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October 22, 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Magalie R. Salas, Esquire
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: Amendment of Section 73.202(b),
Table of Allotments, FM Broadcast Stations
(Erick and Mangum, Oklahoma)
MM Docket No. 01-218/RM-10237

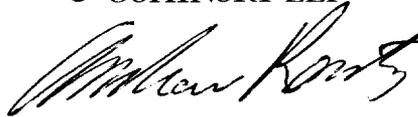
Dear Ms. Salas:

Transmitted herewith on behalf of Erick Broadcasting Company are an original and four copies of its "Comments and Counterproposal" filed in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP



Andrew S. Kersting
Counsel for
Erick Broadcasting Company

Enclosure

cc: Certificate of Service (w/ encl.) (by hand & first-class mail)

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

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OCT 22 2001

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 01-218
Table of Allotments,)	RM-10237
FM Broadcast Stations)	
(Erick and Mangum, Oklahoma))	

To: Chief, Allocations Branch

COMMENTS AND COUNTERPROPOSAL

Erick Broadcasting Company (“EBC”), hereby submits its comments and counterproposal in response to the *Notice of Proposed Rule Making*, DA 01-2057 (released August 31, 2001) (“*NPRM*”), in the above-captioned proceeding. In lieu of the proposed allotment set forth in the *NPRM*, EBC proposes, instead, that Channel 259C2 be allotted to Erick, Oklahoma, as that community’s first local transmission service. Thus, EBC proposes to amend Section 73.202(b) of the Commission’s rules as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Erick, Oklahoma	- - - -	259C2

In support of the requested allotment, the following is stated:

The city of Erick, Oklahoma, is an incorporated community with a 2000 U.S. Census population of 1,023. Erick has its own volunteer fire department, police department, post office, and local public library. It also has its own grade school, high school, and eight local churches. Some of the businesses and other commercial establishments located within the community of Erick include the following: Days Inn,

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Erick Lumber, Farmers Co-op, First American Bank, Flowers Auto, Lavelle's Beauty Shop, Love's Country Store, Meador Drug, Erick Welcome Center, Tennery Propane, Erick Flower and Gift Shop, Cuts N Curls, Puckett's Food Store, Erick Democrat, Dobson Telephone, Fatheree-Albert, ONG, West Oak Industries, P.S.O., Erick Clinic, Erick Nursing Home, and the Comfort Inn.¹ According to the local Chamber of Commerce, some of the major employers in Erick include Farmers Co-op, the Erick Nursing Home, Erick Public Schools, Puckett's Food Store, First American Bank, the City of Erick, and West Oak Industries. *See* Exhibit A, p. 4. Erick also is served by a local gas company and electric utility company, both of which are located within the community of Erick. *See* Exhibit B.

The proposed allotment reference coordinates set forth in the attached engineering exhibit meet the minimum distance separation requirements with respect to all known licenses, construction permits, open allotments, pending applications, and pending rulemaking petitions. *See* Exhibit C. The engineering exhibit also demonstrates that, from the specified allotment reference point, the proposed station would provide a coverage contour in excess of the required 70 dBu over the entire community of Erick. *Id.* at 2.

As stated above, the allotment of Channel 259C2 to Erick would provide the community with its first local transmission service, which would promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of broadcast stations among the various states and communities,² and promote

¹ *See Yahoo Yellow Pages*, Erick, Oklahoma.

² 47 U.S.C. §307(b). *See National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing a goal of the Communications Act to “secure the maximum benefits of radio to all the people of the United States”); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing a goal of Section 307(b) to “secure the local means of expression”).

the third allotment priority established in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1982).³

Unlike the community of Erick, Mangum, Oklahoma has an existing allotment for Channel 249A.⁴ Thus, the proposal set forth in the *NPRM* to allot Channel 259C2 to Mangum would not provide that community with its first local transmission service, but, instead, would serve only the fourth allotment priority because it would be the second FM allotment to that community. Moreover, because Mangum has a 2000 U.S. Census population of only approximately 3,000 persons (*see NPRM* at 2), a Class A FM station operating on Channel 249 would provide adequate service to Mangum and the surrounding area.

Furthermore, as demonstrated in the attached engineering exhibit, the community of Mangum lies just outside the city-grade contour of the proposed Channel 259C2 facility at Erick. The proposed new FM station at Erick would provide a 60 dBu signal to the entire community of Mangum as well as the immediately surrounding area. *See Exhibit D*, p. 2. Therefore, EBC respectfully submits that the allotment of Channel 259C2 to Erick, rather than Mangum, would better serve the public interest because it not only would provide a new FM service to Mangum, but it would promote the objectives of Section 307(b) of the Communications Act by providing a first local transmission service to Erick.

