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Admitted: District of Columbia
Florida (inactive)
Virginia (inactive)

July 31, 2003

Re: ***Petition for Rule Making***
Amendment of §73.202(b), Table of Allotments
Portage and Stoughton, Wisconsin
Magnum Communications, Inc.
DBMPC #15164

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554

VIA FEDERAL EXPRESS

Dear Ms. Dortch:

On behalf of Magnum Communications, Inc. there is transmitted herewith an original and four copies of a Petition for Rule Making for a change of community of license for Station WBKY (FM), Channel 240A, from Portage, Wisconsin to at Stoughton Wisconsin.

Should there be any question concerning this Petition,please contact undersigned Counsel for Magnum Communications, Inc.

Very truly yours,

Denise B. Moline

DBM:wp
Attachment

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MB 03-253

ORIGINAL

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

RECEIVED & INSPECTED
AUG 1 2003
FCC - MAILROOM

In The Matter Of:	)	**Mm Docket No:**
Amendment of Section 73.202(b)	)	**RM No.**
Table of Allotments,	)	
FM Broadcast Stations.	)	
(Portage and Stoughton, Wisconsin)	)	

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

PETITION FOR RULE MAKING

Magnum Communications, Inc. ("Magnum"), licensee of WBKY (FM), Portage, Wisconsin, hereby petitions the Commission to amend the FM Table of Allotments, Section 73.202(b) of the Federal Communications Commission's Rules, by reallocating Channel 240A from Portage, Wisconsin to Channel 240A, Stoughton, Wisconsin, and modifying WBKY's license accordingly.

PRELIMINARY STATEMENT

Under Section 1.401 of the Commission's Rules, any interested party may petition the Commission to amend its rules and regulations. 47 C.F.R. § 1.401(a). By filing this Petition, Magnum is requesting that the Commission amend its FM Table of Allotments as set forth in 47 C.F.R. § 73.202(b), with respect to the communities of Portage and Stoughton, Wisconsin, as follows:

Community	*Present*	*Proposed*
Portage	240A, 261A	261A
Stoughton	---	240A

As demonstrated below, this proposal would result in a preferential new arrangement of allotments under the Commission's own guidelines, and the public interest will be served by amending the FM Table of Allotments, as requested herein, and modifying the authorization for WBKY.

ARGUMENT

A. Magnum's Proposal Is Not Subject to Any Competing Expressions of Interest.

This Petition is being filed pursuant to Section 1.420(i) of the Commission's Rules, which allows the FCC to modify a station's authorization to specify a new community of license, without affording other interested parties an opportunity to file competing expressions of interest, where, as here, the proposed allotment is mutually exclusive with the station's present assignment.[1] As demonstrated by the Technical Statement attached hereto as Appendix I, the requested reallotment of Channel 240A, and the proposed modification of WBKY's license, are mutually exclusive with WBKY's current authorized operations. As demonstrated in the Technical Statement, the proposed allotment, which specifies a restriction to avoid interference to other stations, is in compliance with all other applicable FCC rules. Accordingly, the FCC may act on this Petition without granting an opportunity to the other parties to file competing

[1] *Modifications of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5FCC Rcd 7094 (1990) *("Modification Report and Order")*

expressions of interest.

B. Magnum's Proposal Serves the Public Interest Under the FCC's Prerequisites and FM Allotment Priorities

The Commission has set forth two prerequisites before it will approve a request for a change of FM allotment which will result in a change of city of license:

(1) the former community shall not be deprived of its only existing local transmission service; and

(2) the modification will result in a "preferential arrangement of allotment" under current FM allotment priorities.[2]

The Commission's FM allotment priorities are, in descending order of importance:

(1) provision for first full-time aural reception service;

(2) provision for second full-time aural reception service;

(3) provision for first local transmission service; and

(4) provision for other public interest factors.[3]

1. Reallotment of WBKY Will Not Deprive Portage of Its Only Existing Aural Broadcast Service.

In addition to WBKY, the following stations are currently licensed to Portage: WDDC(FM) and WPDR(AM), for a total of 2 full-power FM stations, and 1 full-power AM station. The proposed allotment would leave two full power aural stations at Portage, and thus satisfies the first prerequisite as Portage would continue to have local aural broadcast services.

