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October 22, 1999

DISPATCHED BY

Gregory L. Masters
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D. C. 20006

Dear Mr. Masters:

This is in response to the Petition for Rule Making filed on behalf of Capstar Royalty II Corporation ("Capstar"), licensee of Station KRYL, Gatesville, Texas. You have requested the substitution of Channel 237C3 for Channel 252A at Gatesville, Texas, change of reference coordinates for the application for Channel 239C2 at Waco, Texas, and the allotment of Channel 253A at Evant, Texas. You further request the modification of the license for Station KRYL, Gatesville, to specify operation on Channel 237C3.

We have reviewed your proposal and find that it is unacceptable for rule making at this time. As you are aware, your proposal is dependent upon the amendment of the pending application for Channel 239C2 at Waco as there is a short-spacing between your selected site for Channel 237C3, Gatesville, and the application site for Channel 239C2, Waco. Although we realize that Capstar is the applicant for Channel 239C2 at Waco and has stated its intention to amend the application, the proposal for Gatesville is currently dependent and contingent upon amendment of the Waco application to a non-conflicting site. A rulemaking proposal must comply with the minimum distance separation requirements on the date it is filed. Section 73.208(a)(1) of the Rules sets forth the reference points to be used in making this determination. Our policy is to return petitions for rule making that are dependent upon finality of other actions or proceedings. See Cut and Shoot, Texas, 11 FCC Rcd 16383 (1996).

Based on the above discussion, we are returning your petition for Gatesville and Evant, Texas.

Sincerely,

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Enclosure

COPY

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

AUG 17 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Gatesville and Evant, Texas))

MM Docket No. _____
RM-_____

To: The Chief, Allocations Branch

PETITION FOR RULEMAKING

Capstar Royalty II Corporation ("Capstar"), licensee of station KRYL(FM), Channel 252A, Gatesville, Texas, hereby petitions the Commission to amend the FM Table of Allotments, 47 C.F.R. Section 73.202(b), to (i) substitute Channel 237C3 for Channel 252A at Gatesville, Texas; (ii) change the reference coordinates for Channel 239C2 at Waco, Texas to accommodate the Gatesville substitution; and (iii) allot Channel 253A at Evant, Texas, as that community's first local service. As demonstrated below, the amendments to the Table of Allotments proposed herein would allow station KRYL to substantially increase its service, and, additionally, would provide a first local service to a community presently without one.

Gatesville, Texas

As shown in the attached Engineering Statement by Reynolds Technical Associates ("Engineering Statement"), the substitution of Channel 237C3 for Channel 252A at Gatesville, Texas, will allow station KRYL to serve an additional area and population (net of area and population lost) of 3049.2 square kilometers and 9139 persons compared with the station's presently licensed facilities.¹ See Engineering Statement at 4. Channel 237C3 can be allotted to

¹ KRYL has pending an application for minor modification of facilities (File No. BPH-990527ID). Compared with the facilities proposed in the pending modification application, the requested substitution of Channel 237C3 for Channel 252A at Gatesville would permit KRYL to

Gatesville in compliance with all Commission technical requirements except for a short-spacing to Channel 239C2 at Waco, Texas, discussed below. Capstar states its intent to file an application to implement the proposed Gatesville channel substitution once it is approved, and to promptly construct the improved KRYL facilities after such application is granted.

Waco, Texas

The substitution of Channel 237C3 for Channel 252A at Gatesville, Texas will require a change in the allotment reference coordinates for Channel 239C2 at Waco, Texas. Channel 239C2 at Waco is occupied by station KCKR(FM), of which Capstar is also licensee.² Capstar states its willingness to accept a change in KCKR's reference coordinates as proposed herein.

Evant, Texas

The substitution of Channel 237C3 for Channel 252A at Gatesville, Texas, permits the allotment of Channel 253A at Evant, Texas as that community's first local service. The 1990 U.S. Census lists Evant as an incorporated town with a population of 444. Thus, Evant qualifies as a "community" for allotment purposes. See Potts Camp and Saltillo, Mississippi, 13 FCC Rcd 11909, 11911 (M.M. Bur. 1998) ("community" requirement is generally satisfied if a community is incorporated or listed in the U.S. Census).

As shown in the Engineering Statement, assuming Channel 237C3 is substituted for Channel 252A at Gatesville, Channel 253A can be allotted to Evant, Texas in compliance with the Commission's technical standards without the need for a site restriction. Channel 253A at Evant will be a first local service for the community, providing new FM service to an area of 2516 square

serve an additional area and population (net of losses) of 3933.255 square kilometers and 25,024 persons. See Engineering Statement at 4.

