

ORIGINAL

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554

In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
(Moberly, Malta Bend and Chillicothe, Missouri)

DOCKET FILE COPY ORIGINAL

) MM Docket No. 00-129  
) RM - 9909  
)  
)

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

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COMMENTS AND AMENDED PROPOSAL

Respectfully Submitted,

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## SUMMARY

Best Broadcasting, Inc., licensee of Station KCSX(FM), Moberly, Missouri and First Broadcasting Company, L.P., holder of an option to purchase KCSX (the "Joint Parties") have developed an amended proposal which, instead of upgrading KCSX to a Class C2 channel, proposes to upgrade KCSX to a Class C1 channel at a new community of license. Although there are a number of stations which must change channels and/or transmitter sites, all of the changes meet the Commission's spacing requirements and should not present any issues to be addressed. The Joint Parties have taken steps to insure that the proposal can be implemented as smoothly as possible. However, due to the lack of time needed to obtain all of the consents, the Joint Parties did not obtain consents from two stations which must change channels only. The Joint Parties will attempt to provide the consents. If unsuccessful, the Joint Parties will urge the Commission to issue Orders to Show Cause to these two stations.

The proposal is designed to provide a first local service to Lee's Summit, Missouri (1990 population 46,418) the largest community in the state without local service. In addition, a first local service can be provided to Madison, Missouri, a smaller community and a station in LaMonte, Missouri can achieve an upgrade in its facility. There is a substantial overall increase in coverage area and population served.

A conflicting application was recently filed by a station in Marshall, Missouri. However, the Joint Parties are providing an alternate channel substitution at one of the communities to eliminate the conflict and allow the Marshall application to be considered separately.

The Joint Parties urge the Commission to grant this proposal.

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**COMMENTS AND AMENDED PROPOSAL**

Best Broadcasting, Inc., (“Best”), licensee of Station KCSX(FM), Moberly, Missouri, and First Broadcasting Company, L.P. (“FBC”), holder of an option to purchase Station KCSX(FM) (the “Joint Parties”), by their respective counsel, hereby submit these comments and an amended proposal for consideration in response to the Notice of Proposed Rule Making (“NPRM”), DA 00-1555, released July 14, 2000. The Joint Parties have developed a proposal which substantially improves Station KCSX, provides two new first local services and provides overall substantial increases in population and area coverage. Instead of increasing to a Class C2 channel as proposed in the NPRM, KCSX can increase to a Class C1 channel if the following changes are approved:

<u>Community</u>	<u>Channel</u>	
	<u>Present</u>	<u>Proposed</u>
Moberly, Missouri	247C3	----
Lee's Summit, Missouri	----	247C1
Topeka, Kansas	247C	233C
Junction City, Kansas	233C1	248C1
Humboldt, Kansas	232C3	237C3
Burlington, Kansas	237A	249A
Auburn, Nebraska	234C3	276C3
Marysville, Kansas	276C3	238C3
Malta Bend, Missouri	248C3	280C3
Chillicothe, Missouri	280C3	253A
LaMonte, Missouri	246C3	249C2
Warsaw, Missouri	249A	246A
Nevada, Missouri	249A	248A

In addition to the above changes in allotments, the Joint Parties also propose the allotment of Channel 247C3 to Madison, Missouri as a first local service.

In support hereof, the Joint Parties states as follows:

#### **I. Preliminary Matters**

1. Agreements have been reached with all but two of the affected stations to reimburse them for their facility changes. See Exhibit 1. Thus the proposal complies with the Commission's policy set forth in Columbus, Nebraska, 59 RR 2d 1185 (1986), which permits up to two involuntary channel changes. As for the two stations, there simply was not enough time to negotiate reimbursement agreements with these two stations prior to filing. The Joint Parties will be negotiating with these two parties and will notify the Commission if the two stations decide to consent to the respective channel changes. As long as there are no more than two stations that have not consented to channel changes, there is no limit to the number of changes to the FM Table of Allotments. See e.g., Farmersville, Texas, et al., 12 FCC Rcd 4099 (1997), recons. dismissed, 12 FCC Rcd 12056 (1997).