---

[2]*Modification Report and Order*, 4 FCC Rcd at 4874.

[3]*Id.*, at 4873.

2. *Reallotment of WBKY to Stoughton Constitutes a Preferential Arrangement of Allotments Under Established Commissions Priorities.*

Magnum's proposal to relocate WBKY would provide Stoughton with its first local aural transmission service. Thus this proposal results in a preferential allotment under the third priority, provision of a first local aural service.

Stoughton, Wisconsin exhibits a substantial number of community indicia that the Commission has used in the past in determining whether a community deserves to have its own local service. *See, e.g., Arcadia and Fort Meade, Florida,* MM Docket No. 97-159 (released July 18, 1997). Most significantly, Stoughton is an incorporated city recognized by the United States 2000 Census, with a population of 12,354 persons.

3. *The Public Interest Will Be Served as the Relocation will Result in a Gain in Area and People Served by WBKY*

The proposed 60 dBu contour illustrated in Appendix I will provide service to 233,071 people over 2547.0 square kilometers. The existing WBKY facilities provide service to 62,943 people over 2371.4 square kilometers. The relocation will therefore result in a net gain of 170,128 people and 175.6 square kilometers. Any loss area will continue to be amply served at the very least by the remaining stations authorized to Portage, Wisconsin and the surrounding environs. Accordingly, because there would be an overall gain in the WBKY service area from this proposal reallotment, the relocation is clearly in the public interest.

C. Magnum's Declaration of Intent

If Magnum's proposal as set forth herein is adopted, Magnum intends to file the appropriate application for Channel 240A at Stoughton, Wisconsin, and will promptly construct

the facilities contemplated herein.

CONCLUSION

For the foregoing reasons, Magnum Communications, Inc. hereby respectfully requests that the Commission promptly initiate a Rule Making to reallocate Channel 240A from Portage, Wisconsin to Channel 240A, Stoughton, Wisconsin, and to modify the license of WBKY(FM) accordingly.

Respectfully submitted,

MAGNUM COMMUNICATIONS, INC.

By: Denise B. Moline

Denise B. Moline, Esq.
Its Attorney

Denise B. Moline, Esq.
PMB #215
1212 So. Naper Blvd., #119
Naperville, IL 60540

630-753-0112

July 30, 2003

APPENDIX I

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

ENGINEERING STATEMENT

IN THE MATTER OF:	) MM DOCKET NO:
AMENDMENT OF SECTION 73.202(b),	) RM
TABLE OF ALLOTMENTS,	)
FM BROADCAST STATIONS,	)
PORTAGE and STOUGHTON, WISCONSIN	)

TO: CHIEF, ALLOCATIONS BRANCH,
POLICY AND RULES DIVISION,
MASS MEDIA BUREAU.

PREPARED FOR:
MAGNUM COMMUNICATIONS, INC.
JULY 29, 2003

PREPARED BY:
LYLE ROBERT EVANS
TECHNICAL CONSULTANT
1296 MARIAN LANE
GREEN BAY, WISCONSIN 54304

(920) 469-3085

PROPOSED RULE MAKING
AMENDMENT OF 47 C.F.R. §73.202(b); TABLE OF ALLOTMENTS
STOUGHTON, WISCONSIN
FM CHANNEL 240A (95.9 MHZ.)
PETITIONER: MAGNUM COMMUNICATIONS, INC.

TABLE OF CONTENTS

1. AFFIDAVIT OF PREPARER

2. ENGINEERING STATEMENT; Pages 1 thru 5

3. ATTACHMENT E-A; CHANNEL 240A DISTANCE SEPERATION STUDY,
City of Stoughton, Wisconsin Reference Geographic Coordinates.

