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BEFORE THE
Federal Communications Commission
Washington, D.C. 20554

NOV 7 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments)
FM Broadcast Stations)
(Au Gres, Michigan))

MM Docket No. 01-115
RM-10129

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

REPLY COMMENTS OF NORTHERN RADIO OF MICHIGAN, INC.

Northern Radio of Michigan, Inc. ("Northern"), licensee of Station WKLT (FM), Kalkaska, Michigan, and permittee of Station WAIR (FM), Honor, Michigan, hereby submits its comments in opposition to the Counterproposal of Crystal Clear Communications, Inc. ("Crystal Clear"), filed in this proceeding on July 16, 2001. Crystal Clear proposes an upgrade of Station WBNZ(FM), Frankfort, Michigan from Channel 257C2 to Channel 257C1 and related changes to the FM Table of Allotments. Comments on Crystal Clear's counterproposal, designated as RM-10325, were solicited in the Commission's Public Notice, Report No. 2506, released October 23, 2001. In opposition, the following is shown:

Crystal Clear proposes the allotment of Channel 257C1 at 44-42-05 North and 85-39-24 West. In support, its engineering statement, at pages 4-5, reports that from these reference coordinates the proposed allocation fully complies with Section 73.315 of the

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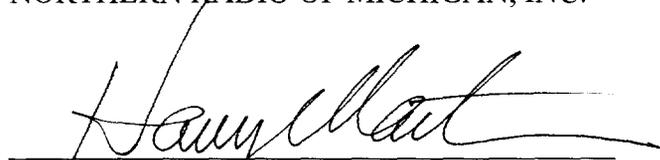
Commission's rules, which requires both city-grade coverage and line-of-sight over the principal community. However, as shown in the attached engineering statement, Crystal Clear's proposal does not satisfy the line-of-sight requirement of Section 73.315(b). Indeed, there is a major terrain obstruction between the proposed Channel 257C1 reference coordinates and the city of Frankfort. The same line-of-sight problem exists from *any* site that would comply with Section 73.315(a) city-grade coverage requirements (at least in the allotment context) and still meet the spacing requirements of Section 73.207(b) of the rules. Engineering Statement, page 3. To overcome this obstruction from the proposed reference coordinates, a tower of some 1600 meters (5,250 feet) would have to be constructed. *Id.*, pages 2-3. This is more than five times the reference height for Class C1 specified in Section 73.211(b) of the rules (299 meters) and, at almost a mile in height, is unrealistically tall for purposes of supporting a proposed FM allotment. *Jefferson City, Cumberland Gap, Elizabethton, Tennessee, and Jonesboro, Virginia*, 13 FCC Rcd 2303, 2304 (Policy & Rules Div. 1998) (terrain obstruction requiring a tower of 1,261 feet (384 meters)—over four times the reference height for the proposed Class A facility—to provide line-of-sight coverage to the proposed community of license, precluded compliance with Section 73.315(b)); *Athens and New Boston, Ohio and Greenup and Vanceburg, Kentucky*, 48 RR 2d 1628, 1632 (Policy & Rules Div. 1981) (proposed allocation rejected where the proponent, when confronted with a significant terrain obstruction, had not shown that a site existed from which line-of-sight to the principal community could be achieved under Section 73.315(b)).

Because Crystal Clear's proposal fails to satisfy the line-of-sight requirement of Section 73.315(b) of the rules, it technically unacceptable and should be rejected.

WHEREFORE, THESE MATTERS CONSIDERED, It is respectfully submitted that
Crystal Clear's counterproposal in this proceeding should be denied.

Respectfully submitted,

NORTHERN RADIO OF MICHIGAN, INC.



Harry C. Martin
Its Counsel

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November 7, 2001



**STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF REPLY COMMENTS IN
OPPOSITION TO A COUNTERPROPOSAL
IN MM DOCKET NO. 01-115, RM-10325**

Prepared for: Northern Radio of Michigan, Inc.

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, VA. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by the Northern Radio of Michigan, Inc., to prepare this statement and the associated exhibit as Comments in opposition to a counterproposal filed in the above-referenced MM Docket No. 01-115.

Au Gres Broadcasting Company ("Lead Petitioner") filed the original Petition to Amend the FM Table of Allotments, Section 73.202(b) of the FCC Rules seeking a first local service in Au Gres, Michigan. On May 25, 2000, the Allocations Branch adopted a Notice of Proposed Rulemaking ("NPRM") setting forth the Lead Petitioner's request to modify Section 73.202(b) of the FCC Rules.