In the event this counterproposal requesting the allotment of Channel 259C2 at Erick, Oklahoma is granted, EBC will file an application for a construction permit for the

³ The criteria for determining the comparative preferability of a proposed FM allotment are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. 90 FCC 2d at 91.

⁴ Effective July 22, 1988, Channel 249A was substituted for Channel 221A at Mangum, Oklahoma. *Report and Order*, 1988 FCC Lexis 1252 (Pol. Rul. Div. 1988).

new station, and, if its application is granted, will promptly construct and operate the new facility.

WHEREFORE, in light of the foregoing, Erick Broadcasting Company respectfully requests that the Commission GRANT this counterproposal, AMEND the FM Table of Allotments, and ALLOT Channel 259C2 to Erick, Oklahoma, as that community's first local broadcast service.

Respectfully submitted,

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, N.W.
Washington, DC 20037-1526
(202) 785-9700

Attorneys for

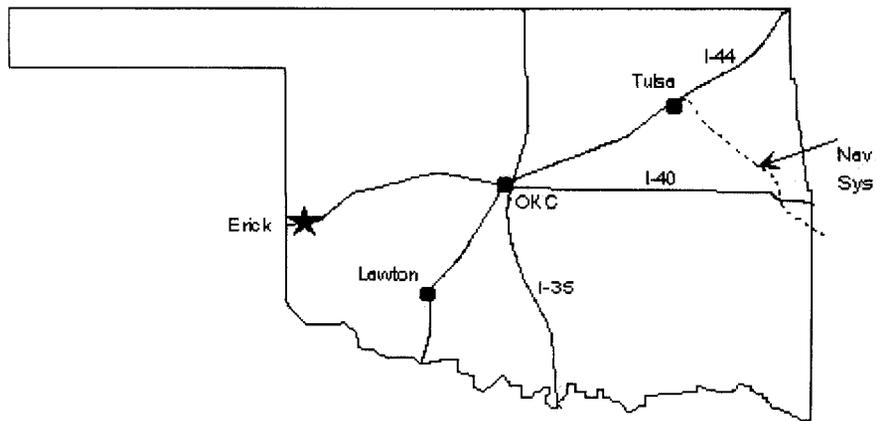
ERICK BROADCASTING COMPANY

By: 
Andrew S. Kersting

October 22, 2001

EXHIBIT A

Information Regarding Erick, Oklahoma Obtained From the Website of the Local Chamber of Commerce



City: Erick
County: Beckham

Population

Data from the 2000 population census place the Erick population at 1,023. Approximately 5.2% of the population of Beckham County resides in Erick.

Area	1970	1980	1990	2000
City	1,285	1,375	1,083	1,023
County	15,754	19,243	18,812	19,799
30 Mile Radius	N/A	N/A	26,400	26,900

Percent Distributions of the Population by Race-2000

In Erick, 93.45% of the population is White, 0.01 is Black, 0.9% is Native American, and the remaining 5.6% is comprised of all other races.

Labor Force

The Beckham County Labor Force was 9,634 in 1998. Participation rate in the county labor force constitutes 73.42% of males and 46.42% of females. (*See footnote on the last page for more info on labor.)

City Labor Force Factor	Male	Female	Total
Civilian Labor Force (1990)	229	182	411
Employed (1990)	194	169	362
Unemployed persons within 30 miles (1998)	310	230	540

Climate

The average January temperature in Erick is 47 degrees Fahrenheit with a July temperature average of 79 degrees. The area receives an average of 24 inches of rain annually and 10 inches of snow. The average number of flying days is 343.

General Government

Erick has an aldermanic statutory type of government.

Public Safety

Erick has 14 volunteer fire personnel and 3 full-time police officers. The city's fire insurance has an 8 classification and the adjacent area has an 8 classification.

Utility Providers

Utility services are provided primarily by the following carriers:

Electric - Public Service Co. of Oklahoma

Natural Gas - Oklahoma Natural Gas Co.

Telephone - Dodson Telephone

Water System

Storage Capacity	Daily	Pressure	Source	Capacity
------------------	-------	----------	--------	----------

Ground: 520,000 GPD	Max: 450,000 GPD	Consumption	In Mains	52 PSI	9 Wells	1,000,000 GPD
Elevated: 65,000 GPD	Min: 110,000 GPD			48 PSI		

Sanitation and Sewage Treatment

Erick uses total detention lagoons as a method of treating their sewage. The city's sewage treatment system is currently operating at approximately 57% of capacity.