4. ATTACHMENT E-B; CHANNEL 240A DISTANCE SEPERATION STUDY,
Proposed Illustrative Site Geographic Coordinates.

5. ATTACHMENT E-C; MAP OF POPULATION COVERAGE

TABLE OF CONTENTS; CONCLUDED

STATE OF WISCONSIN)

COUNTY OF BROWN)

VILLAGE OF ALLOUEZ)

LYLE ROBERT EVANS, BEING FIRST DULY SWORN STATES:

THAT HE IS AN ELECTORIC COMMUNICATIONS TECHNICAL CONSULTANT WITH OFFICES AT 1496 BELLEVUE STREET, GREEN BAY, WISCONSIN 54311;

THAT HIS QUALIFICATIONS IN ELECTRIC COMMUNICATIONS ARE A MATTER OF RECORD WITH THE FEDERAL COMMUNICATIONS COMMINISION IN WASHINGTON. D.C.;

THAT HE HAS PREPARED NUMEROUS PROPOSALS THAT HAVE BEEN ACCEPTED BY THE FEDERAL COMMUNICATIONS COMMISSION;

THAT THE FOREGOING TECHNICAL REPORT WAS PREPARED BY HIM, AND ALL CALCULATIONS AND/OR MEASUREMENTS AND EXHIBITS IN THE ACCOMPANYING REPORT WERE MADE BY HIM PERSONALLY OR UNDER HIS DIRECTION, AND THAT ALL THE FACTS CONTAINED HEREIN ARE TRUE OF HIS PERSONAL KNOWLEDGE OR BELIEF, AND ON SUCH STATEMENTS MADE ON BELIEF, THEY ARE BELIEVED TO BE TRUE AND CORRECT.

LYLE ROBERT EVANS, AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 29TH DAY OF JULY, 2003

NOTARY PUBLIC

DATE OF COMMISSION EXPIRATION

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

IN THE MATTER OF:	)	**MM DOCKET NO:**
AMENDMENT OF SECTION 73.202(B)	)	**RM**
TABLE OF ALLOTMENTS,	)	
FM BROADCAST STATIONS.	)	
(STOUGHTON, WISCONSIN)	)	

TO: CHIEF, ALLOCATIONS BRANCH,
POLICY AND RULES DIVISION,
MASS MEDIA BUREAU

ENGINEERING STATEMENT

This Engineering Statement concerns the above captioned Petition For Rulemaking to which this Statement is Appendix 1.

Magnum Communications, Inc. ("Magnum"), Petitioner, retained the services of Lyle Robert Evans, Technical Consultant, to conduct engineering studies and prepare necessary Statements and Attachments to support Magnum's PETITION FOR RULEMAKING to amend 47 Code of Federal Regulations §73.202(b), Table of FM Allotment, to reallot FM Channel 240A (95.9 MHz.) to city of Stoughton, Wisconsin as that community's first local broadcast service.

The Stoughton, Wisconsin Reference Geographic Coordinates displayed at Internet Site "http://www.fcc.gov/fcc-bin/mb/audio/atlas2.html", Frames for Atlas, are: 42°-55'-00" North Latitude, 89°-13'-04" West Longitude.

Attachment E-A to this Engineering Statement, an FM Channel 240A Distance Separation Study with the City of Stoughton Reference Geographic Coordinates as base, sets forth all FM Broadcast Station assignments, applications and allotments relating to a reallotment of FM Channel 240A at Stoughton, with distance in kilometers and bearing in degrees True.

Attachment E-A displays a "Short-Spacing" to licensed FM Broadcast Stations WRIT-FM, Milwaukee, Wisconsin operating on FM Channel 239B; FCC File Number: BLH-20000606ACL; Facility Identification Number: 60233 and, WCJZ, Sauk City, Wisconsin, operating on FM Channel 242Bl; FCC File Number: BLH-19900911KC; Facility Identification Number: 50055.

To reallot FM Channel 240A to Stoughton, Wisconsin and comply with 47 C.F.R. §73.207, it is necessary to restrict the allotment location 10.13 kilometers (6.29 miles) distant at a bearing of 211.71 degrees True from the Stoughton Reference Coordinates, to: geographic coordinates 42°-50'-21" North Latitude, 89°-16'-59" West Longitude.