2. The Joint Parties hereby state that, in accordance with Section 1.420(j) of the Commission's Rules, they have not paid nor promised to pay, in any of the agreements or otherwise, any licensee or permittee for withdrawing an expression of interest, dismissing an application or forbearing to file an expression of interest or application.

## **II. Station KCSX, Moberly/Lee's Summit, Missouri**

### **A. Technical Compliance**

3. As stated in the attached Engineering Statement, Figure 1, Channel 247C1 can be allotted to Lee's Summit, Missouri and KCSX's license modified accordingly from Channel 247C3 at Moberly provided channel and/or transmitter site changes are made for the following stations:

- Station WIBW-FM, Topeka, Kansas changes from Channel 247C to Channel 233C
- Station KRLI, Malta Bend, Missouri changes from Channel 248C3 to Channel 280C3
- Station KPOW-FM, LaMonte, Missouri changes from Channel 246C3 and upgrades to Channel 249C2 at a new transmitter site
- Station KNIM-FM, Maryville, Missouri changes its transmitter site

4. The Joint Parties hereby state that following the allotment of Channel 247C1 to Lee's Summit as proposed herein, Best Broadcasting, Inc. will timely file an application to relocate KCSX to a new transmitter site to provide a first local service to Lee's Summit, Missouri and the Class C1 facility will be constructed expeditiously.

### **B. Change in Community of License**

5. In Amendment of the Commission' Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License"), 4 FCC Rcd 4870 (1989), recons. granted in part, 5 FCC Rcd 7094 (1990), the Commission stated that in order to change community of license the proposed channel must be mutually exclusive with the existing

channel and the new community must be preferred over the existing community under the Commission's allotment priorities. The attached channel study (Figure 1), demonstrates that the proposed site for Channel 247C1 at Lee's Summit is mutually exclusive with its current use at Moberly. The new community, Lee's Summit (population 46,418),<sup>1</sup> is the ninth largest city in the state of Missouri and the largest community in the state without local radio service. See Exhibit 2. The new arrangement is preferable because Moberly (population 12,839) will continue to receive local service from AM Station KWIX (1230 kHz), FM Stations KRES(FM), (104.7 MHz) and KZZT(FM) (105.5 MHz) and noncommercial educational FM Station KBKC (90.1 MHz). Thus, the net effect of this new arrangement is to provide a first local service to Lee's Summit, which is much larger than Moberly and is without local service under Priority 3. See Revision of FM Policies and Procedures 90 FCC 2d 88 (1982).

6. The Commission also stated in Community of License, *supra* at 7096, that it was concerned with the potential migration of stations from underserved rural areas to well served urban areas. In making this determination, the Commission has relied on the Faye and Richard Tuck, 3 FCC Rcd 5374 (1988) factors. Here, since Lee's Summit is located within the Kansas City Missouri/Kansas Urbanized Area, the Joint Parties provide the following information based on the Tuck factors.<sup>2</sup>

7. The Commission considers eight factors when determining whether a particular community qualifies as independent, as follows: (1) the extent to which the community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller

- 
1. All population figures are taken from the 1990 U.S. Census unless otherwise indicated.
  2. It should be noted that Moberly, Missouri is not an underserved rural area. See Exhibit E, Figure 4(a) listing 14 other stations which provide service to the area currently served by KCSX.

community has its own newspaper or other media that covers the community's local needs and interests; (3) whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book or zip code; (6) whether the community has its own commercial establishments, health facilities and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the smaller community relies upon the larger metropolitan area for various municipal services, such as police, fire protection, schools and libraries. Faye and Richard Tuck, supra, ¶ 36. For the Commission to treat Lee's Summit as an independent community, a majority of the eight factors must favor a finding of independence. In this case, all factors unquestionably demonstrate Lee's Summit's independence from Kansas City.

- (1) *There are Sufficient Employment Opportunities in the Lee's Summit for its Residents, and a Substantial Percentage of Lee's Summit Residents Work in Lee's Summit.*

8. Lee's Summit has a thriving business community that provides ample employment opportunities for residents of the city. According to the Lee's Summit Chamber of Commerce, which serves Lee's Summit only and not Kansas City or any of the surrounding areas, the city's largest employers are: AT&T, 1900 employees, the Lee's Summit R-7 School District, 1850 employees; the John Knox Village retirement community, 950 employees; Calmar, Inc., a maker of plastic dispensing units, 580 employees; the City of Lee's Summit, 450 employees; and Lee's Summit Hospital, 400 employees. In addition, Sprint Corporation and Central Missouri State University have recently announced plans to open facilities in Lee's Summit, further expanding the city's employment base. See Exhibit 3.

