

# **ATTACHMENT A**

**An Evaluation of Proposed Changes to the  
FCC Geographic Market Definition for Radio Acquisitions**

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**February 26, 2001**

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## **Introduction**

In its discussion on the Definition of Radio Markets<sup>1</sup> to evaluate proposed radio station acquisitions, the Commission suggests that its present “framework may be having results that may frustrate the structure of the statute and that are not in the public interest.”<sup>2</sup> To remedy these possible problems, the Commission offers several alternative methods of determining the relevant radio geographic market. This report will evaluate the impact of these proposals for selected hypothetical acquisitions in specific markets to determine whether the Commission will achieve its goal of better implementing the statute’s ownership limitations.

It is impossible, however, to evaluate all possible combinations of all stations in all surveyed radio markets (and for that matter with all stations located in areas for which audience ratings are not collected). While not infinite, the number of permutations is staggering. Instead, this paper will examine hypothetical acquisitions in eight different Arbitron-defined markets and one hypothetical acquisition involving stations in an area where audience ratings are not collected. These situations were selected to represent different market sizes, different station classes, and different levels of present local market concentration. Though absolute generalizations should not be made with this selected sample, one can obtain a better sense of the impact of the various Commission proposals.

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<sup>1</sup> In the Matter of the Definition of Radio Markets, Notice of Proposed Rule Making, MM Docket No. 00-244 (hereafter referred to as NPRM).

<sup>2</sup> NPRM, ¶5, p. 3.

These hypothetical acquisitions of radio stations were evaluated only on the basis of whether they would be permissible under the existing geographic market ownership rule and under the proposed alternatives to that rule. There was no examination of the relative market shares of these stations and no determination as to whether these combinations (i.e., combined market shares) would violate any existing market share threshold.

The actual procedure for evaluating the Commission's proposals will be described first in the report. That procedure includes determining the number of radio stations in the relevant geographic markets under the present and proposed modified rules. Then the number of stations under common ownership is determined under the present and proposed modified rules. With those results, we can determine whether the hypothetical acquisition would violate local ownership rules. The results from all nine of the markets examined will then be summarized, along with some observations about the overall impact of changing the FCC's rules. All of the hypothetical acquisitions are detailed in the Appendix, each with maps showing the city grade contours used for this analysis.

After reviewing the results from these hypothetical acquisitions, one can easily see that changes in defining the geographic market would have profound effects on the radio industry as it moves forward. Two of the proposals in particular would substantially lower the number of stations that are counted in the relevant markets, thereby constricting the level of future acquisitions.

It also appears that the "numerator-denominator issue" associated with the present market definition rules does sometimes raise questions of compliance under the multiple ownership rules. That "issue" simply stated is that while commonly owned stations may be considered for

determining the number of stations in a market, they are not necessarily counted against a local group's ownership allowance in a given market.

**Method of Analysis**

Hypothetical acquisitions were selected so as to reflect the wide variety of conditions existing in the radio marketplace in 2001. Nine markets were selected to represent different market sizes, region of the country, and present levels of local ownership concentration. The Arbitron-surveyed selected eight and the one unsurveyed selected areas are:

**Table 1  
Hypothetical Acquisitions Markets**

Market Name	Rank
Milwaukee – Racine, WI	31
Memphis, TN	45
Albuquerque, NM	74
Lexington – Fayette, KY	106
Jackson, MS	121
Ft. Collins, CO	132
Binghamton, NY	166
Florence – Muscle Shoals, AL	240
Sparta, TN	*

In these markets, hypothetical combinations were selected that would raise questions of compliance with the existing rules if all of the stations were to be counted against local ownership limits. For example, in the Lexington – Fayette, KY market, one five-station cluster was hypothetically acquiring a four-station cluster located in that same market. No matter the size of this market under present rules, if all nine stations were counted as being under common ownership in the same market, this hypothetical acquisition could not be approved without selling off at least one of the stations. Similar situations were examined with hypothetical post-

acquisition six and seven station clusters in markets where there are fewer numbers of stations (i.e., Ft. Collins, CO, Florence – Muscle Shoals, AL, and Binghamton, NY).

In each of these nine examples, we evaluated the impact of three proposals the Commission discussed as modifications to the present rules. These three proposals are:

1. Using the Arbitron defined metro areas “to determine the total number of stations in any given market and how many stations an applicant would control in that market.”<sup>3</sup>
2. Using the overlap areas of the city contours of the combining stations to determine the number of stations in a market.<sup>4</sup>
3. Counting all stations used for determining the number of stations in a market “against an applicant’s ownership’s allowance in a given market,” whether or not each of these stations’ coverage patterns intersects the overlap area of the merged stations.<sup>5</sup>

We began our evaluation by generating the city-grade coverage patterns for all of the stations located within the Arbitron metro area (Exhibit 1 for the eight Arbitron market examples). The stations included in the hypothetical acquisitions were then plotted separately in order to determine their overlap areas (Exhibit 2 for all of the nine market examples). With those

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<sup>3</sup> See NPRM, ¶10, p. 5. It is unclear whether the Commission means that the station has to be physically located within the geographic boundaries of the local Arbitron metro area, or whether they are treated as just being in the metro area. Some of these home-to-metro-listed stations are actually physically located outside the metro counties. Arbitron allows a station to ask to be included in the metro in these situations if it “requested Metro home status and is recognized under Arbitron’s policies and procedures as having an acceptable alternate city identifier.” See Home and Outside Stations, ¶10, p. M4, Methodology Section in all Arbitron Radio Market Reports. For the purpose of this analysis, we use the total number of commercial radio stations as being metro stations, whether or not they are physically located within the geographic boundaries of the metro.

<sup>4</sup> NPRM, ¶12, p. 6.