Attachment E-B to this Statement, an FM Channel 240A Distance Separation Study with the Stoughton, Wisconsin illustrative, restricted allotment geographic coordinates as base, displays an allotment of FM Channel 240A to

Stoughton, Wisconsin in complete compliance with all applicable minimum distance separation requirements set forth in 47 C.F.R. §73.207.

The most distant point on the Stoughton, Wisconsin Corporate Boundary ("City-Limits") from the Stoughton Channel 240A proposed illustrative restricted allotment geographic coordinates was determined as: 42°-56'-57" North Latitude, 89°-13'-13" West Longitude.

The distance and bearing from the Stoughton FM Channel 240A restricted, illustrative allotment coordinates to this most distant point is 13.22 kilometers (8.22 miles) at 22.72 degrees True.

Utilizing the FCC FM and NTSC TV Propagation Curves Calculator at Internet address: http://www.fcc.gov/mmb/asd/bickel/curves.html#START, the F(50,50) 70.0 dBu (3.16 mV/m) predicted "Principal Community Contour" of a maximum facility Class A FM Broadcast Station (6.00 kilowatt ERP, 100 meter HAAT), extends a distance of 16.16 kilometers (10.17 miles), 2.94 kilometers (1.83 miles) beyond the most distant point on the Stoughton, Wisconsin City-Limits.

Several transmitter sites exist from which the requisite 70.0 dBu (3.16 mV/m) "Principal Community" contour can be provided to the entire City of Stoughton, Wisconsin.

Conclusion

The Magnum Communications, Inc., proposed Amendment of 47 Code of Federal Regulations §73.202(b) , Table of FM Allotments, to reallot FM Channel 240A at Stoughton, Wisconsin can be accomplished with the channel allotment plan proposed, and shall provide residents of Stoughton, Wisconsin and vicinity a first local broadcast service.

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PROPOSED RULE MAKING
AMENDMENT OF 47 C.F.R. §73.202(b); TABLE OF ALLOTMENTS
STOUGHTON, WISCONSIN
FM CHANNEL 240A (95.9 MHZ.)
PETITIONER: MAGNUM COMMUNICATIONS, INC.

Repectfully submitted,

Lyle Robert Evans,
Technical Consultant to:
Magnum Communications, Inc.

July 28, 2003

Lyle Robert Evans,
Technical Consultant
2300 Riverside Drive
Green Bay, WI 54301
(920) 469-3085

ENGINEERING STATEMENT; CONCLUDED

ATTACHMENT E-A

CHANNEL 240 DISTANCE SERERATION STUDY

LOCATION: STOUGHTON, WISCONSIN
SERVICE: COMMERCIAL FM
CHANNEL: 240
FREQUENCY: 95.9 MHZ.
ZONE: II
CLASS: A
COORDINATES: 42°-55′-00″ N.L., 89°-13′-04″ W.L. (STOUGHTON REFERENCE COORDINATES)
PETITIONER: MAGNUM COMMUNICATIONS, INC.
DATE: JULY 29, 2003

CALL STATUS	CITY STATE	FCC FILE	CHAN. FREQ.	ERP(KW) EAH(MT)	LATITUDE LONGITUDE	BEAR. (DEG.)	DIST. (KM.)	REQ. (KM.)
WXRO	BEAVER DAM		237A	6.00	43-28-09	27.2	69.17	31.0
LIC	WI	BLH-19911024KA	95.3	100.00	88-49-32		38.17	CLEAR
WNUA	CHICAGO		238B	8.30	41-53-56	130.3	173.25	69.0
LIC	IL	BLH-19881011KC	95.5	357.00	87-37-23		104.25	CLEAR
WRIT-FM	MILWAUKEE		239B	34.00	43-05-24	79.2	107.94	113.0
LIC	WI	BLH-20000606ACL	95.7	186.00	87-54-55		5.06	SHORT*
WBKY	PORTAGE		240A	5.40	43-38-17	340.5	85.12	115.0
LIC	WI	BLH-19990804KF	95.9	98.00	89-34-16		29.88	SHORT#
WLKG	LAKE GENEVA		241A	6.00	42-36-34	118.1	72.00	72.0
LIC	WI	BLH-19940527KC	96.1	100.00	88-26-36		0.00	CLEAR
WCJZ	SAUK CITY		242B1	5.10	43-12-37	316.6	45.05	48.0
LIC	WI	BLH-19900911KC	96.3	205.00	89-35-57		2.95	SHORT*
WKLH	MILWAUKEE		243B	20.00	43-05-48	78.9	108.87	69.0
LIC	WI	BLH-19820914AI	96.5	247.00	87-54-19		39.87	CLEAR