9. Moreover, according to the last available census data, of the roughly 23,803 working Lee's Summit residents over the age of sixteen, 29% (6,904) worked in Lee's Summit, 39.3% (9,364) worked in Kansas City, and the remainder worked within the Kansas City MSA but not in Kansas City itself. The Commission has found that much smaller percentages of residents working in the specified community have satisfied this *Tuck* criterion. See e.g., Gilbert and Coolidge, Arizona, 11 FCC Rcd 3610 (1996).

(2) *Lee's Summit Has its Own Newspaper, and a Number of Other Media Outlets Cover Issues of Local Interest.*

10. The *Lee's Summit Journal* began publishing in 1881. Today, the paper publishes three editions per week, and has roughly 55 full-time, part-time and contract employees. The *Journal* has also published an Internet edition for over three years. See Exhibit 3.

11. There are several other Internet web sites dedicated to issues of local concern. The City of Lee's Summit operates a site at <[www.lees-summit.mo.us](http://www.lees-summit.mo.us)>, where residents can obtain information about various municipal services and community events. The City publishes *City Scope*, a quarterly on-line newsletter that updates residents on issues facing the city government. The aforementioned Lee's Summit Chamber of Commerce operates its own web site at <[www.lschamber.com](http://www.lschamber.com)>, which contains a plethora of valuable economic and demographic information about the community. The site for the Lee's Summit Economic Development Commission, <[www.leessummit.org](http://www.leessummit.org)>, contains similar information as well as news reports of interest to local businesses. There are a number of other web sites dedicated to issues of local concern, including the Lee's Summit Main Street web site (<[www.leessummitmainstreet.org](http://www.leessummitmainstreet.org)>), Lee's Summit Web, (<[www.lsmo.com](http://www.lsmo.com)>), and the portion of the *Kansas City Star* newspaper's web site that is dedicated to Lee's Summit news (<[www.kcstar.com/zone/leessummit\\_content.html](http://www.kcstar.com/zone/leessummit_content.html)>). See Exhibit 3.

(3) *Lee's Summit Residents Consider Their Community to be Separate from Kansas City.*

12. Lee's Summit has well-established identity that is separate from that of Kansas City. The town was founded in 1865 by William B. Howard, "a successful farmer and stockman," according to the City's web site. The town was incorporated two years later, and has maintained its own government and provided its own municipal services ever since. The debate over the origin of the city's name reveals one aspect of Lee's Summit's distinct history. It is unclear to this day whether the town was named for Confederate General Robert E. Lee, or for respected citizen Dr. Pleasant Lea who lost his life during the Civil War. This distinct history, together with the size of Lee's Summit's population, and the wide range of businesses and commercial opportunities in the city, strongly suggest that Lee's Summit has an identity that is independent from its larger neighbor. See Exhibit 3.

(4) *Lee's Summit Has its Own Local Government and Elected Officials.*

13. Lee's Summit is governed by a mayor, eight city council members (two each from four districts) and a city manager. Citizens may participate in the municipal government by serving on any number of city boards and commissions, including: the Board of Adjustments, the Community Development Committee, the Human Relations Commission, the Public Safety Advisory Board, and the Tax Increment Financing Commission. The City also assesses taxes on real estate and personal property. As noted above, the city employs approximately 450 full- and part-time workers. See Exhibit 3.

(5) *Lee's Summit has Several Zip Codes Associated Exclusively with It*

14. The following zip codes are associated exclusively with Lee's Summit: 64063, 64064, 64065, 64081, 64082, 64086. See Exhibit 3.

(6) *Lee's Summit has Numerous Commercial Establishments, and its Own Health Facilities*

15. In addition to the larger businesses mentioned above, Lee's Summit is the home of hundreds of commercial establishments, including dozens that identify with the community by using "Lee's Summit" in their names: Lee's Summit Animal Clinic, Lee's Summit Bank (2 locations), Lee's Summit Cleaners (4 locations), Lee's Summit Hearing Aid Center, Lee's Summit Mini Storage, and Drs. Sheldon Fleishman and Sheldon Grossman, who practice at Lee's Summit Podiatry Associates.