<sup>5</sup> NPRM, ¶9, p. 5. The Commission also suggests another solution to the “numerator-denominator issue.” It suggests excluding “from the count of the number of stations in a market, any stations owned by the applicant, except the commonly owned stations that form the market.” Ibid. In other words, the denominator could be reduced. Since the statutory market size tiers are very wide, changing the number of stations that are to be counted as being in the market would generally not have a significant impact, except possibly in smaller markets. We will also evaluate the impact of this alternative treatment of the “numerator-denominator issue.”

hypothetical new clusters, the city grade coverage pattern for each commercial radio station located within 50 miles of the markets was examined to determine whether it intersects any of the coverage areas of the stations in the proposed clusters, and the total number of intersecting stations was counted. In four of the nine examples, the hypothetical acquisitions created multiple geographic markets, each of which was examined in evaluating the proposed acquisitions. The coverage patterns for those stations that do intersect the contours of the proposed clusters are included in Exhibit 3 for all nine examples.<sup>6</sup> Finally, the city grade contours for each of these stations within the 50-mile radius were examined to see whether they intersect the common overlap area of the stations in the hypothetical acquisitions (Exhibit 4 for all markets).<sup>7</sup>

To evaluate more fully the impact of the various proposals and the competitive nature of these markets, additional information was reported. This information includes the total number of radio stations in the Arbitron market report that are listed as part of the metro area and those that are located outside the metro area.<sup>8</sup>

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<sup>6</sup> For ease of examination, note that we purposely did not include the coverage patterns for the stations in the Arbitron metro that were not included in the hypothetical acquisition. We did evaluate whether all of those stations would intersect the coverage pattern of at least one of the stations involved in the hypothetical acquisition. In almost all cases the city grade contours of these metro-based stations intersect at least one of the city grade contours for the hypothetical acquisitions. For the same reason, we also did not include on the coverage maps every station involved in the acquisition if its city grade contour is completely encompassed by one of the other stations involved in the acquisition.

<sup>7</sup> As was the case for Exhibit 3, we do not include on the coverage map, although we examined, the city grade contours for all of the stations within the Arbitron metro area. While the vast majority of these contours do intersect the overlap area, not all did.

<sup>8</sup> See Methodology Section in all Arbitron Radio Market Reports, Minimum Reporting Standards (MRS) for Nonsimulcast Stations, ¶8, p. M4.

## **Example**

Before reviewing the overall results from all nine markets, it would be best to walk through one market example with the various exhibits in the following pages. We will use the Lexington – Fayette, KY market (Appendix 4) as an example where we hypothetically propose that five local stations owned by Cumulus Broadcasting, Inc. (WLRO-FM, WLTO-FM, WVLK-AM, WVLK-FM, and WXZZ-FM) are merged with the four local stations owned by Mortenson Broadcasting Company, Inc. (WCGW-AM, WJMM-FM, WSTL-FM, and WUGR-AM).

There are 28 stations in the Lexington – Fayette, KY Arbitron metro area; the city grade contours of all are shown in Exhibit 1 below. Under that Arbitron market definition, a maximum of only six stations could be commonly owned, and, therefore, three of the nine locally owned stations in this proposed acquisition would need to be spun off.

Exhibit 2 below provides the city grade contours for the nine stations that would hypothetically be part of this local cluster. Notice that some of the nine stations are completely surrounded by other stations involved in this local cluster, so for ease of exposition, we will not depict them in determining the number of stations that intersect any of the nine and the number of stations that intersect the overlap areas.

Exhibit 3 shows the 18 stations located outside the Arbitron metro area that intersect some or all of the nine stations in the proposed local cluster.<sup>9</sup> This hypothetical acquisition creates two different geographic markets to be examined, which correspond to the common overlap areas of the proposed cluster of local stations. In this example, the city grade contour of WJMM-FM only intersects three of the other eight local stations in this cluster forming one

geographic market to evaluate. In that geographic market, as well as the larger one encompassing all of the local cluster stations other than WJMM-FM, there are 46 stations (18 located outside the metro, 28 home to the metro) whose city grade contours intersect the contours of at least one of the stations whose contours define the market.

Given this number of stations in the markets, the maximum number of stations that can be commonly owned would be eight, with no more than five in one of the services. In the smaller WJMM-FM submarket, only the four stations of that local cluster that intersect are counted against the common ownership limits. In the larger geographic market formed by the common overlap of all of the other stations except WJMM-FM, only those other eight stations have contours that overlap that common overlap area. Therefore, only those eight stations (3 AMs, 5 FMs) are counted against the local ownership limits under the present rules, and the present rules would allow this acquisition.