² KCKR is presently operating under program test authority with the facilities authorized in construction permit File No. BPH-970716IB. An application for license to cover that construction permit (File No. BLH-980717KG) is presently pending.

kilometers and a population of 10,875. See Engineering Statement at 4. If Channel 253A is allotted to Evant as proposed herein, Capstar will file an application for a station on that channel and promptly construct the station if its application is granted.

Conclusion

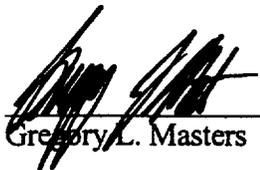
Based upon the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) ("*FM Priorities*"), the proposal herein would result in a preferential arrangement of allotments. The substitution of Channel 237C3 for Channel 252A at Gatesville will permit KRYL to expand its service to substantial new areas and populations. Additionally, that substitution will also facilitate a new FM channel in Evant, providing that community with its first local transmission service and thus fulfilling Priority 3 of the Commission's allotment priorities.

Accordingly, Capstar respectfully requests that the Commission commence a rulemaking proceeding to make the following amendments to the Table of FM Allotments:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Gatesville, Texas	252A	237C3
Waco, Texas	239C2	239C2
		(reference coordinate change only)
Evant, Texas	--	253A

Respectfully submitted,

CAPSTAR ROYALTY II CORPORATION

By: 

Gregory L. Masters

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Its Attorney

Dated: August 17, 1999



ENGINEERING STATEMENT

IN SUPPORT OF A

PETITION FOR RULE MAKING

Capstar Royalty II Corporation

Prepared by:

**Reynolds Technical Associates
2421 Presidents Drive, Suite B-23
Montgomery, Alabama 36116
(334) 323-3620**

August 16, 1999

Engineering Statement
In Support of a
Petition for Rule Making
Capstar Royalty II Corporation

General

The instant Petition for Rule Making (PRM) was prepared for Capstar Royalty II Corporation (“Capstar”), the licensee of channel 252A (KRYL), Gatesville, Texas. It is prepared and submitted in order to upgrade channel 252A at Gatesville, Texas; relocate the CP coordinates for KCKR, channel 239C2 in Waco, Texas; and allocate channel 253A to Evant, Texas as that city’s first local service.

The instant petition calls for two changes in the table of allotments and the amendment of one CP. Capstar requests the deletion of channel 252A and the substitution of channel 237C3 at Gatesville, Texas. In order to facilitate this substitution, Capstar requests that the allotment reference coordinates of channel 239C2 (KCKR) at Waco, Texas be amended to a location that is fully spaced with the proposed substitution of channel 237C3 at Gatesville. The deletion of channel 252A at Gatesville creates the possibility of a new first local service for the community of Evant, Texas on channel 253A (with no site restriction). Capstar also requests that this allocation be made.

Methods

The Capstar petition requires no additional channel substitutions in order to allocate channel 237C3 at Gatesville.

All searches were performed on a V-Soft SearchFM program and verified with the EDX FMSR search program. The FCC F(50,50) contours were calculated using SoftWright's Terrain Analysis Package (TAP) Version 4.1.385. All existing stations' coverages were predicted using the FCC F(50,50) 60 dBu contour for FM stations. The studies were based on the latest technical data from the Commission's databases. A professional mapping program from MapInfo Corporation, MapInfo Version 5.0, conducted mapping, population counts, and gain/loss areas. The program contains the exact community boundaries of the relevant cities. In the pertinent case where community boundaries were critical, the boundaries were cross-checked with the U.S. Census Bureau's TIGER map.

Nature of the Capstar Petition

Capstar proposes to allot channel 237C3 at Gatesville and delete channel 252A as a non-adjacent channel upgrade. No additional substitutions are required to accommodate the Capstar petition; however, the spacing between the proposed channel 237C3 at Gatesville and channel 239C2 at Waco (KCKR) is 53.21 kilometers, while 56.0 kilometers are required for full §73.207 spacing. Therefore, channel 237C3 at Gatesville (KRYL) and channel 239C2 at Waco are short spaced by 2.79 kilometers. In order to alleviate this short spacing, Capstar (the licensee of KRYL and KCKR) proposes to amend the reference coordinates of KCKR to North Latitude 31-30-46; West Longitude 97-09-46. This movement will not only allow the upgrade of KRYL at Gatesville, but it will also reduce the amount of short spacing to KKMJ, channel 238C1, Austin, Texas, from 13.87 kilometers to 12.85 kilometers. (These stations are short spaced to one another via a mutually agreed upon short spacing agreement.)