On July 16, 2000, Crystal Clear Communications, Inc. ("Crystal") filed a multichannel counterproposal ("Crystal Counterproposal") to the Lead Petitioner's proposed channel addition at Au Gres. The FCC released a Public Notice on October 23, 2001, describing the nature of the Crystal Counterproposal and established a reply comment date of

STATEMENT OF WILLIAM J. GETZ
PAGE 2

November 7, 2001. This material is prepared as reply comments in opposition to Crystal Clear Communications' proposed channel 257C1 at Frankfort, Michigan.

Channel 257C1, Frankfort, Michigan (44-42-05 & 85-39-24)

According to Page 4 of the Engineering Report filed in support of the Crystal Counterproposal ("Crystal Engineering Report"):

"Exhibit E, Figure 2 is a map generated using the programs and techniques in the Methods section of the instant counterproposal. This study depicts the WBNZ channel 257C1 allotment coordinates, a maximum Class C1 70 dBu contour, and the community boundaries of Frankfort. It demonstrates full compliance with §73.315 of the Rules."

Although Exhibit E, Figure 2, demonstrates city-grade coverage compliance in the context of an allotment proceeding, it does not demonstrate full compliance with Section 73.315 of the FCC Rules. It is submitted that the proposed Channel 257C1 allotment at Frankfort is technically defective because a major obstruction lies between the proposed allotment reference site and Frankfort which would preclude line-of-sight coverage to all of Frankfort as required by Section 73.315(b) of the Commission's Rules.¹

Exhibit 1 is a computer-generated, 3-second terrain database, terrain profile from the Crystal Counterproposal, Channel 257C1 allotment reference site toward Frankfort. As shown in Exhibit 1, a major terrain obstruction exists between the proposed allotment

¹ The Crystal Counterproposal requests a 46 kilometer site restriction for its Frankfort, Channel 257C1 allotment reference site. A such a great distance all points within the extremely small city boundaries of Frankfort (according to U.S. Census data, Frankfort's land area is only 3.6 km²) are at approximately the same distance and bearing from the proposed allotment reference site. Considering the great path distance and the close proximity of the major terrain obstruction to the Frankfort city-limits (See Exhibit 1), all of Frankfort is terrain shadowed from the proposed Channel 257C1 allotment reference site.

STATEMENT OF WILLIAM J. GETZ
PAGE 3

reference site and Frankfort. The most severe obstruction is located just outside Frankfort, 46 km from the allotment reference site at an elevation of 305 meters. From the proposed allotment reference site, a tower height of 5,250 feet (1,600 meters) above ground level would be required to provide line-of-site coverage to all of Frankfort over this major terrain obstruction. Consistent with FCC precedent, this is an unrealistic requirement to obviate a major terrain obstruction.²

An additional six terrain profiles were run from six separate locations within the Frankfort, Channel 257C1 permissible site area. These six sites were chosen at approximately 0.5 mile intervals heading south from the proposed reference site along the WOWN, Shawano, WI (Channel 257C3) spacing arc up to the spacing restraint presented by I.F. related station WIAA, Interlochen, MI (Channel 204C). The six fully-spaced sites are located as close to Frankfort as the WOWN spacing restraint allows.³

All six terrain profiles revealed major terrain obstructions which preclude line-of-sight coverage to Frankfort. A tower height on the order of 5,000 feet above ground level would be necessary to achieve line-of-sight coverage to Frankfort from each of these six study sites.

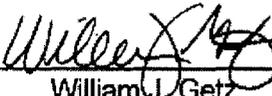
² See Memorandum Opinion and Order, *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Jefferson City, Cumberland Gap, Elizabethton, Tennessee, and Jonesville, Virginia)*, MM Docket No. 94-116, Adopted January 21, 1998; Released January 30, 1998.

³ It should be noted that the WOWN spacing restraint requires the Frankfort, Channel 257C1 allotment reference site be located at least 44 kilometers from Frankfort. The maximum Class C1 city-grade contour distance is 50 kilometers.