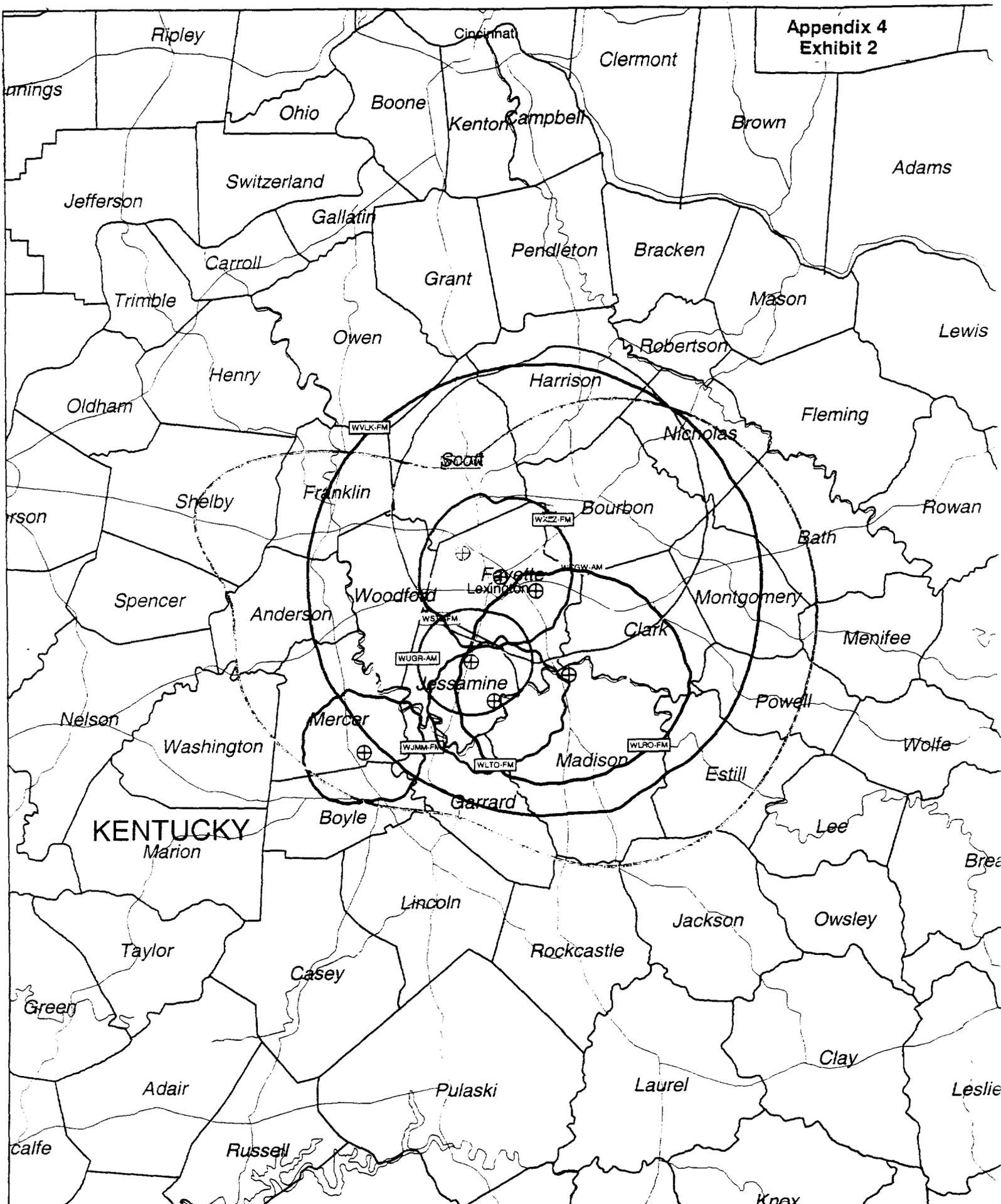
Exhibit 4 shows the evaluation of the FCC's other proposal: to count as included in a market only those stations whose city grade contours intersect the overlap areas of the proposed local cluster.<sup>10</sup> Again, the two geographic markets created by the acquisition must be examined separately. In the WJMM-FM overlap geographic market, there are 21 stations whose city grade contours intersect with the proposed local cluster. In the larger geographic market, there are 40

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<sup>9</sup> Recall that for ease of exposition, we do not plot the city grade contours of the stations located within the Arbitron metro area. We do, however, examine whether they intersect any of the city grade contours of the proposed local cluster stations. In this example, they all do.

<sup>10</sup> For ease of exposition, we do not plot the city grade contours of all of the nine stations involved in this local hypothetical transaction. The areas they overlap are also included in the areas of other stations involved in the acquisition that are plotted.