After channel 252A is deleted at Gatesville, a new first local service is proposed to Evant, Texas on channel 253A. This allocation can be accomplished with no need for a site restriction.

EXHIBITS EXPLAINED

Exhibit E, Figure 1 is an allocation study depicting the spacing to all known FM facilities that are affected by the allotment of channel 237C3 at Gatesville, using the desired Capstar reference coordinates. Exhibit E, Figure 2 is a map depicting the hypothetical class C3 70-dBu contour for channel 237C3 at Gatesville. Exhibit E, Figure 3 is a zoomed view of Exhibit E, Figure 2 that shows that 100% of the community of license (Gatesville, Texas) will be covered at the allocation coordinates, in full compliance with §73.315 of the Rules. Exhibit E, Figures 4 and 5 are gain/loss studies of the population and land area that will be both gained and lost by the substitution of channel 237C3 at Gatesville. Exhibit E, Figure 4 is a gain/loss study of the proposed substitution to the licensed facility, while Exhibit E, Figure 5 is a comparison of channel 237C3 to the pending application for channel 252A.

Exhibit E, Figure 6 is a channel study for the amended reference coordinates of channel 239C2 (KCKR) at Waco. This channel study includes the proposed allocation of channel 237C3 at Gatesville. Also included is the short spacing to channel 238C1 at Austin (KKMJ). It is Capstar's opinion that the proposed reference coordinates are acceptable to the Commission not only because they allow CH237C3 to be substituted at Gatesville, but also because they decrease the existing short space to KKMJ by 1.02 kilometers.

Exhibit E, Figure 7 is a hypothetical class C2 70-dBu contour at the amended channel 239C2 site. It demonstrates full compliance with §73.315 of the Commission's Rules.

The deletion of CH252A at Gatesville allows CH253A to be allocated at Evant, Texas as that community's first local service. Exhibit E, Figure 8 is an allocation study from the community of Evant's reference coordinates. This study demonstrates the ability of CH253A to be allocated without the need for a site restriction. Exhibit E, Figure 9 is a copy of a portion of a US Census Bureau TIGER map of the community boundaries of Evant, Texas. This exhibit shows that the Bureau of the Census recognizes Evant, Texas as an incorporated town with definable city boundaries.

In summary, the instant Capstar PRM proposes the following amendments to the Table of Allotments:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Gatesville, Texas	252A	237C3
Waco, Texas	239C2	239C2 (reference coordinate change only)
Evant, Texas	-----	253A

The following is a table of the area and population that will have service added and lost:

<u>Proposed Modification</u>	<u>Area Gained (km²)</u>	<u>Area Lost (km²)</u>	<u>Pop. Gained</u>	<u>Pop. Lost</u>
237C3 for 252A license (application)	3,553 (3,941)	503.8 (7.745)	19,580 (25,200)	10,441 (176)
<u>AD253A at Evant, TX</u>	<u>2,516</u>	<u>0</u>	<u>10,875</u>	<u>0</u>
Totals:	6,069 (6,457)	503.8 (7.745)	30,455 (36,075)	10,441 (176)

Conclusion

The Capstar petition has demonstrated that it is in technical compliance with the present Commission Rules concerning such actions. The allocation of channel 237C3 at Gatesville will be upgrading an existing facility without adversely affecting any other facilities. As a result of the deletion of CH252A at Gatesville, Texas, the community of Evant, Texas will be able to receive an allocation for a new first local service on channel

253A. Depending on the comparison, the Capstar PRM, if granted, will give a new service (population gained minus population lost) to as many as 35,899 persons (including a new first local service).

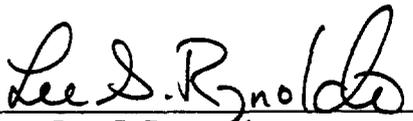
Statement of the Consultants

The engineering section for the instant counterproposal was prepared for Capstar Royalty II Corporation ("The Petitioner"). It supports a Petition for Rule Making to the substitution of channel 237C3 for channel 252A at Gatesville, Texas and the allotment of channel of 252A at Evant, Texas as a new first local service. It was developed by Lee S. Reynolds and Paul H. Reynolds of Reynolds Technical Associates ("RTA") and may not be used for purposes other than submission to the Commission by The Petitioner.

It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of RTA.