16. Lee's Summit has its own municipal airport.

17. Lee's Summit Hospital, operated by Health Midwest, provides a emergency services, rehabilitation services, intensive care and cardiac care units, a pediatric clinic, a 24-hour laboratory, a radiology department, general, orthopedic, pediatric and plastic surgery, as well as a variety of outpatient services and "Wellness Classes" for preventive care. In addition, dozens of doctors practice in Lee's Summit, including a variety of general practitioners and dentists, as well as specialists in mental health, physical therapy and sports medicine, ophthalmology, and obstetrics and gynecology.

18. There are approximately 60 churches of various denominations in the city. See Exhibit 3.

(7) *Businesses Can Advertise Directly to Lee's Summit Residents and Need not Reach Them Through Kansas City-Based Media*

19. Business interested in advertising to the residents of Lee's Summit can do so through the *Lee's Summit Journal* newspaper, as well as the various commercial web sites mentioned above. The city is also served by two cable systems, which presumably have the capability of carrying locally targeted advertising. In addition, businesses can participate in the Lee's Summit Chamber of Commerce. See Exhibit 3.

(8) *Lee's Summit Provides its Own Municipal Services; It Does Not Receive them from Kansas City*

20. Lee's Summit provides its own police and fire services. According to the city's Human Resources department, the city employs approximately 90 full-time police officers and roughly the same number of firefighters and emergency medical technicians. The city maintains its own parks, recreation areas, day camp and swimming pool through its Parks Department, employing over 250 part-time workers during the summer months. The city's Public Works Department handles street repairs, and other subdivisions of the municipal government provide services like solid-waste recycling, animal control and building inspection

21. In addition, Lee's Summit has its own school district. Approximately 13,800 students attend the District's 13 elementary schools, two middle schools and two high schools. In addition, the District's seven-member, elected School Board operates an early childhood center, a pre-school readiness program, an alternative high school and a technology center.

22. The Metropolitan Community College District maintains a campus in Lee's Summit, which offers arts and human services programs, as well as the Program for Adult College Education (PACE).

23. The Mid-Continent Library System operates two public branch library facilities in Lee's Summit. The two branches contain a combined 150,000 titles, and offer access to over 1.7 million volumes. See Exhibit 3.

24. As to relative size and proximity, Lee's Summit population is 10.7% of that of Kansas City. This percentage is larger than that approved in other cases. See e.g., Ada, Newcastle and Watonga, Oklahoma, 11 FCC Rcd 16896 (1996) (0.9%); Scotland Neck and Pinetops, North Carolina, 10 FCC Rcd 11066 (1995) (3.1%). Lee's Summit is located approximately 27 km from Kansas City's center city coordinates. The 70 dBu signal will cover 100% of the Kansas City

Urbanized Area. See Exhibit E, Figure 2. Traditionally, these factors have less significance than strong evidence of independence from the nearby urban area, such as the Joint Parties have shown above. See e.g., Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995). The proposed 60 dBu service area for KCSX will result in a net gain in population of 1,784,987 persons and a net gain in the size of the coverage area by 11,619 sq. km. See Figure 3. The current coverage area will continue to receive at least 5 aural services. See e.g., Atlantic and Glenwood, Iowa, 10 FCC Rcd 3160 (1995) and Figures 4 & 4(a).

### **C. Station WIBW-FM, Topeka, Kansas**

25. In order to allot Channel 247C1 to Lee's Summit, Missouri, Channel 233C must be substituted for Channel 247C for Station WIBW-FM, Topeka, Kansas at its current transmitter site. This substitution will require additional channel substitutions at Junction City and Humboldt, Kansas and Auburn, Nebraska in order to meet the separation requirements. See Figure 5. These additional substitutions will be discussed herein. As indicated earlier, the Joint Parties will be negotiating with the licensee of Station WIBW-FM, Morris Communications Corporation, for reimbursement of the costs of the proposed channel change and will notify the Commission if Station WIBM-FM consents.

26. For now, the Joint Parties state that they will be responsible to Station WIBW-FM for the reasonable costs of the channel change in accordance with the guidelines set forth in Circleville, Ohio 8 FCC 2d 159 (1967).