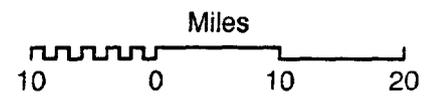


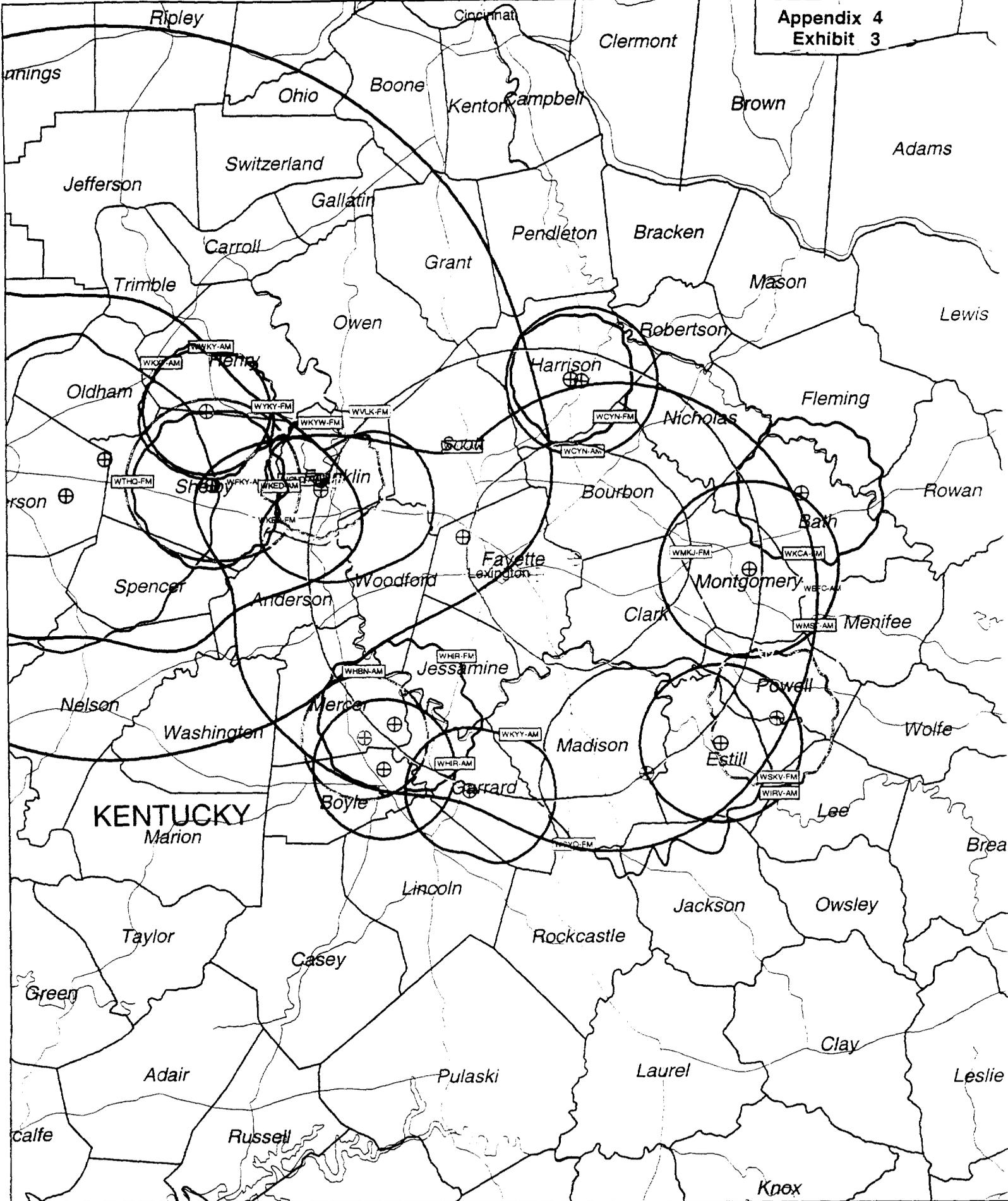


**Lexington-Fayette, KY**

City Contours

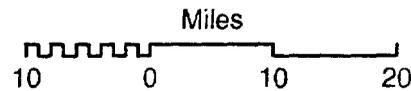
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 Map Scale: 1:1,000,000

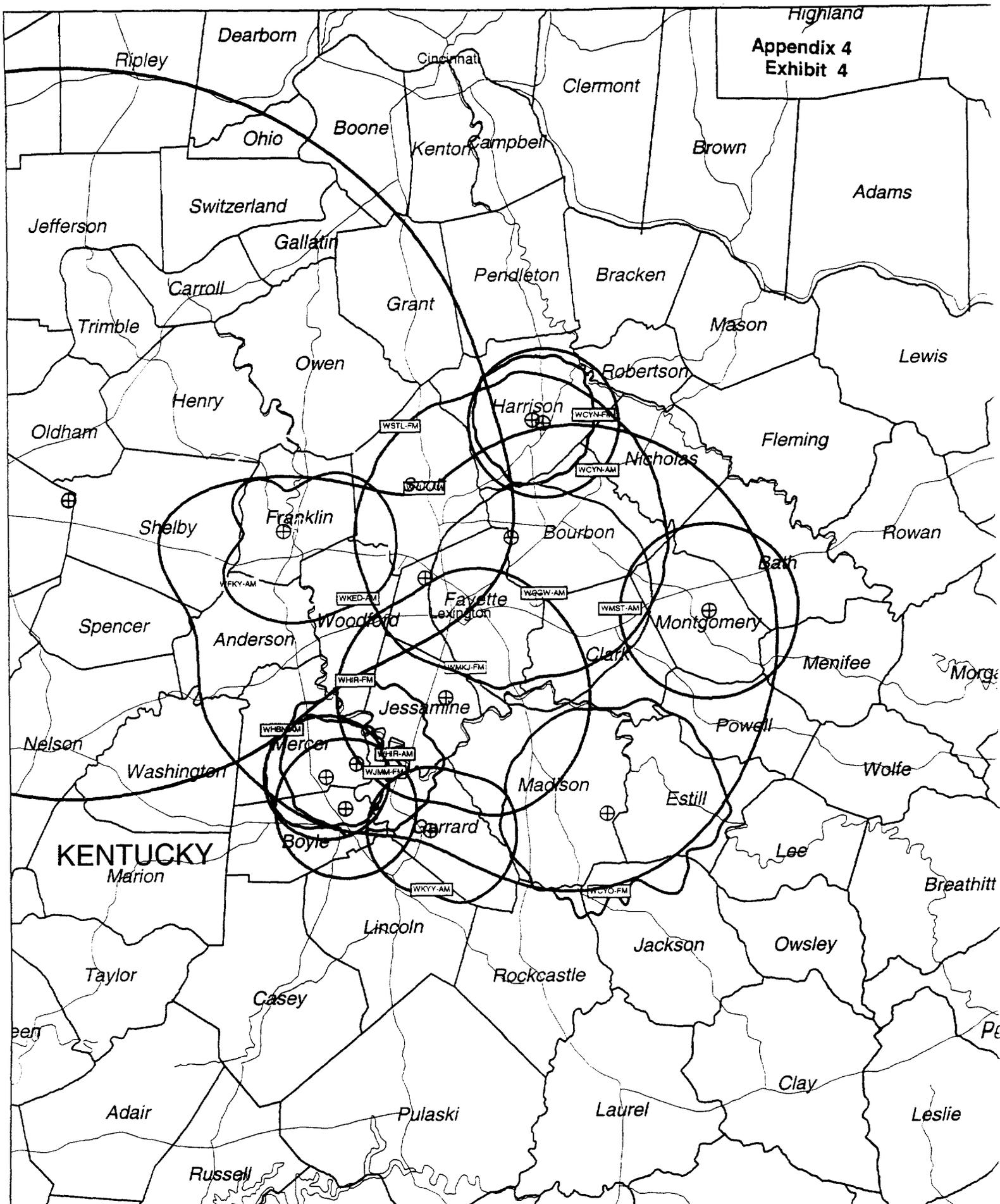




**Lexington-Fayette, KY 50 Mile**  
City Contours

Map Center: Latitude: 37-59-38  
Longitude: 84-28-35  
Map Scale: 1:1,000,000

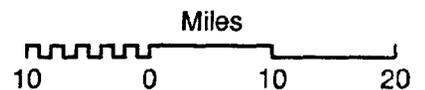




Lexington-Fayette, KY 50 Mile

City Contours

Map Center: Latitude: 38-03-23  
Longitude: 84-23-15  
Map Scale: 1:1,000,000



such stations. Four stations would be counted against the ownership limits in the smaller, and eight in the larger, geographic market, requiring one FM station to be spun off.