The information in this application is compiled from the most recent Commission and outside data. RTA is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

For Reynolds Technical Associates:



Lee S. Reynolds

August 13th 1999

2421 Presidents Drive, Suite B-23
Montgomery, Alabama 36116
(334) 323-3620

ENGINEERING STATEMENT
In Support of a
PETITION FOR RULE MAKING

Capstar Royalty II Corporation

CH237C3 at Gatesville, Texas Allocation Study

Reference Coordinates:
North Latitude: 31-37-00
West Longitude: 97-44-34

Call	Ch#	City	State	Bear'	Dist'	R'qrd	Margin
Community of Gatesville			TX	69.1	20.95		
Reference Coordinates: North Latitude: 31-25-52 West Longitude: 97-42-04							
KCKR	238C	Waco	TX	130.9	50.03	176.0	-125.97 *
KCKR	238C	Waco	TX	101.1	55.04	176.0	-120.96 *
Of No Concern: Channel has been deleted and substituted With CH239C2 at Waco							
KCKR.C	239C2	Waco	TX	102.3	53.21	56.0	-2.79 *
Of Concern: Proposed Modification of KCKR.C to Fully Spaced Site Proposed in Instant Petition							
KKMJFM	238C1	Austin	TX	182.2	143.52	144.0	-0.48 *
KKMJFM	238C1	Austin	TX	182.2	143.52	144.0	-0.48 *
KKMJFM	238C1	Austin	TX	182.2	143.52	144.0	-0.48 *
KCKR.A	239C2	Waco	TX	101.9	56.00	56.0	-0.00 *
Of Note: Modification to facility proposed in instant petition Reference Coordinates: North Latitude: 31-30-46 West Longitude: 97-09-56							
KNELFM	237A	Brady	TX	250.5	163.21	142.0	21.21
AD236	236C2	Caldwell	TX	131.0	139.93	117.0	22.93
KWRDFM	235C	Arlington	TX	34.1	130.24	96.0	34.24
KTSR.C	236C2	College Station	TX	128.0	154.34	117.0	37.34
AD236	236C2	College Station	TX	125.1	154.39	117.0	37.39
AD236	236C2	Caldwell	TX	128.1	154.45	117.0	37.45
DE237	237A	Jacksboro	TX	347.4	181.96	142.0	39.96
ALOPEN	237A	Jacksboro	TX	347.4	181.96	142.0	39.96

**KRYLA (AD237C3)
Gatesville, Texas
Hypothetical
70 dBu Contour**

**AD237C3
Hypothetical
70 dBu Contour**

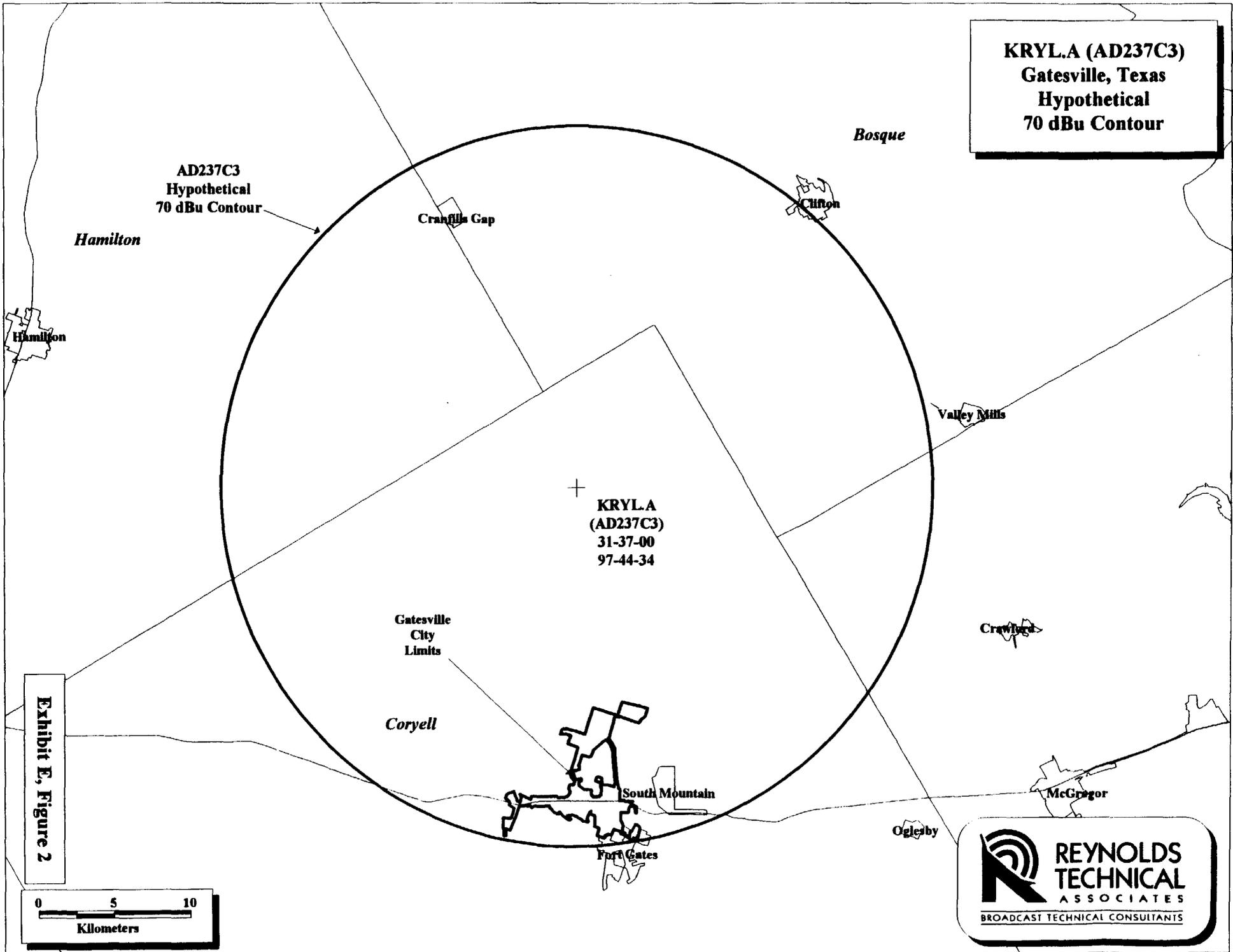
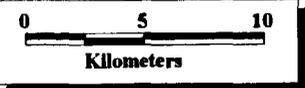