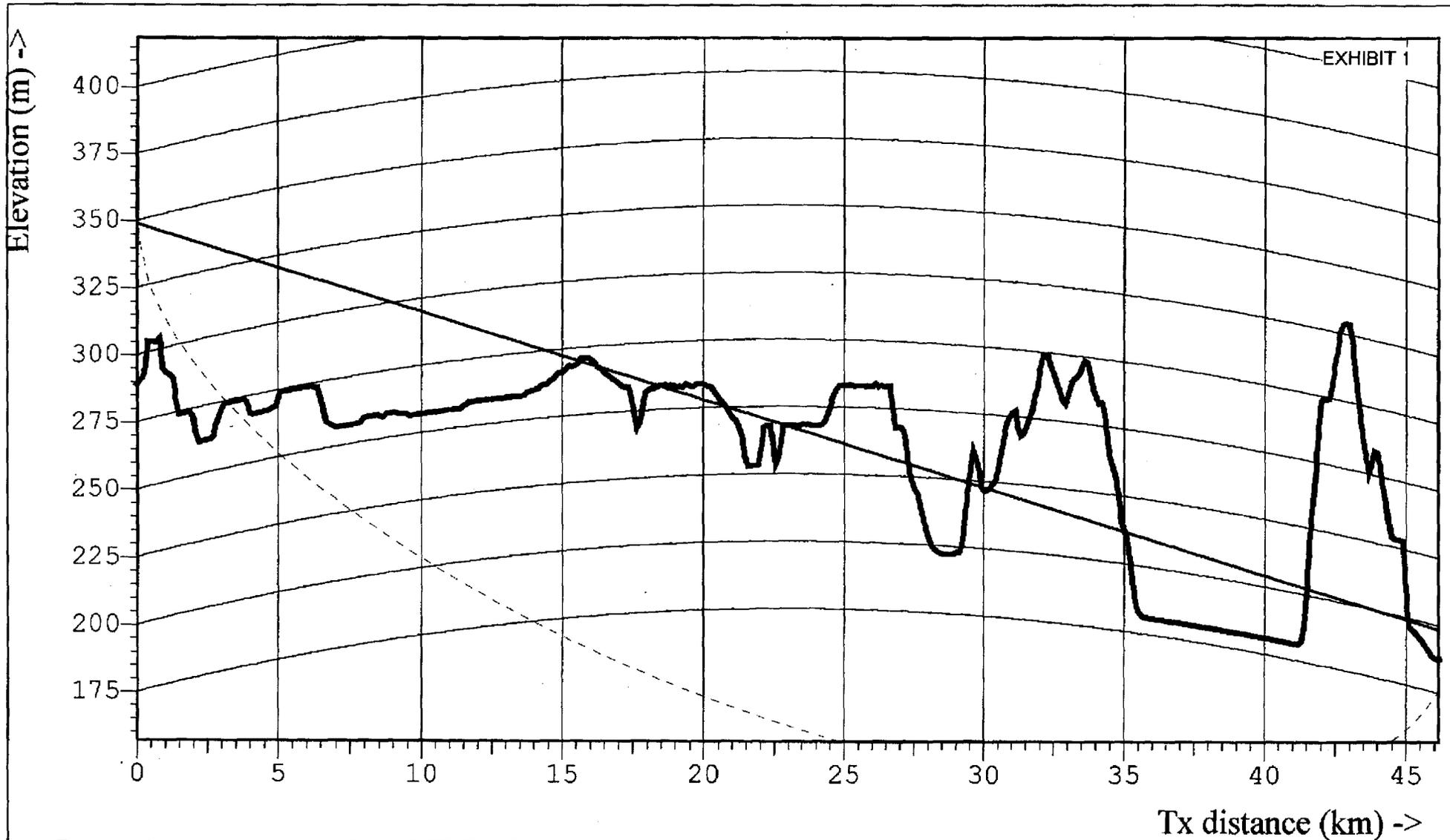
STATEMENT OF WILLIAM J. GETZ
PAGE 4

This statement and the attached Exhibit 1 have been prepared by me or under my direct supervision and are believed to be true and correct.

DATED: November 6, 2001



William J. Getz



Transmitter Site: REFC1
 Name: Frankfort Ref Site
 Location:
 N44°42'05.00" W85°39'24.00"

Name: REFC1 -> City
 Frequency: 101.0000 MHz
 Polarization: vertical
 Length: 46.28 km

Receiver Site: City
 Name: Frankfort
 Location:
 N44°38'00.00" W86°14'03.00"

CERTIFICATE OF SERVICE

I, Harry C. Martin, of the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the foregoing *Reply Comments of Northern Radio of Michigan, Inc.* was sent this 7th day of November, 2001, by hand where indicated and via United States First Class Mail, postage prepaid, to the following:

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* Hand Delivered