## **Results**

The results for the nine hypothetical acquisitions are summarized in Table 2. First listed are the number of AM and FM stations involved in the hypothetical acquisitions. Information from the Arbitron ratings reports is then presented (specifically, the number of stations that are located in the Arbitron metro and those listed but located outside the metro). Next identified is the range in the number of stations whose city grade contours intersect any of the city grade contours of the stations in the proposed local clusters. (In most cases with multiple geographic markets to examine, the number of intersecting contours will vary with the different geographic markets created by the hypothetical acquisition.) Also listed is the number of stations whose contours intersect the overlap area of the contours of the stations in the proposed local clusters. Table 2 then identifies the maximum number of stations that would be counted as commonly owned, as determined under the present rule and under the first option proposed to address the “numerator-denominator issue.” The final column lists the number of intersecting stations under the second option proposed to address the “numerator-denominator issue” (i.e., excluding those stations owned by the local cluster whose city grade contours do not intersect the common ownership area).

The report first examined the proposed use of the Arbitron metro area as the relevant geographic market. Under that alternative, five of the eight Arbitron market examples fall into a lower tier of market size, possibly prohibiting the hypothetical acquisitions. In one market example (Lexington - Fayette, KY), by changing to the Arbitron market definition and moving to a lower tier, the eight stations (3 AMs, 5 FMs) that would be counted against the common

**Table 2 Summary of Station Counts Under Geographic Market Definition Proposals**

Market	Hypothetical Cluster			Stations Listed		# Of Stations				
	Rank	# of AMs	# of FMs	Home to Metro	Outside Metro	Intersecting		Maximum Number Counted as Under Common Ownership		Intersecting Stations Excluding Non-Common Overlap Stations Proposal
						Cluster	Overlap	Present Rules	All Stations Overlap Proposal	
Milwaukee – Racine, WI	31	3	6	35	17	42 – 46	26 – 37	2 AMs, 5 FMs	3 AMs, 6 FMs	38 – 44
Memphis, TN	45	4	5	43	13	62	28 – 51	3 AMs, 4 FMs	4 AMs, 5 FMs	59 – 60
Albuquerque, NM	74	3	6	37	39	48	47	3 AMs, 6 FMs	3 AMs, 6 FMs	48
Lexington – Fayette, KY	106	3	6	28	9	46	21 – 40	3 AMs, 5 FMs	3 AMs, 6 FMs	41 – 45
Jackson, MS	121	3	6	33	1	48	41	3 AMs, 6 FMs	3 AMs, 6 FMs	48
Ft. Collins, CO	132	5	2	13	0	28	9 – 22	3 AMs, 2 FMs	6 AMs, 5 FMs	24 – 26
Binghamton, NY	166	2	4	17	3	25	16	2 AMs, 4 FMs	2 AMs, 6 FMs	23
Florence – Muscle Shoals, AL	240	3	4	15	9	18	17	3 AMs, 4 FMs	3 AMs, 4 FMs	18
Sparta, TN	*	2	1	*	*	12	12	2 AMs, 1 FM	4 AMs, 4 FMs	7

ownership limits would exceed the maximum allowed. In just three cases (Milwaukee - Racine, WI, Binghamton, NY and Florence – Muscle Shoals, AL), do we see no change in market size tier by using this alternative market definition.

Counting market stations as only those stations whose principal city contours intersect the hypothetical acquisition overlap (the second FCC proposed alternative) also results in noticeable changes in ownership tiers. In five of the nine markets examined, the hypothetical acquisitions fall into a lower market size tier. In two examples (Memphis, TN and Lexington-Fayette, KY), the lower applicable tier would prevent the acquisition from occurring without stations being spun off.<sup>11</sup>

The comparison of the number of stations counted as being commonly owned under the present and the proposed rules is possibly the most significant result. Under the present rules, six of the nine hypothetical acquisitions would be allowed. Only in Albuquerque, NM, Jackson, MS, and Florence - Muscle Shoals, AL would the hypothetical acquisitions be prohibited. In the other six market examples, the number of stations in the proposed local cluster whose city grade contours intersect the common overlap area is less than the common ownership limits for those market size tiers.

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<sup>11</sup> It may appear that the proposed local cluster in the Ft. Collins, CO market exceeds the local ownership limits under this proposal. However, in the geographic market created by the hypothesized acquisition where there are only 9 stations whose city grade contours intersect the common overlap area, the proposed local cluster only has three stations (2 AMs, 1 FM) that would be counted against the local ownership limits. In none of the four geographic markets created by the proposed Ft. Collins acquisition does the number of stations counted against the local ownership limit exceed 50% of the stations in those geographic markets.

Next, the results for the first option proposed to address the “numerator-denominator issue” are shown in the “All Stations Overlap Proposal” column. This proposal counts against the local ownership limit all commonly owned stations whose city grade contours are used to determine the number of stations in the local market. In six of the hypothetical acquisitions, this proposal would result in a larger number of stations being counted against local ownership limits than under the current rules. In those cases, that number would exceed the local common ownership limits, and thus would not be allowed without spinning off stations.

This proposed “fix” to the numerator-denominator issue would lead to distant stations located in other markets being counted for local ownership limits. In the Ft. Collins, CO example, the acquiring group owns stations located in Cheyenne, WY, whose city grade contours intersect some of the new Ft. Collins cluster’s city grade contours.<sup>12</sup> In the Binghamton, NY example, the acquiring group owns one station located in Ithaca, NY and one station located in Scranton, PA, which intersect some of the new Binghamton cluster’s contours. As a result, the number of commonly owned stations would exceed the number allowed for a market of this size. In the Sparta, TN example, the acquiring group owned stations located in Cookeville, TN. Once again, the number of commonly owned stations would exceed the number allowed.

Interestingly, the other option proposed by the Commission to address the “numerator-denominator issue” would lead to different results, shown in the “Intersecting

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<sup>12</sup> Remember, however, that the Ft. Collins acquisition would not be allowed under the present rules, since the number of stations in that local cluster exceeds the number allowed for that size market category even without counting the stations located in Cheyenne.

Stations Excluding Non-Common Overlap Stations Proposal” column of Table 2.