### **D. Station KJCK, Junction City, Kansas**

27. In order to make the channel substitution at Topeka, Kansas, Channel 248C1 must be substituted for Channel 233C1 for Station KJCK-FM, Junction City, Kansas at its current transmitter site. The channel study indicates that Channel 248C1 can be substituted at Junction City provided Channel 233C is substituted for Channel 247C at Topeka as previously discussed. See

Figure 6. The licensee, Platinum Broadcasting, Inc., has consented to the channel change. See Exhibit 1. An agreement has been reached to reimburse Station KJCK-FM for its expenses in making the channel change. The Joint Parties hereby affirm that Station KJCK-FM will be reimbursed for its reasonable expenses in changing channels.

#### **E. Station KINZ, Humboldt, Kansas**

28. In order to make the channel substitution at Topeka, Channel 237C3 must be substituted for Channel 232C3 for Station KINZ, Humboldt, Kansas at a new transmitter site. The attached channel study indicates that Channel 237C3 can be substituted at Humboldt provided a channel substitution is made at Burlington, Kansas for Station KSNP. See Figure 7. In addition, the required 70 dBu signal can be provided over Humboldt from the new reference point. See Figure 8. From this site there will be an increase in population. See Figure 9. The licensee, Sutcliffe Communications, Inc., has provided a consent statement to change its channel and its transmitter site reference point and that it will file an application consistent with the changes. See Exhibit 1. An agreement has been reached with the licensee for reimbursement. The Joint Parties hereby affirm that Station KINZ will be reimbursed for its expenses in changing channel and transmitter site.

#### **F. Station KSNP, Burlington, Kansas**

29. In order to substitute channels at Humboldt, Channel 249A must be substituted for Channel 237A for Station KSNP(FM) at Burlington, Kansas. This substitution can be made in accordance with the Commission's separation requirements at KSNP's current transmitter site. See Figure 10. The licensee, Southeast Kansas Broadcasting Company, Inc. has provided a consent statement for the channel change. See Exhibit 1. An agreement has been reached for reimbursement of KSNP's expenses in changing channels. The Joint Parties hereby state that Station KSNP will be reimbursed for its expenses in changing channels.

### **G. Station KNCY, Auburn, Nebraska**

30. In order to substitute channels at Topeka, Kansas, Channel 276C3 must be substituted for Channel 234C3 for Station KNCY(FM), Auburn, Nebraska. The channel study demonstrates that Channel 276C3 can be substituted at KNCY's current transmitter site provided a channel substitution is made at Marysville, Kansas. See Figure 11. As indicated earlier, the Joint Parties will be negotiating with the licensee of Station KNCY in attempt to reach an agreement or reimbursement of expenses for KNCY's channel change. The Joint Parties will notify the Commission if Station KNCY consents. In the meantime, the Joint Parties hereby state that they will reimburse Station KNCY for the reasonable costs of changing channels in accordance with Circleville, Ohio, supra.

### **H. Station KNDY-FM, Marysville, Kansas**

31. In order to substitute channels at Auburn, Nebraska, Channel 238C3 must be substituted for Channel 276C3 at Marysville, Kansas at a new transmitter site for Station KNDY-FM in accordance with the Commission's spacing rules. See Figure 12. From the new transmitter site reference point, the required 70 dBu signal can be provided over Marysville. See Figure 13. A gain in population can be achieved from the new transmitter site. See Figure 14. The licensee, Dierking Communications, Inc., has provided a consent statement for the channel change and transmitter site relocation. See Exhibit 1. The Joint Parties hereby state that Station KNDY-FM will be reimbursed for its expenses in changing channel and transmitter site. A reimbursement agreement has been reached with the licensee.

### **I. Station KRLI, Malta Bend, Missouri**

32. In order to allot Channel 247C1 to Lee's Summit, Channel 280C3 must be substituted for Channel 248C3 for Station KRLI at Malta Bend, Missouri. This channel substitution was proposed in the NPRM. An updated channel study is provided for Channel 280C3 at Station

KRLI's current transmitter site which shows that a channel substitution is necessary at Chillicothe as discussed infra. See Figure 15. In the original Petition for Rule Making, a consent statement was provided by the licensee, Miles J. Carter. Since then, Carter has assigned his licensee to KANZA, Inc. (BALH-20000104ABK). Thus, a new consent statement is provided for the channel change. See Exhibit 1. The Joint Parties reconfirm their commitment to reimburse Station KRLI for its channel change.