Sewer Treatment Capacity and Load

Measurement	Capacity	Present Load
Gallons per Day	175,000	100,000
Population Equivalent	1,750	1,200

Express and Motor Freight

At least 10 motor freight companies serve Erick on an as-needed basis. United Parcel Service is also available.

Distance to Major Cities

Oklahoma is centrally located in the U.S. The distance from Erick to the following cities is:

City	Miles to	City	Miles to
Atlanta	982	Memphis	611
Chicago	928	New Orleans	781
Dallas	289	New York	1,590
Denver	522	Oklahoma City	144
Detroit	1,154	San Francisco	1,495
Houston	527	St. Louis	641
Kansas City	467	Seattle	1,823
Los Angeles	1,193	Tulsa	259

Angeles

Air Transportation

The nearest commercial airport is 110 miles from Erick at Amarillo, Texas. This airport is a full service field with 4 major commercial airlines in operation.

Water Transportation

The nearest water transportation is the Port of Catoosa. It is 250 miles from Erick and has a channel depth of 9 feet. It is connected via the Arkansas River to the Mississippi River and the Gulf of Mexico.

Road System

Erick is located at the intersection of I-40 and SH 30.

Rail Availability

There is rail service from Farmrail.

Accommodations

The city has 3 hotels/motels.

Housing

Erick has 625 dwellings; 77.9% are owner-occupied.

Places of Worship

Seven Protestant churches are located in Erick.

Media

Cable television and a weekly paper are available to Erick residents.

Tax Structure

Erick's property tax rate is \$65.44 per \$1,000 assessed value for the year 2000 - 2001. The fractional assessment percentage for real property is 12.00% and for personal property; 12.00%. The property tax is distributed as follows:

City	County	School	VoTech	Other	Total
\$0.00	\$17.12	\$48.32	\$0.00	\$0.00	\$65.44

Bond Indebtedness

School	City	County
\$180,000	\$0.00	\$35,000

Sales Taxes

The city has a sales tax rate of 4.0%. In addition, the state levies a 4.5% tax rate on sales. Beckham County levies no sales tax.

Commercial Services

From the city the nearest machine shop or tool and die services are 21 miles, and the nearest electric and motor repair services are 15 miles.

Educational Resources

Erick has 2 primary and secondary schools with approximately 240 students and 27 teachers.

Type	Grades	Facilities	Enrollment	Teachers
Public	K-8	1	180	13
Public	9-12	1	84	14
Total		2	164	27

Southwestern Oklahoma State University, a 4-year university is located 16 miles away. The Western Technology Center is 50 miles away.

There is a public library in Erick with nearly 3,000 volumes.

Telecommunications

Telecommunications information on Erick is not available.

Medical Facilities and Medical Practitioners

There is 1 nursing home with 31 beds. Practicing in the Erick area is 1 medical doctor. The nearest hospital to Erick is 16 miles.

Financial Institutions

Erick has 1 bank with assets totaling \$23,765,000.

Industrial Financing

The Oklahoma Finance Authorities (OFA) provide low interest financing through the issuance of general obligation bonds. The loans are established at 300 basis points over cost. In a first mortgage position the loan can be up to \$1.25 million. Many Oklahoma counties have voted approval of General Obligation Limited-Tax Bonds for economic development. The amount of bonds the counties can issue is limited to no more than could be retired by a special tax levy of 5 mills. The proceeds of the bonds are generally used to acquire or build a facility associated with the development project. Lease income from the facility is used to amortize the bonds.

Recreational Facilities

The citizens of Erick have access to a number of recreational facilities.

Parks	Tennis Courts	Country Clubs	Swimming Pools	Golf Courses
1	2		1	1

Other Attractions

The Sandy Saunders Wildlife Management Area is minutes away from Erick.

Business

The employment and establishment data reported in the following table is for Beckham County.

It should be noted that this employment data excludes some types of employment, namely government and railroad employment.