Applying that alternative<sup>13</sup> to the Sparta, TN example, the Cookeville, TN stations owned by the acquiring group would not be counted for determining the number of stations in the market, nor counted against the local cluster’s ownership limits. Hence, there would be only seven stations in the Sparta, TN market, and only three of those stations would be counted against the acquiring group’s allowance in this market. Similarly, in all of the other markets, excluding those stations owned by the local cluster (but not counted against the common ownership limits) from the market size count would have no effect on whether the acquisition would be allowed.

### **Conclusion**

Determining whether proposed changes to the geographic market definition would “frustrate the structure of the statute” or would be “in the public interest”<sup>14</sup> is a very difficult task. Different conclusions may be reached depending upon the markets and stations being examined. Since it is impossible to evaluate all possible combinations of stations in all markets, it is important to select as representative a sample as possible. That was attempted in the nine examples presented in this report.

What was most significant was that the present rules allowed many, though not all, of the hypothetical acquisitions. As for the proposals to change the rules, the conclusions reached after examining these examples is quite clear. By changing to an Arbitron metro definition, the Commission would seriously affect the market size tiers for evaluating proposed acquisitions, thereby possibly preventing acquisitions that would

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<sup>13</sup> See footnote 5.

<sup>14</sup> NPRM, ¶5, p. 3.

otherwise have been allowed. Moreover, limiting the count of stations in this way understates the number of stations listened to within the Arbitron metro area. By changing to an overlap area definition for determining the number of stations in a market, the Commission would likewise seriously affect the market size tiers, and, therefore, have a substantial impact on future acquisitions. In like fashion, the latter proposal would also understate the number of stations listened to within the relevant geographic area.

Finally, the “numerator-denominator issue” was presented by some of the hypothetical acquisitions that would be permitted under the existing rules. Changing the way that stations are counted to eliminate the perceived discrepancy in counting would affect several of the transactions. However, the impact of the two proposals raised by the Commission – changing the numerator or changing the denominator – had significantly different impacts. Further, where transactions might be barred by a changed method of counting, the stations then included in the numerator sometimes were located in other communities than the stations being acquired.

All of these results suggest that great care should be taken before changing the current market definition. Doing so would result in significant disruption of current market expectations, and the impact of any change on particular market situations may vary widely from market to market and acquisition to acquisition.

**APPENDIX 1**  
**MILWAUKEE – RACINE, WI**

## Proposed Acquisition:

Saga Communications Incorporated (WFMR-FM, WJMR-FM, WKLH-FM, WLZR-FM, WZER-AM) buys Bliss Communications (WBKV-AM, WBWI-FM, WEZY-FM, WRJN-AM)

## Arbitron Metro Stations:

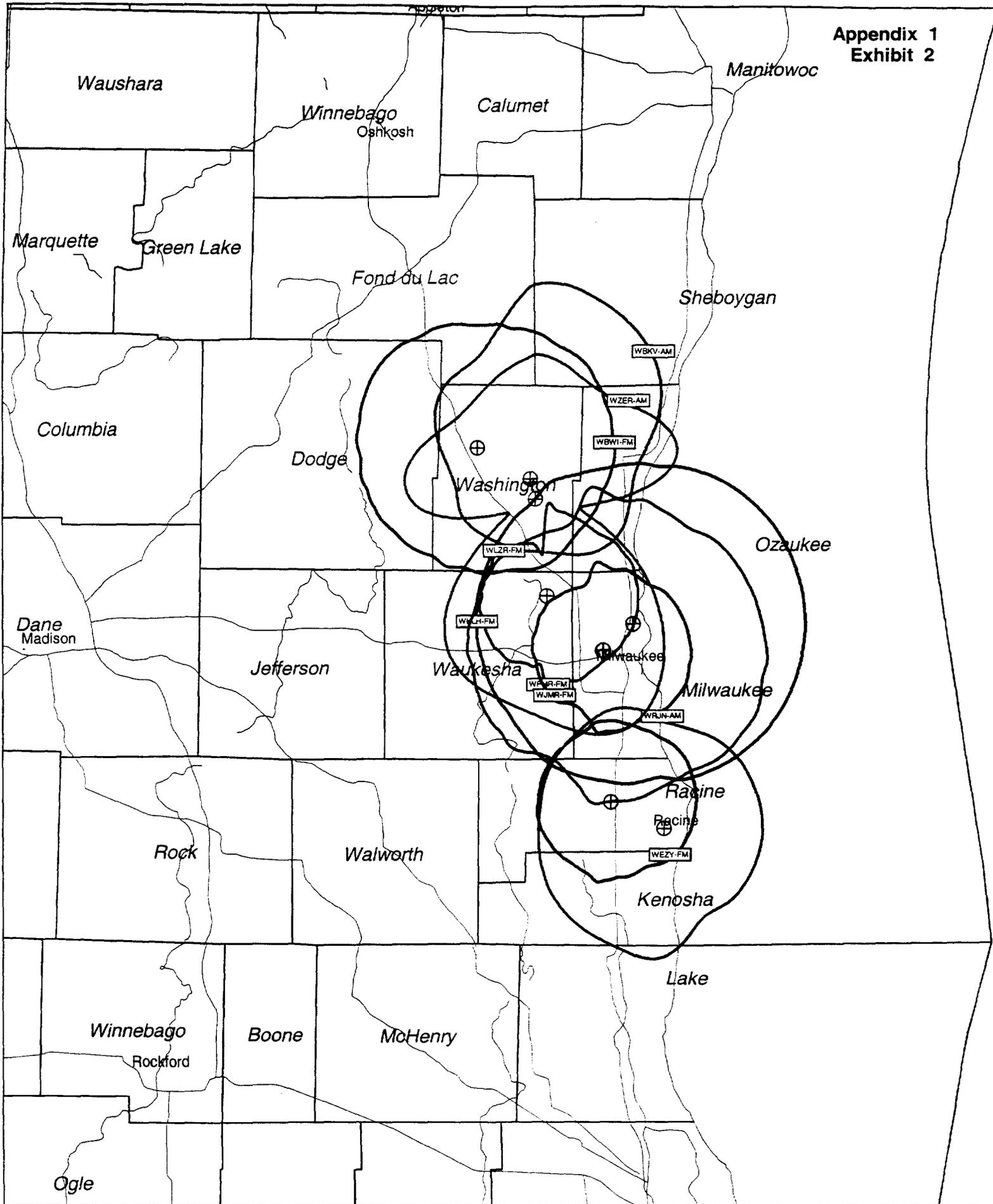
<u>Calls</u>	<u>Owner</u>
WAUK-AM	WALT-WEST Wisconsin Inc
WAUX-AM	WALT-WEST Wisconsin Inc
WAZI-AM	L&L Pewaukee Venture
WBJX-AM	WBJX Inc
WBKV-AM	Bliss Communications Inc
WBWI-FM	Bliss Communications Inc
WEMP-AM	Entercom
WEXT-FM	NextMedia Group
WEZY-FM	Bliss Communications Inc.
WFMR-FM	Saga Communications Inc.
WGLB-AM	Kinlow, Joel J.
WGLB-FM	Kinlow, Joel J.
WISN-AM	Clear Channel Comm.
WJMR-FM	Saga Communications Inc.
WJYI-AM	Saga Communications Inc.
WJZI-FM	Milwaukee Radio Alliance LLC
WKKV-FM	Clear Channel Comm.
WKLH-FM	Saga Communications Inc.

