc. BLH20080724ABI                 |              |              |            |             |        |       |        |
| KLAK LIC                                   | 248C2        | Tom Bean     |            |             |        |       |        |
| 33 28 30.0                                 | 96 26 45.0   | CX           | 32.000 kw  | 242.5 188 M | 106.66 | 106.0 | 0.7    |
| Nm License, Llc BLH20060124AFV             |              |              |            |             |        |       |        |
| KBEL-FM LIC                                | 244C3        | Idabel       |            |             |        |       |        |
| 33 52 54.0                                 | 94 49 10.0   | CN           | 25.000 kw  | 94.4 91 M   | 56.36  | 42.0  | 14.4   |
| Brute Force Radio Llc BLH19950110KB        |              |              |            |             |        |       |        |
| KEGL LIC                                   | 246C         | Fort worth   |            |             |        |       |        |
| 32 35 19.0                                 | 96 58 05.0   | C            | 100.000 kw | 224.5 508 M | 206.10 | 165.0 | 41.1   |
| Citicasters Licenses, Inc. BMLH20081020AOC |              |              |            |             |        |       |        |
| KALK LIC-N                                 | 249C3        | winfield     |            |             |        |       |        |
| 33 11 01.0                                 | 95 12 32.0   | NCN          | 22.500 kw  | 166.1 100 M | 84.32  | 42.0  | 42.3   |
| East Texas Broadcasting, I BLH19920813KC   |              |              |            |             |        |       |        |
| KZBB LIC                                   | 250C         | Poteau       |            |             |        |       |        |
| 35 04 19.0                                 | 94 40 46.0   | CN           | 100.000 kw | 28.0 610 M  | 144.89 | 95.0  | 49.9   |
| Capstar Tx Llc BLH6297                     |              |              |            |             |        |       |        |
| AL7143 RSV-A                               | 247C2        | waskom       |            |             |        |       |        |
| 32 29 36.0                                 | 93 45 55.0   |              | 50.000 kw  | 135.3 150 M | 221.57 | 166.0 | 55.6   |
| RM11232                                    |              |              |            |             |        |       |        |
| KQHN LIC                                   | 247C2        | waskom       |            |             |        |       |        |
| 32 29 36.0                                 | 93 45 55.0   | CX           | 42.000 kw  | 135.3 163 M | 221.57 | 166.0 | 55.6   |
| Cumulus Licensing Llc BLH20060109AAQ       |              |              |            |             |        |       |        |
| KSCN LIC-N                                 | 245C3        | Pittsburg    |            |             |        |       |        |
| 33 00 31.0                                 | 95 04 14.0   | NC           | 14.000 kw  | 161.9 113 M | 106.54 | 42.0  | 64.5   |
| East Texas Broadcasting, I BLH20010730ABF  |              |              |            |             |        |       |        |

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 % = station fails 73.215.  
 RSV-R = reserved - needs protection, RSV-A = allocation.

Grant295r\_Channel\_Study

REFERENCE 33 55 45.0 N. CLASS = A DISPLAY DATES  
 02-03-15 95 31 39.0 W. Current Spacings to 3rd Adj. DATA  
 02-03-15 SEARCH  
 ----- Channel 295 - 106.9 MHz