Sector	# of# Employed	
	Establishments	
Forestry, Fishing, Hunting & Ag Support		
Mining	23	138
Utilities	5	20-99
Construction	49	239
Manufacturing	20	118
Wholesale Trade	31	221
Retail Trade	128	1,165
Transportation & Warehousing	18	119
Information	13	107
Finance & Insurance	29	234
Real Estate & Rental & Leasing	24	125
Professional, Scientific, & Technical Services	34	120
Management of Companies & Enterprises	6	20-99
Admin., Support, Waste Mgt., Remediation Services	24	410
Educational Services	2	0-19
Health Care and Social Assistance	82	1,152
Arts, Entertainment & Recreation	7	20-99
Accommodation & Food Services	65	813
Other Services (except public admin.)	67	285
Auxiliaries	2	20-99
Total	641	5,459

Source: Oklahoma County Business Patterns 1999

Major Employers

Major Employers	Product/Service	Number Employed	Union Name
Farmers Coop	Service	14	
Erick Nursing Home	Health Services	25	
Erick Public Schools	Education Services	38	
Wally Molar Transport	Services	4	
C & S Transport	Services	4	
Pucketts Food Store	Retail Grocery	11	
First American Bank	Financial Services	13	
Meador Drug	Pharmacy	4	
Erick Lumber Co.	Retail Lumber	4	
City of Erick	Government Services	9	
West Oak Industries		12	

Other Community Information

Erick is a Capital Improvements Planning city.

Local Development Organization

Erick Chamber of Commerce
 Ms. Jean Mayes

P.O. Box 1232
Erick, Oklahoma 73645
Phone: 580-526-3505
Fax: 580-526-3275

Prepared July, 1999, Oklahoma Department of Commerce, Research Division

* Labor footnote - Labor surveys have been completed in many labor markets throughout Oklahoma. For more information or a copy of the survey for this region, if available, please call our office at 405-815-5262.

EXHIBIT B

Excerpts from
Yahoo Yellow Pages for Erick, Oklahoma



Yahoo! Yellow Pages on Your Mobile Phone



Click Here To Find A Reliable, Local Contractor.

Click to Find a Pre-Screened Contractor

Consumer |

Welcome, Guest User

Create My Favorite Locations - Sign In

Erick, OK

Change Location

Top > Home and Garden > Utilities > Gas

All Businesses

Showing 1 - 1 of 1 Previous | Beyond Erick

Business Name	Address	City	Phone
1 Oak Gas Transportation Llc		Erick, OK	(580) 526-3734

Previous Matches Beyond Erick

Search by Name or Category (e.g. Hilton, Hotel or Hilton Hotel)

Search Now

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Y! Domains:
Just 35 bucks!



*Click Here To Find A Reliable,
Local Contractor.*

[Click to Find a Pre-Screened Contractor](#)

[Consumer |](#)

Welcome, Guest User

[Create My Favorite Locations - Sign In](#)

Erick, OK

[Change Location](#)

[Top](#) > [Home and Garden](#) > [Utilities](#) > [Electric](#)

Showing 1 - 1 of 1 [Beyond Erick](#)

All Businesses

Business Name	Address	City	Phone
Public Service Co	116 S Main St	Erick, OK	(580) 526-3183

Beyond Erick

Search by Name or Category (e.g. Hilton, Hotel or Hilton Hotel)