Exhibit E, Figure 2



**KRYLA (AD237C3)
Gatesville, Texas
Hypothetical
70 dBu Contour
(Zoomed View)**

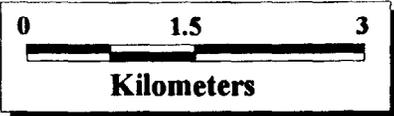
Gatesville
City
Limits

AD237C3
Hypothetical
70 dBu Contour

South Mountain

Port Gates

Exhibit E, Figure 3



Population Gain = 19,580
Population Loss = 10,441
Gain Area = 3,553 sq. km
Loss Area = 503.8 sq. km

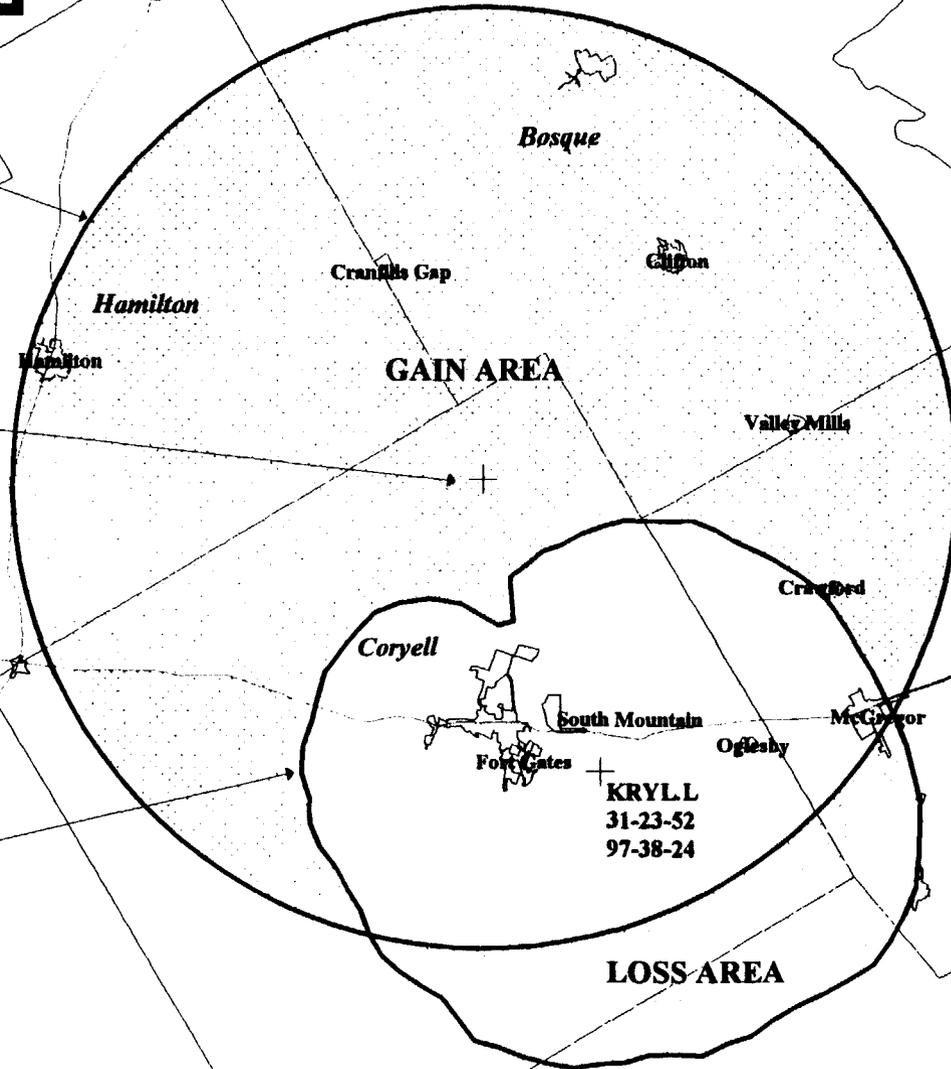
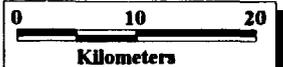
AD237C3
KRYLL (CH252A)
Gatesville, Texas
Gain/Loss Study

