

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

AUG 17 1999

FCC MAIL ROOM

In re)
)
Amendment of Section 73.202(b))
TABLE OF ALLOTMENTS,)
FM BROADCAST STATIONS)
(THORNDALE, TEXAS))

MM Docket No. 99-243]
RM-9675]

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

COUNTERPROPOSAL

Munbilla Broadcasting Corporation (*MBC*) hereby files its Counterproposal in response to the Commission's Notice of Proposed Rule Making (*NPRM*), DA 99-1292 (released July 2, 1999), in the instant proceeding.

I. BACKGROUND

1. The Commission issued its NPRM in response to the request of Houston Christian Broadcasters, Inc. (*HCB*), which seeks the allotment of Channel 286A at Thorndale, Texas, as a second local FM broadcast service.¹ HCB requests allotment of Channel 286A with a reservation for noncommercial use only so that HCB may shift its contested application for Channel 257A, File No. BPED-970911MA, to Channel 286A without loss of cutoff protection. Since HCB is the only noncommercial applicant for Channel 257A at Thorndale, HCB seeks to

¹ Channel 257A is already allotted to Thorndale. HCB and others have applied for the Channel. HCB proposes noncommercial operation. Other propose commercial facilities.

disentangle itself from the mutual exclusivity through the allotment of an additional -- but reserved -- channel to Thorndale. The remaining applicants will have to participate in an auction.

See Implementation of Section 309(j) of the Implementation of Section 309(j) of the Communications Act -- Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, First Report and Order in MM Docket No. 97-234, GC Docket No. 92-52, and Gen Docket No. 90-264, 13 FCC Rcd 15920 (1998), recons., Memorandum Opinion and Order, 64 Fed. Reg. 24523 (published May 7, 1999).

II. THE MERITS

2. Maxagrid hereby advances the following Counterproposal in this proceeding:

- the allotment of Channel 286A to Rosebud, Texas, as a first local service.

Rosebud is an incorporated city with a 1990 U.S. Census population of 1638 people. See <http://www.census.gov/cgi-bin/gazetteer?city=Rosebud&state=TX&zip=>. Rosebud has its own zip code and a number of local businesses, churches, and other indicia of a community warranting a licensed radio service. However, Rosebud currently has no station licensed to it, and Channel 286A would represent a first local service.

3. Rosebud is clearly deserving of a local service, and the Commission can allot Channel 286A to Rosebud in full compliance with the applicable technical (city-grade and spacing) requirements. See Exhibit A, the Technical Statement of Larry P. Waggoner, MBC's technical consultant.

4. As the proponent of the Rosebud allotment, MBC hereby states its intention to apply for the new channel if the Commission allots the frequency and, if the Commission authorizes MBC to do so, to construct the new Rosebud facility promptly, to place the new station on the air, and to seek a license to cover the construction permit.

5. The FCC judges FM allotment proposals according to the following set of priorities:

- (1) first aural service;
- (2) second aural service;
- (3) first local service; and
- (4) other public-interest factors,

with priorities (2) and (3) sharing co-equal rank. Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

4. Measured against these standards, MBC's Counterproposal outranks HCB's and the NPRM's proposal. The allotment of Channel 286A to Rosebud satisfies Priority Three. By contrast, in light of the preexisting allotment of Channel 257A to Thorndale (for which HCB and others have applied), the allotment of Channel *286A to Thorndale would merely satisfy Priority Four.

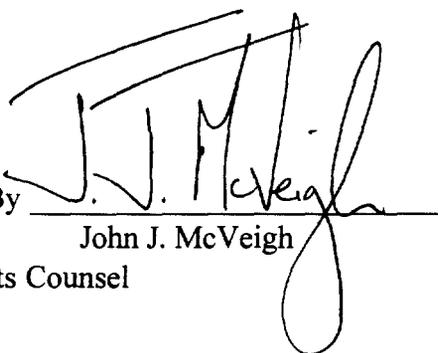
6. HCB's desire to extricate itself from the current mutual exclusivity involving applicants for Channel 257A is totally understandable. However, such desires cannot trump the statutory mandate contained in § 307(b) of the Communications Act, as amended, which commands the Commission to allocate spectrum with an equitable distribution among the several states and communities.

CONCLUSION

Based on the foregoing, Munbilla Broadcasting Corporation respectfully urges the Commission to issue a Report and Order, as expeditiously as possible, adopting this Counterproposal in place of the proposal set forth in the Notice of Proposed Rule Making in this proceeding. That will clearly better serve the public interest than adopting the NPRM's suggested course of action.