#### **J. Station KCHI, Chillicothe, Missouri**

33. In order to substitute channels at Malta Bend, Missouri, it is necessary to change channels and transmitter site for Station KCHI, Chillicothe, Missouri. In the original petition, the Joint Parties proposed to substitute Channel 273A for Channel 280C3 at Chillicothe, Missouri. However, on August 11, 2000, Station KMMO, Marshall, Missouri filed an application to relocate its transmitter site which conflicts with the proposed Channel 273A substitution at Chillicothe. In order to avoid this conflict, the Joint Parties have determined that Channel 253A can be substituted for Channel 280C3 at a new transmitter site for Station KCHI. See Figure 16. Thus, the Marshall application need not be made a part of this proceeding and can be processed separately. From the new transmitter site, a 70 dBu signal will be placed over Chillicothe. See Figure 17. Although there is a theoretical loss in population and area from Channel 280C3, as was discussed in the petition, Station KCHI has always operated with Class A facilities. Thus, there will be no actual loss in coverage area. See Figure 18.

34. Since the filing of the Petition for Rule Making, the license for Station KCHI has been assigned to Daniel D. Leatherman (BALH-20000204ABH). The new licensee has provided a consent statement for the channel and transmitter site changes. See Exhibit 1. The Joint Parties hereby state that Station KCHI will be reimbursed for its expenses in relocating its transmitter site

and in changing channels. An agreement has been reached with the licensee of KCHI for reimbursement of its expenses.

#### **K. Station KPOW, LaMonte, Missouri**

35. In order to allot Channel 247C1 to Lee's Summit, Channel 249C2 is requested to be substituted as an upgrade from Channel 246C3 for Station KPOW at LaMonte. Additional channel substitutions and/or transmitter site changes are necessary at Warsaw, Malta Bend, (See Section I), and Nevada, Missouri. See Figure 19. These substitutions are discussed elsewhere in this document. Channel 249C2 can be substituted at a new site which will provide a 70 dBu signal to LaMonte. See Figure 20. A substantial increase in population and area will be achieved by this substitution. Since Channel 249C2 conflicts with the current use of Channel 246C3, this upgrade can be made in the context of this proposal without allowing for other expressions of interest. See Section 1.420(g).

36. The licensee, Sedalia Investment Group, LLC., has provided a consent statement to upgrade its facility to Channel 249C2 at a new transmitter site. See Exhibit 1. The Joint Parties hereby state that Station KPOW will be reimbursed for its expenses in changing channel and transmitter site. An agreement has been reached with KPOW for reimbursement of its expenses.

#### **L. Station KAYQ, Warsaw, Missouri**

37. In order to substitute channels at LaMonte, Missouri, it is necessary to substitute Channel 246A for Channel 249A and change the transmitter site reference point for Station KAYQ, Warsaw, Missouri. The attached channel study, Figure 22, indicates that the proposed channel substitution can be made consistent with the LaMonte channel substitution and provide a 70 dBu signal to Warsaw. See Figure 23. At the new site there will be a gain in population served. See Figure 24.

38. The licensee, Valkyrie Broadcasting Company, Inc., has provided a consent statement for the proposed channel change and transmitter site change. See Exhibit 1. In addition, an agreement has been reached with the licensee for reimbursement of KAYQ expenses in changing channels and the transmitter site reference point. The Joint Parties hereby affirm that the licensee of Station KAYQ will be reimbursed.

**M. Station KNMO, Nevada, Missouri**

39. In order to substitute channels at LaMonte, Channel 248A must be substituted for Channel 249A at a new transmitter site reference point for Station KNMO, Nevada, Missouri. The attached channel study demonstrates that the substitution can be made consistent with the Commission's spacing rules. See Figures 25 and 26. The licensee, Harbit Communications, Inc., has provided a consent statement to the proposed channel and transmitter site changes. See Exhibit 1. An agreement has been reached with the licensee for reimbursement of the expenses in changing channel and transmitter site. The Joint Parties pledge to be responsible for reimbursement to Station KNMO.