AD237C3
Hypothetical
60 dBu Contour

KRYLA
(AD237C3)
31-37-00
97-44-34

KRYLL
(CH252A)
F(50,50)
60 dBu Contour

Exhibit E, Figure 4



Population Gain = 25,200
Population Loss = 176
Gain Area = 3,941 sq. km
Loss Area = 7.745 sq. km

AD237C3
KRYLA (CH252A)
Gatesville, Texas
Gain/Loss Study

AD237C3
Hypothetical
60 dBu Contour

KRYLA
(CH252A)
F(50,50)
60 dBu Contour

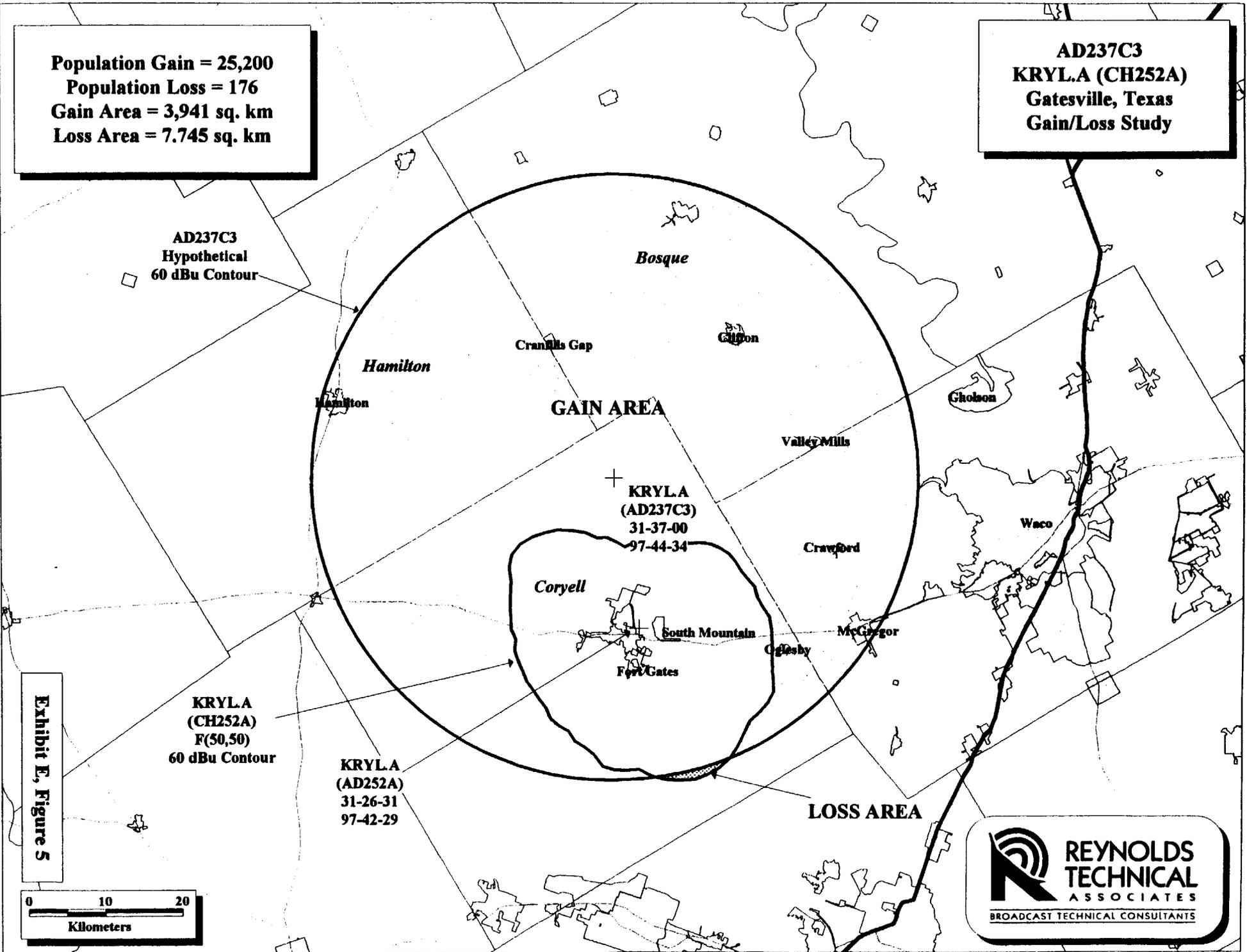
KRYLA
(AD252A)
31-26-31
97-42-29

GAIN AREA

LOSS AREA

Exhibit E, Figure 5

0 10 20
Kilometers



ENGINEERING STATEMENT
In Support of a
PETITION FOR RULE MAKING

Capstar Royalty II Corporation

CH239C2 (KCKR) at Waco, Texas Channel Spacing Study
(Depicting Spacing at Modified Reference Site)

Reference Coordinates:
North Latitude: 31-30-46
West Longitude: 97-09-56

Call	Ch#	City	Channel	Class	Bear'	Dist'	R'qrd	Margin	Search Date
31 30 46 N.				Class C2					Search Date
97 09 56 W.				Current rules spacings					08-14-99
-----				Channel 239 - 95.7 MHz	-----				
Call	Ch#	City	Channel	Class	Bear'	Dist'	R'qrd	Margin	

Community of Waco				TX	345.0	6.44			
Reference Coordinates:									
North Latitude: 31-34-08									
West Longitude: 97-10-59									