Respectfully submitted,

MUNBILLA BROADCASTING CORPORATION

By 
John J. McVeigh
Its Counsel

John J. McVEIGH,
ATTORNEY AT LAW
12101 Blue Paper Trail
Columbia, Maryland 21044-2787
(301) 596-1655

Date: August 16, 1999

EXHIBIT A

ALLOCATION STUDY

This study is a counter-proposal in the proceeding of Thorndale, Texas, MM Docket 99-243. This allocation in this Docket is being considered in the face of a mutually exclusive construction permit to Cameron, Texas, Channel 286C3, BMPH-981202. This counter-proposal to Channel 286A in Thorndale seeks to add proposing Channel 286A in Rosebud, Texas.

The reference coordinates of Rosebud Channel 286A are:

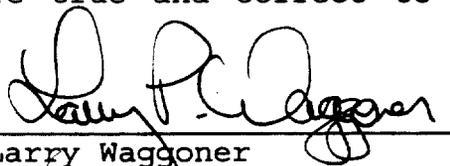
Latitude 31°05'40" North, Longitude 97°00'03" West

This site is 3 kilometers northwest (318° True) of the reference coordinates of Rosebud, Texas. From this site the entire city of Rosebud will be served with the 70 dB μ contour as required by §73.315(a) and §73.315(b) of the FCC Rules as shown in Exhibit 1. Exhibit 2 is an allocation study of this site as Class A. This demonstrates compliance with all requirements as set forth in §73.207 of the FCC Rules.

Using this reference coordinate, the coverage of this proposed site was calculated according to §73.313 of the Rules. The 60 dBu (1 mV/m) contour will encompass 2,516 square kilometers and 26,741 persons. Rosebud, Texas is designated as a City in the US Census and has a population of 1,638 persons.

I, Larry Waggoner, am a Communications Consultant. My qualifications are a matter of record with the Commission. All statements made herein are true and correct to the best of my knowledge and belief.

August 9, 1999


Larry Waggoner

LARRY P. WAGGONER
Broadcast Technical Consultant

1712 VALLEYVIEW CT. • WICHITA, KS 67212 • (316) 722-3726

FM Study for: NEW
 Location: ROSEBUD, TX
 Call City, State
 Status Proponent

FCC Database Date: 8/1999
 Channel Class: A
 Chan Class Freq kW Latitude Dist.
 File Number HAAT Longitude Azm. Clear (km)

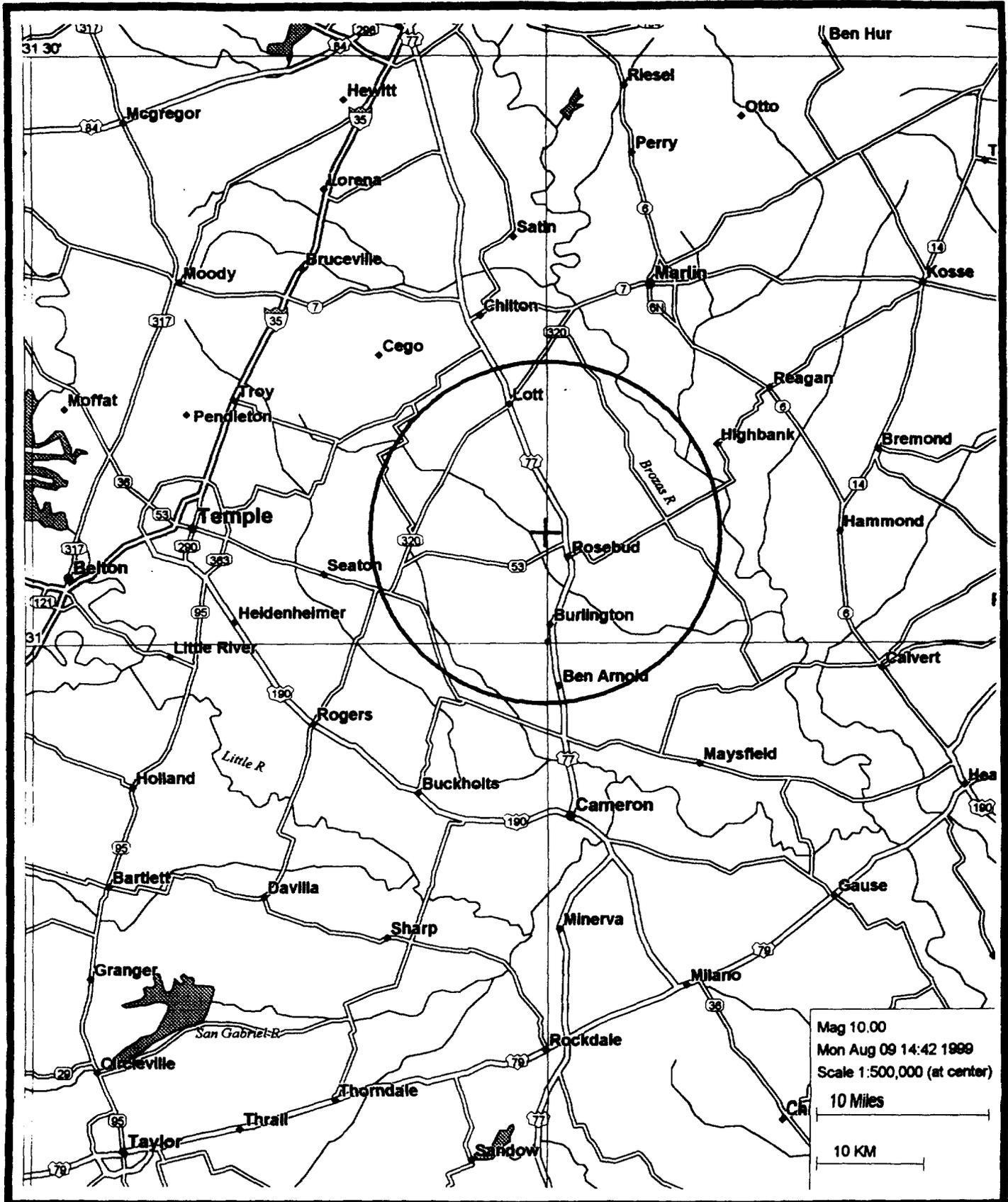
>>>>>> Study For Channel 286 105.1 MHz <<<<<<<<