<u>Calls</u>	<u>Owner</u>
WKTJ-FM	Journal Broadcast Group Inc.
WLTQ-FM	Clear Channel Comm.
WLUM-FM	Milwaukee Radio Alliance LLC
WLZR-FM	Saga Communications Inc.
WMCS-AM	Milwaukee Radio Alliance LLC
WMIL-FM	Clear Channel Comm.
WMYX-FM	Entercom
WNOV-AM	Courier Communications
WOKY-AM	Clear Channel Comm.
WRIT-FM	Clear Channel Comm.
WRJN-AM	Bliss Communications Inc
WTKM-AM	Kettle Moraine Broadcast. Co., Inc
WTKM-FM	Kettle Moraine Broadcast. Co., Inc
WTMJ-AM	Journal Broadcast Group Inc.
WVCY-FM	VCY America Incorporated
WXSS-FM	Entercom
WZER-AM	Salem Communications Corp.

**Present Rules Common Ownership Overlap Analysis:**

Geographic Market Reference Station	Other Local Cluster Stations Intersected	# of Intersecting Contours	# of Attributable Stations	# of Intersecting Contours to Overlap Area	# of Attributable Stations to Overlap Area	Intersecting Stations Excluding Non-Common Overlap Stations Proposal
WJMR-FM	WEZY-FM, WRJN-AM, WFMR-FM, WKLH-FM, WLZR-FM	46	2 AMs, 5 FMs	36	2 AMs, 4 FMs	44
WBKV-AM	WBWI-FM, WFMR-FM, WJMR-FM, WKLH-FM, WLZR-FM, WZER-AM	44	2 AMs, 5 FMs	36	2 AMs, 5 FMs	41
WLZR-FM	WEZY-FM, WFMR-FM, WKLH-FM, WZER-AM	46	2 AMs, 3 FMs	37	2 AMs, 3 FMs	41
WRJN-AM	WEZY-FM, WFMR-FM, WJMR-FM, WKLH-FM, WLZR-FM, WZER-AM	42	2 AMs, 4 FMs	26	2 AMs, 4 FMs	38