**N. Station KNIM, Maryville, Missouri**

40. In order to substitute channels at Lee's Summit, the transmitter site reference point for Station KNIM, Maryville, Missouri must be changed. A channel study demonstrating compliance with the spacing requirements has been provided. See Figures 28 and 29. The licensee, Nodaway Broadcasting Corporation, has provided a consent statement that it will file an application consistent with a change in its transmitter site reference coordinates. See Exhibit 1. An agreement has been reached with the licensee for reimbursement of the costs of a transmitter site change. The Joint Parties hereby state that they will be responsible for reimbursement of the expenses for the site change.

### **O. Madison, Missouri**

41. By virtue of the relocation of Station KCSX from Moberly to Lee's Summit, Channel 247C3 can be allotted to Madison, Missouri as a first local service. Best Broadcasting, Inc. desires to apply for the channel if it is allotted and construct the facility if authorized to do so. A channel study demonstrating that the allotment of Channel 247C3 can be made at Madison, Missouri has been provided. See Figures 29 and 30.

42. Madison (population 518) is an incorporated community deserving of its own local radio station. Madison is governed by its own elected mayor and city council. The community has its own fire department and sewage treatment plant. The community also has its own school district, which operates an elementary school and a high school, with a combined enrollment of 276 as of October 1999. The town has its own zip code (65263), public library and nine churches. These attributes are sufficient for Madison to qualify for its own local station. See e.g., Ebro, Florida, DA 00-1145, released May 26, 2000; Saint Regis, Montana, DA 00-1441, released June 30, 2000.

### **III. Conclusion**

43. This amended proposal will offer significant public interest benefits. In addition to providing a first local service to Lee's Summit, the largest city in Missouri without a radio station, a first local service can also be provided to Madison, Missouri. Station KPOW, LaMonte can achieve an upgrade in facilities. The amended proposal will provide an overall net gain in population to 1,844,091 persons in an area of 13,088 sq. km. See Figure 31. Accordingly, the Joint Parties urge the Commission to issue an Order to Show Cause to Stations WIBW-FM, Topeka, Kansas and KNCY(FM), Auburn, Nebraska for their proposed channel changes and, thereafter, to grant this rule making proposal for the reasons stated.

Respectfully submitted,

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September 5, 2000



**ENGINEERING STATEMENT**

**IN SUPPORT OF A  
COUNTERPROPOSAL**

**MM DOCKET 00-129, DA 00-1555  
RM-9909**

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**August 16, 2000**

## **Engineering Statement**

**In Support of a**

**Counterproposal  
MM Docket 00-129, RM-9909  
Best Broadcasting, Inc.  
First Broadcasting Company, LP**

### **General**

The instant counterproposal was prepared for Best Broadcasting, Inc. and First Broadcasting Company, LP (herein referred to as "The Petitioners"). Currently Best Broadcasting, Inc. is the licensee of KCSX, channel 247C3, Moberly, Missouri. First Broadcasting Company, LP currently holds an option for the purchase of KCSX. It is prepared and submitted in response to an NPRM for MM Docket 00-129 (see DA00-1555). In the current NPRM Best Broadcasting, Inc. sought to delete channel 247C3 and substitute channel 247C2 with a new reference site for KCSX at Moberly. In order to accomplish this upgrade, channel 280C3 was proposed as a substitution for channel 248C3 at Malta Bend, Missouri for use by KRLI. The substitution proposed using the licensed site of KRLI as reference. The substitution of channel 280C3 at Malta Bend required the substitution of channel 273A for channel 280C3 at Chillicothe, Missouri, for use by KCHI. During the time period since KCSX filed its original petition, circumstances have developed that allow another option for KCSX that is a vastly better use of the spectrum.

The Petitioners propose to delete channel 247C3 at Moberly and subsequently allocate channel 247C1 at Lee's Summit, Missouri. The Petitioners propose that the license of KCSX be modified accordingly. There is short spacing between channel 247C3 at

Moberly, and the proposed channel 247C2 with AD247C1 at Lee's Summit. Therefore, both the licensed and proposed facility for KCSX is mutually exclusive (MX) with the instant counterproposal. The instant counterproposal occurs due to The Petitioners' effort to provide a first local service at Lee's Summit, Missouri.