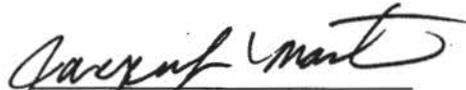
| Call Lat.                                  | Channel Lng. | Location Ant | Power      | Azi HAAT | Dist   | FCC   | Margin |
|--|--------------|--------------|------------|----------|--------|-------|--------|
| 1656124% APP                               | 295A         | wright city  | OK         | 74.8     | 64.37  | 115.0 | -50.6  |
| 34 04 44.9                                 | 94 51 15.8   | CX           | 6.000 kw   | 100 M    |        |       |        |
| Charles E. Crawford BNP20141031ABD         |              |              |            |          |        |       |        |
| R16637% ADD                                | 295A         | wright city  | OK         | 74.8     | 64.38  | 115.0 | -50.6  |
| 34 04 44.0                                 | 94 51 15.0   |              | 6.000 kw   | 100 M    |        |       |        |
| Charles Crawford                           |              |              |            |          |        |       |        |
| 1656770% RSV-A                             | 295A         | wright city  | OK         | 74.8     | 64.38  | 115.0 | -50.6  |
| 34 04 44.0                                 | 94 51 15.0   |              | 6.000 kw   | 100 M    |        |       |        |
| Charles E. Crawford                        |              |              |            |          |        |       |        |
| 0.52 KHTT                                  | LIC 295C0    | Muskogee     | OK         | 354.3    | 215.52 | 215.0 |        |
| 35 51 43.0                                 | 95 46 01.0   | C            | 100.000 kw | 308 M    |        |       |        |
| Journal Broadcast Corporat BMLH20120307ABT |              |              |            |          |        |       |        |
| KAZE                                       | LIC-N 295C3  | Ore City     | TX         | 148.0    | 160.65 | 142.0 | 18.7   |
| 32 41 54.0                                 | 94 37 04.0   | NC           | 8.200 kw   | 153 M    |        |       |        |
| Reynolds Radio, Inc. BLH20000103ABB        |              |              |            |          |        |       |        |
| KRVA-FM                                    | LIC 296A     | Campbell     | TX         | 192.6    | 91.39  | 72.0  | 19.4   |
| 33 07 30.0                                 | 95 44 32.0   | C            | 3.600 kw   | 129 M    |        |       |        |
| The Way Radio Group Llc BMLH20031121AIC    |              |              |            |          |        |       |        |
| KZZA                                       | LIC-N 294C   | Muenster     | TX         | 253.7    | 189.52 | 165.0 | 24.5   |
| 33 26 13.0                                 | 97 29 05.0   | NCX          | 75.000 kw  | 620 M    |        |       |        |
| Liberman Broadcasting Of D BMLH20060717AAF |              |              |            |          |        |       |        |
| KLBC                                       | LIC-Z 292C3  | Durant       | OK         | 278.5    | 83.96  | 42.0  | 42.0   |
| 34 02 12.0                                 | 96 25 37.0   | ZC           | 16.500 kw  | 123 M    |        |       |        |
| Mid-continental Broadcasti BLH20110628ABJ  |              |              |            |          |        |       |        |
| KZRC                                       | LIC-Z 241A   | Bennington   | OK         | 265.8    | 57.92  | 10.0  | 47.9   |
| 33 53 22.0                                 | 96 09 07.0   | ZCX          | 6.000 kw   | 100 M    |        |       |        |
| North Texas Radio Group, L BLH20130319ACJ  |              |              |            |          |        |       |        |
| KZIG                                       | LIC-N 298A   | Wapanucka    | OK         | 312.0    | 81.74  | 31.0  | 50.7   |
| 34 25 08.0                                 | 96 11 24.0   | NCX          | 2.300 kw   | 118 M    |        |       |        |
| Keystone Broadcasting Corp BLH20130318AEF  |              |              |            |          |        |       |        |
| KQDR                                       | LIC 297A     | Savoy        | TX         | 253.4    | 84.62  | 31.0  | 53.6   |
| 33 42 31.0                                 | 96 24 09.0   | CX           | 3.700 kw   | 128 M    |        |       |        |
| Prophecy Radio Group, Llc BLH20101122AAZ   |              |              |            |          |        |       |        |
| KOMS                                       | LIC 297C     | Poteau       | OK         | 42.3     | 156.10 | 95.0  | 61.1   |
| 34 57 47.3                                 | 94 22 30.7   | CX           | 100.000 kw | 577 M    |        |       |        |
| Cumulus Licensing Llc BLH20090630ACU       |              |              |            |          |        |       |        |
| KYNZ                                       | LIC-Z 296C3  | Lone Grove   | OK         | 285.8    | 155.47 | 89.0  | 66.5   |
| 34 17 52.0                                 | 97 09 12.0   | ZCX          | 24.500 kw  | 102 M    |        |       |        |
| Lkcm Radio Licenses, L.p. BLH20020722AAY   |              |              |            |          |        |       |        |
| KTFS-FM                                    | LIC 296A     | Texarkana    | AR         | 112.7    | 141.83 | 72.0  | 69.8   |
| 33 25 45.0                                 | 94 07 11.0   | CN           | 2.900 kw   | 146 M    |        |       |        |
| Texarkana Radio Center Lic BMLH19900412KC  |              |              |            |          |        |       |        |

% = Station fails 73.215.  
 RSV-R = reserved - needs protection, RSV-A = allocation.  
 Page 1

**CERTIFICATE OF SERVICE**

I, Jacquelyn Martin, hereby certify that on this 2<sup>nd</sup> day of March, 2015, I caused to be mailed a copy of the foregoing Comments via first class mail postage prepaid to the following:

Charles Crawford  
Katherine Pyeatt  
2215 Cedar Springs Rd. #1605  
Dallas, Texas 75201

  
Jacquelyn Martin