KCKR.C	239C2	Waco		TX	273.1	2.83	190.0	-187.17	*
KCKR	238C	Waco		TX	319.4	1.22	188.0	-186.78	*
KCKR	238C	Waco		TX	218.8	27.21	188.0	-160.79	*
Of No Concern:									
Instant Facilities (Class C and C2)									
Of KCKR									
KKMJFM	238C1	Austin		TX	204.7	145.15	158.0	-12.85	*
KKMJFM	238C1	Austin		TX	204.7	145.15	158.0	-12.85	*
KKMJFM	238C1	Austin		TX	204.7	145.15	158.0	-12.85	*
Of Concern:									
Short Spacing allowing under a previously									
Agreed upon via a short spacing agreement									
(Short spacing will be reduced in instant petition from 13.87 km to 12.85 km)									
KRYL.A	237C3	Gatesville		TX	281.9	56.00	56.0	0.00	*
Of Note:									
Proposed Class C3 allocation									
To Gatesville, Texas proposed in instant petition									
KYXFEM	240C1	Mineral Wells		TX	323.6	158.05	158.0	0.05	*
ALOPEN	240C1	Mineral Wells		TX	324.2	160.27	158.0	2.27	*
KIKKFM	239C	Houston		TX	140.5	253.56	249.0	4.56	*
KSCS	242C	Fort Worth		TX	9.0	120.65	105.0	15.65	
KIKKFM	239C	Houston		TX	143.5	267.08	249.0	18.08	
KIKKFM	239C	Houston		TX	143.5	267.08	249.0	18.08	
KCKL	240A	Malakoff		TX	58.1	132.94	106.0	26.94	
AD236	236C2	Caldwell		TX	147.8	94.92	58.0	36.92	