### **Methods**

The Petitioners' counterproposal is presented in sections, with each channel or licensed facility where a change is proposed is discussed individually. All sections begin with an allocation or channel spacing study. The proposed modification's technical compliance is then supported by additional exhibits.

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 4.00.571. The studies were based on the latest technical data from the Commission's databases. A professional mapping program from MapInfo Corporation, MapInfo Version 5.5, conducted mapping, population counts, and gain/loss areas. The program contains the exact community boundaries of the relevant cities. In pertinent cases where community boundaries were critical, the boundaries were cross-checked with the U.S. Census Bureau's TIGER maps. All modifications that require a class change or antenna site modification have a gain/loss study for population and square kilometers.

### **Nature of The Petitioners' Counterproposal**

A summary of all communities and their related channels (present and proposed) is included in Table 1 for reference. The Petitioners propose to delete channel 247C3 at Moberly and substitute channel 247C1 at Lee's Summit, Missouri for use by KCSX. In

order to accomplish this, various channels and licensed facilities are proposed to be modified in order to create compliance with §73.207. The counterproposal provides for first local services at Lee's Summit, Missouri, and Madison, Missouri; and it also creates an increase in population and square kilometers covered. In addition, it creates an upgrade for KPOW at La Monte, Missouri from channel 246C3 to channel 249C2. The advantage of these changes is demonstrated by the large increase in the number of persons served by the new 60-dBu contour.

The allotment of channel 247C1 at Lee's Summit requires the following modifications:

- I.) WIBW - channel 247C, Topeka, Kansas. Presently WIBW, Topeka, Kansas, operates on channel 247C. If KCSX operates on channel 247C1 at the proposed counterproposal reference coordinates, it creates a short-spacing to WIBW of 143.92 kilometers. The instant counterproposal requires the substitution of channel 233C for channel 247C (WIBW) at the current licensed site. Commission policy requires that the licensee of WIBW be issued a show-cause order to change channels.
  - A.) KJCK - channel 233C1, Junction City, Kansas. In order to allocate channel 233C at Topeka, the current KJCK channel of 233C1 must be substituted with channel 248C1 at the licensed site of KJCK, Junction City, Kansas. No additional spectrum changes are required for the substitution of channel 248C1 for channel 233C1 at Junction City.
  - B.) KINZ - channel 232C3, Humboldt, Kansas. KINZ currently operates on channel 232C3 licensed to Humboldt, Kansas. The KINZ licensed facility is short spaced to the proposed allocation of channel 233C at Topeka (WIBW) by 23.97 kilometers. In order to eliminate this prohibitive short spacing, The Petitioners

propose the deletion of channel 232C3 at Humboldt and the allocation of channel 237C3 with a modification of the reference coordinates for KINZ. This proposed allotment requires the modification of one other facility, KNSP in Burlington, Kansas.

1). KNSP- channel 237A, Burlington, Kansas. Presently KNSP is licensed to operate on channel 237A at Burlington, Kansas. If channel 237C3 is allocated to Humboldt at the proposed reference coordinates, it creates a short spacing to KNSP on channel 237A at of 91.82 kilometers.

Therefore, The Petitioners offer channel 249A as a substitution for channel 237A at the KNSP licensed reference coordinates. The substitution of channel 249A at Burlington requires no additional sub-changes.

C.) KNCY - channel 234C3, Auburn, Nebraska. Presently KNCY operates on channel 234C3 licensed to Auburn, Nebraska. The substitution of channel 233C for channel 247C at the licensed reference coordinates of WIBW creates a short spacing of 11.96 kilometers to the licensed site of KNCY. However, The Petitioners propose the substitution of channel 276C3 in lieu of channel 234C3 at the KNCY licensed site. This substitution requires one other spectrum change (KNDY, Marysville, Kansas). The Petitioners request that a show cause order be issued for the substitution of channel 276C3 for channel 234C3 at Auburn, Nebraska.

1.) KNDY - channel 276C3, Marysville, Kansas. Presently KNDY operates on channel 276C3. If channel 276C3 is substituted for channel 234C3 at Auburn, a short space of 46.13 kilometers is created. Therefore, The