Search Now

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EXHIBIT C

Engineering Exhibit

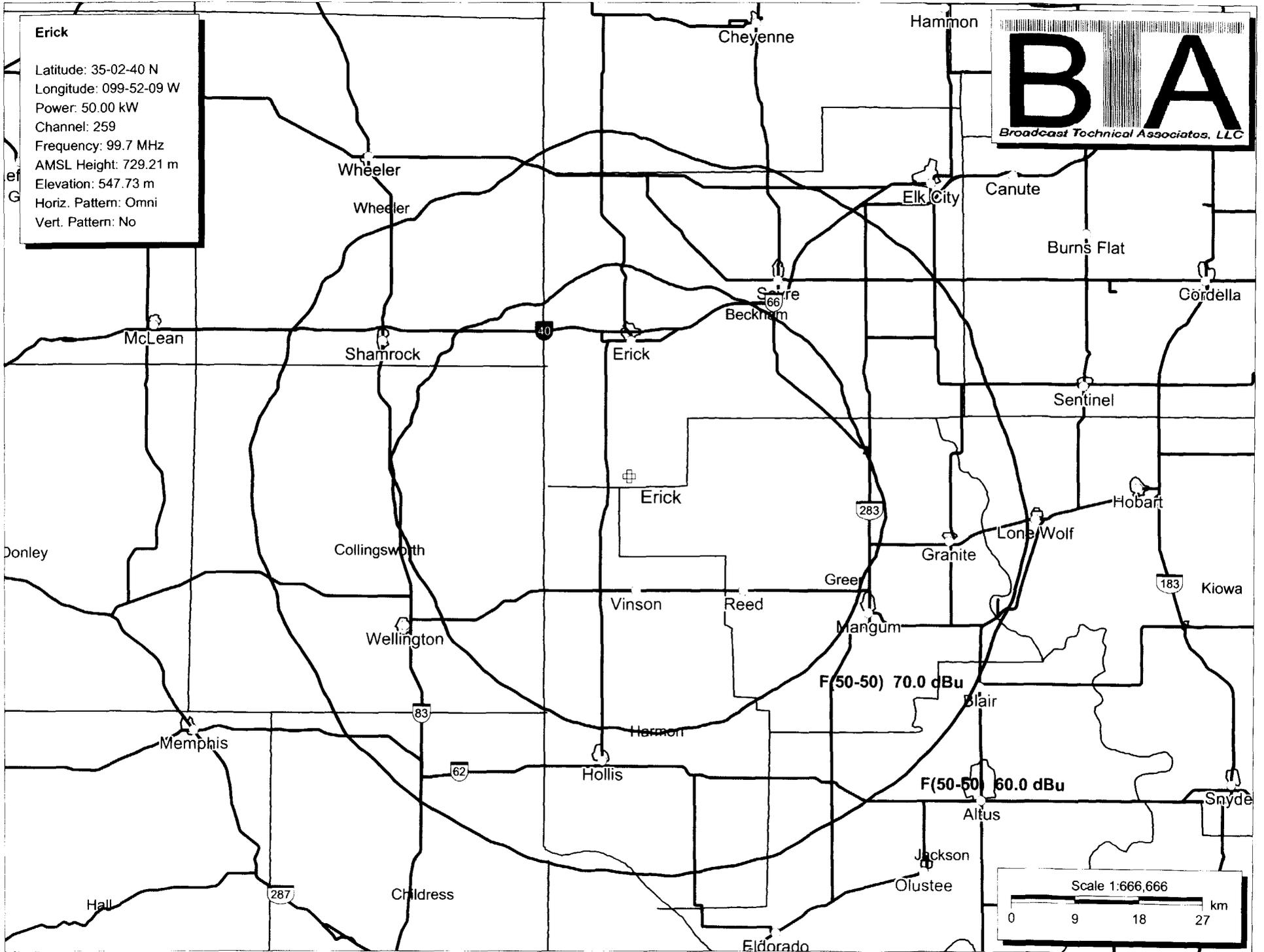


Call	Channel	Location	Dist	Azi	FCC	Margin
N. Lat.	W. Lng.	Power	HAAT			

Roho Broadcasting Company			BLH19990208KF			
KCDL	LIC 257C3	Cordell	OK	91.81	60.5	56.0 35.81
35 26 49	98 59 16	C	10.500 kw	154 M		
Wright Broadcasting System			BLH19981102KB			
KOMX	LIC 262C2	Pampa	TX	114.89	301.4	58.0 56.89
35 34 39	100 57 08	CN	32.000 kw	88 M		
Pampa Broadcasters, Inc.			BLH19810519AB			
NONE.A	APP 206C1	Clinton	OK	91.55	60.6	27.0 64.55
35 26 40	98 59 22	CX	40.000 kw	193 M		
Cameron University			BNPED20000202AAW			
RADD	ADD 260C1	Alva	OK	225.21	39.6	158.0 67.21
36 35 41	98 15 38		100.000 kw	299 M		
KBCY	LIC 259C1	Tye	TX	292.94	184.4	224.0 68.94
32 24 39	100 06 26	CN	100.000 kw	227 M		
Cumulus Licensing Corp			BLH19870506KI			
RDEL	DEL 261C1	Woodward	OK	148.77	14.0	79.0 69.77
36 20 40	99 28 00		100.000 kw	299 M		
ALLO	VAC 261C1	Woodward	OK	148.77	14.0	79.0 69.77
36 20 40	99 28 00		100.000 kw	299 M		
RDEL	DEL 261C1	Woodward	OK	148.77	14.0	79.0 69.77
36 20 40	99 28 00		100.000 kw	299 M		

Erick

Latitude: 35-02-40 N
Longitude: 099-52-09 W
Power: 50.00 kW
Channel: 259
Frequency: 99.7 MHz
AMSL Height: 729.21 m
Elevation: 547.73 m
Horiz. Pattern: Omni
Vert. Pattern: No



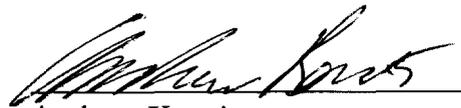
CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2001, a copy of the foregoing COMMENTS AND COUNTERPROPOSAL was sent by first-class mail, postage prepaid, to the following:

John A. Karousos, Chief*
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
The Portals II
445 Twelfth Street, S.W.
Room 3-A266
Washington, DC 20554

Ms. Leslie K. Shapiro*
Allocations Branch
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Irving, Texas 75061


Andrew Kersting

* Hand Delivered