NEW	CAMERON, TX	286 C3 105.1	10.	30-51-30	26.3	142	73.215
CP	Roy E Henderson d/b/a	BMPH-981202IA	100	97-01-47	186.1	-115.7	SHORT
	Use of 73.215 for short spacing requires:					119	-92.7
ALLO	THORNDALE, TX	286 A 105.1		30-36-54	56.6	115	
ADD	Houston Christian Bro Docket-99-243		0	97-12-18	200.2	-58.4	SHORT
	Use of 73.215 for short spacing requires:					92	-35.4
KYNG	DALLAS, TX	287 C 105.3	100.	32-35-05	165.30	165	
LIC	Infinity Broadcasting	BLH-970909KG	466	96-57-46	1.2	+0.30	CLOSE
KYKS	LUFKIN, TX	286 C 105.1	100.	31-22-08	226.42	226	
LIC	Gulfstar Communicatio	BLH-900827KA	325	94-38-45	81.7	+0.42	CLOSE
KYUL	HARKER HEIGHTS, TX	288 C2 105.5	33.	30-59-09	61.3	55	
LIC	KCKR-FM, Inc.	BLH-990323KB	183	97-37-51	258.9	+6.3	CLOSE
KYCFM	MEXIA, TX	285 A 104.9	2.10	31-42-25	81.7	72	
LIC	Groveton Broadcasting	BLH-830907AN	107	96-31-23	33.7	+9.7	CLOSE
KKYS	BRYAN, TX	284 C2 104.7	50.0	30-42-59	73.2	55	
LIC	RadioSunGroup of Brya	BLH-891113KC	87	96-22-20	124.7	+18.2	CLEAR
KBAE	MARBLE FALLS, TX	285 C2 104.9		30-36-33	141.5	106	
ADD	Maxagrid Broadcasting Docket-97-124		0	98-22-10	248.0	+35.5	CLEAR
KEZB	HEMPSTEAD, TX	287 C3 105.3	9.2	30-18-19	127.8	89	
CP	Farmers Communication	BMPH-951130IG	166	96-01-40	132.9	+38.8	CLEAR

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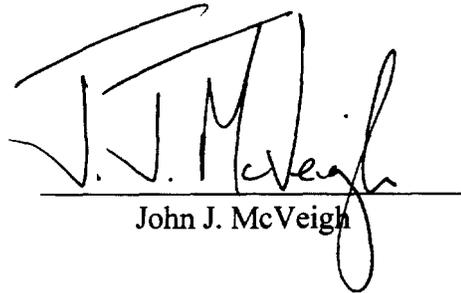
Broadcast Technical Consultant

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CERTIFICATE OF SERVICE

I hereby certify that I have, this 16th day of August, 1999, sent copies of the foregoing **COUNTERPROPOSAL**, by first-class United States mail, postage prepaid, to:

Jeffrey D. Southmayd, Esq.
Southmayd & Miller
1220 Nineteenth Street, N.W., Suite 400
Washington, D. C. 20036
Counsel to Houston Christian Broadcasters, Inc.



John J. McVeigh