**AD239C2 (KCKR)
Waco, Texas
Hypothetical
70 dBu Contour**

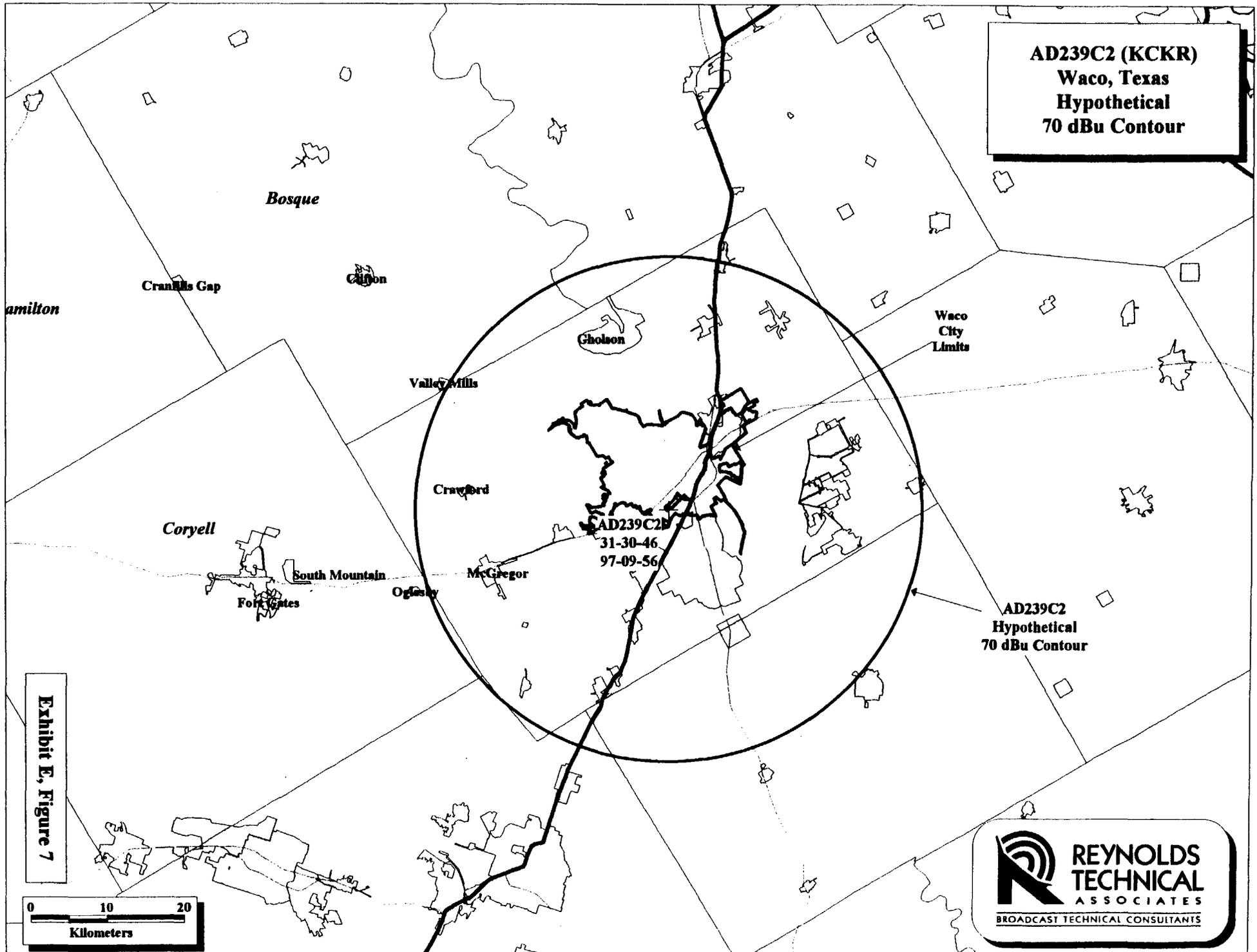


Exhibit E, Figure 7



ENGINEERING STATEMENT
In Support of a
PETITION FOR RULE MAKING
Capstar Royalty II Corporation

AD253A at Evant, Texas Allocation Study
(Using the Center of the Community of Evant, Texas as Reference)

Reference Coordinates:
North Latitude: 31-28-38
West Longitude: 98-09-59

31 28 38 N.		Class A		Search Date			
98 09 59 W.		Current rules spacings		08-14-99			
-----		Channel 253 - 98.5 MHz		-----			
Call	Ch#	City	State	Bear'	Dist'	R'grd	Margin
KRYL.A	252A	Gatesville	TX	95.1	43.74	72.0	-28.26 *
KRYL	252A	Gatesville	TX	100.0	50.81	72.0	-21.19 *
Of No Concern: Channels to be deleted in instant petition And Re-allocated to CH237C3							
KLUVFM	254C	Dallas	TX	42.6	167.33	165.0	2.33 *
KCUBFM	252A	Stephenville	TX	354.0	81.14	72.0	9.14 *
KJFK	255C1	Lampasas	TX	168.6	84.96	75.0	9.96 *
KELI	254C	San Angelo	TX	266.1	179.20	165.0	14.20
KCUBFM	252A	Stephenville	TX	3.1	89.73	72.0	17.73
>AD253	253C1	Schertz	TX	193.9	223.08	200.0	23.08
KLUVFM	254C	Dallas	TX	40.6	188.09	165.0	23.09
KRXT	253A	Rockdale	TX	130.7	142.10	115.0	27.10

ENGINEERING STATEMENT
In Support of a
PETITION FOR RULE MAKING
Capstar Royalty II Corporation
TIGER Map of Evant, Texas City Limits