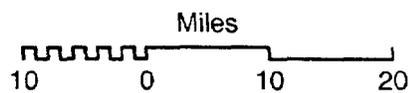
**Milwaukee - Racine**

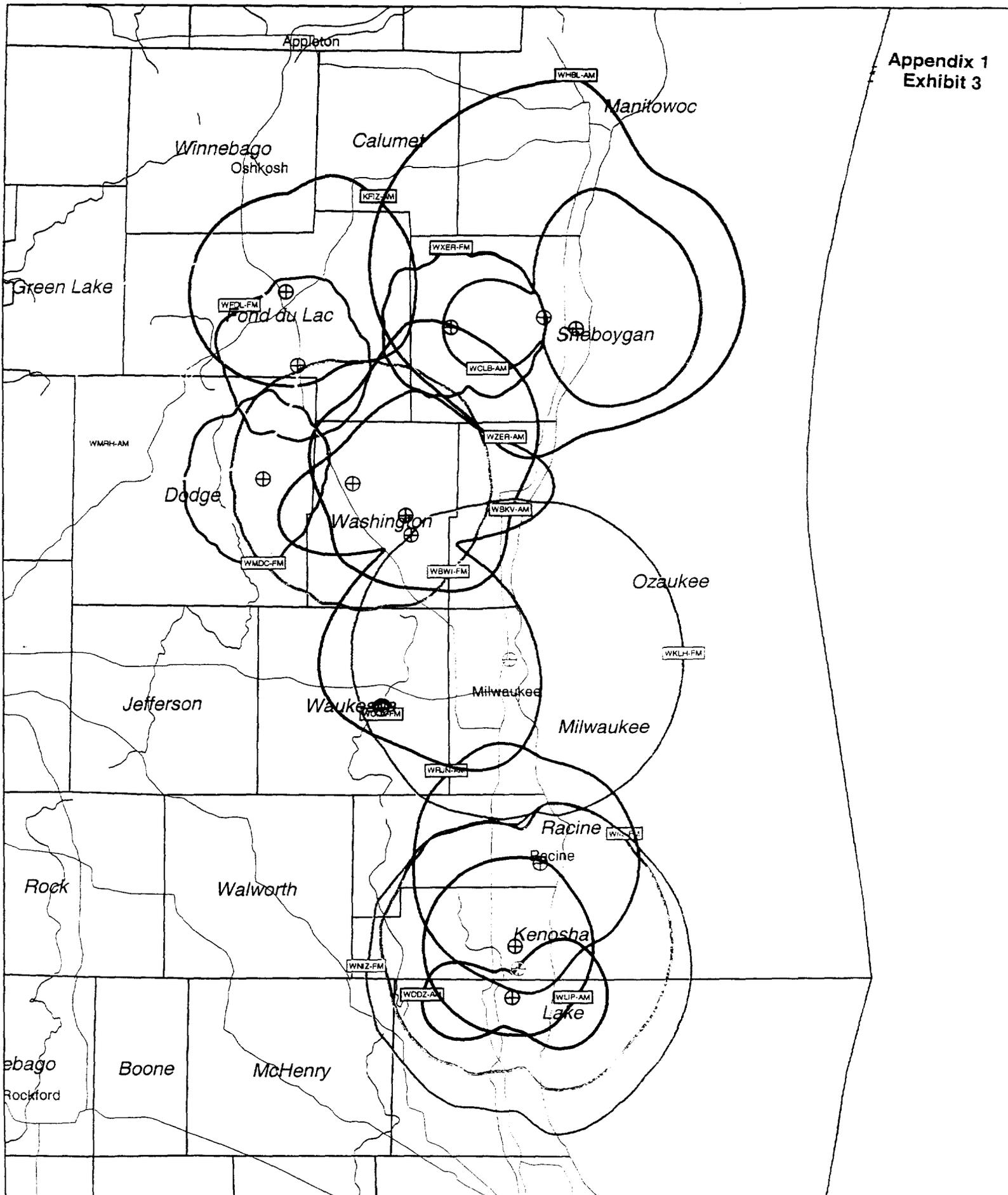
City Contours

Map Center: Latitude: 43-07-54

Longitude: 88-14-21

Map Scale: 1:1,000,000





**Milwaukee - Racine 50 Mile Radius**

City Contours

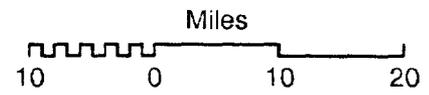
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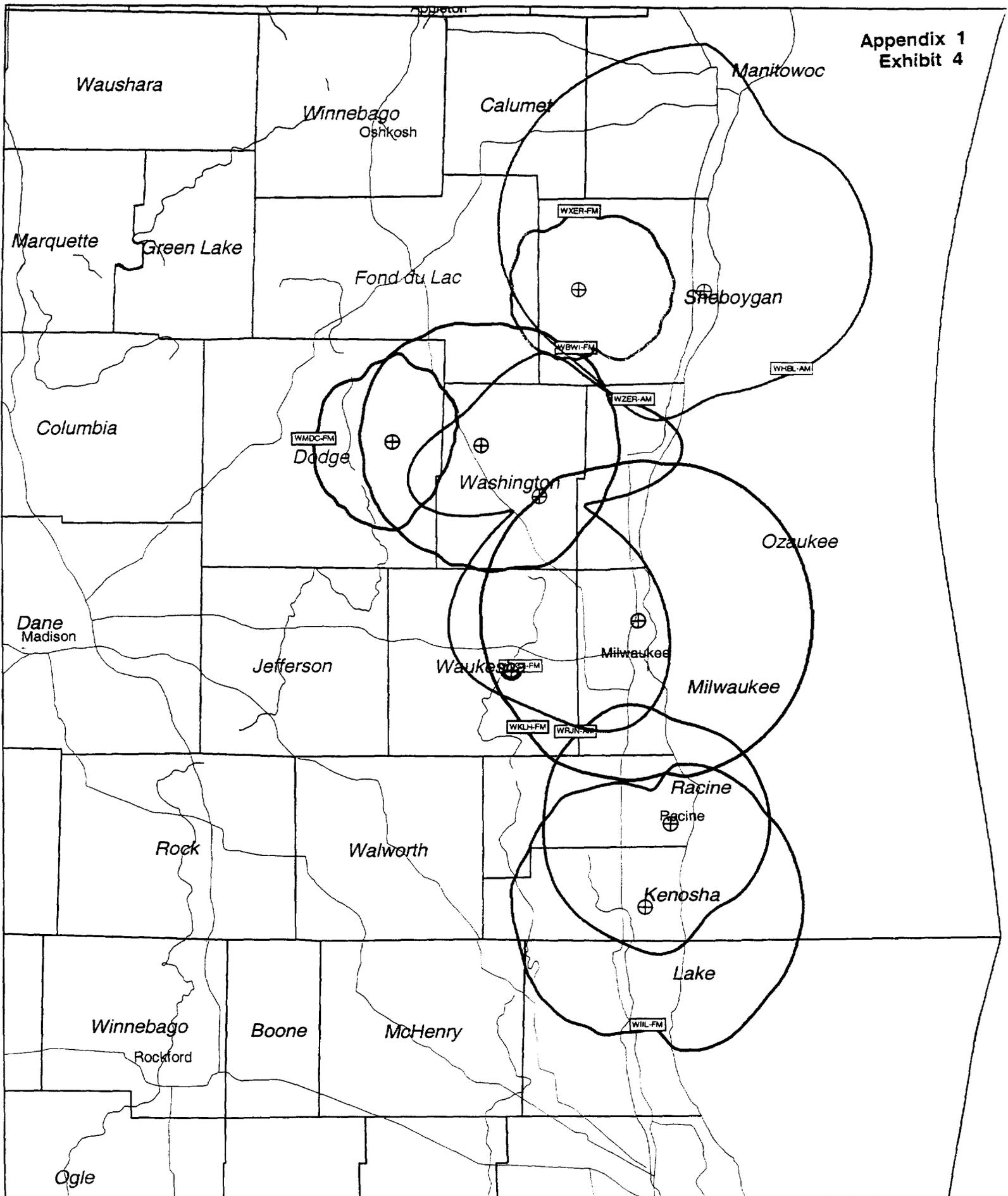
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Longitude: 87-54-27

Map Scale:

1:1,000,000





**Milwaukee - Racine**  
City Contours

Map Center: Latitude: 43-07-54  
 Longitude: 88-14-21  
 Map Scale: 1:1,000,000