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ATTACHMENT E-A

CHANNEL 240 DISTANCE SERERATION STUDY

LOCATION: STOUGHTON, WISCONSIN
SERVICE: COMMERCIAL FM
CHANNEL: 240
FREQUENCY: 95.9 MHZ.
ZONE: II
CLASS: A
COORDINATES: 42°-55′-00″ N.L., 89°-13′-04″ W.L. (STOUGHTON REFERENCE COORDINATES)
PETITIONER: MAGNUM COMMUNICATIONS, INC.
DATE: JULY 29, 2003

CALL STATUS	CITY STATE	FCC FILE	CHAN. FREQ.	ERP(KW) EAH(MT)	LATITUDE LONGITUDE	BEAR. (DEG.)	DIST. (KM.)	REQ. (KM.)
WKCH	WHITEWATER		293A	6.00	42-54-24	91.5	38.08	10.0
LIC	WI	BLH-19971126KE	106.5	61.00	88-45-06		28.08	CLEAR
971030	MOUNT HOREB		294A	2.90	43-00-26	280.5	56.68	10.0
CP	WI	BPH-19971030ML	106.7	146.00	89-54-05		46.68	CLEAR

* Petitioner proposes eliminating this "Short Spacing" by utilization of restricted antenna/tower site coordinates.

\# Indicates "Short Spacing". The Portage, Wisconsin, Channel 240A allotment is the proposed channel to be realloted to Stoughton, Wisconsin.

----------END CHANNEL 240A STUDY----------

ATTACHMENT E-B

CHANNEL 240 DISTANCE SERERATION STUDY

LOCATION: STOUGHTON, WISCONSIN
SERVICE: COMMERCIAL FM
CHANNEL: 240
FREQUENCY: 95.9 MHZ.
ZONE: II
CLASS: A
COORDINATES: 42°-50′-21″ N.L., 89°-16′-59″ W.L. (ILLUSTRATIVE SITE COORDINATES)
PETITIONER: MAGNUM COMMUNICATIONS, INC.
DATE: JULY 29, 2003

CALL STATUS	CITY STATE	FCC FILE	CHAN. FREQ.	ERP(KW) EAH(MT)	LATITUDE LONGITUDE	BEAR. (DEG.)	DIST. (KM.)	REQ. (KM.)
WYHY	WINNEBAGO		237A	1.25	42-17-26	170.9	61.72	31.0
LIC	IL	BLH-19850108LQ	95.3	156.00	89-09-51		30.72	CLEAR
WNUA	CHICAGO		238B	8.30	41-53-56	126.9	172.08	69.0
LIC	IL	BLH-19881011KC	95.5	357.00	87-37-23		103.08	CLEAR
WRIT-FM	MILWAUKEE		239B	34.00	43-05-24	75.5	115.02	113.0
LIC	WI	BLH-20000606ACL	95.7	186.00	87-54-55		2.02	CLEAR
WBKY	PORTAGE		240A	5.40	43-38-17	345.4	91.79	115.0
LIC	WI	BLH-19990804KF	95.9	98.00	89-34-16		23.21	SHORT*
WLKG	LAKE GENEVA		241A	6.00	42-36-34	110.1	73.36	72.0
LIC	WI	BLH-19940527KC	96.1	100.00	88-26-36		1.36	CLEAR
WCJZ	SAUK CITY		242B1	5.10	43-12-37	328.2	48.62	48.0
LIC	WI	BLH-19900911KC	96.3	205.00	89-35-57		0.62	CLEAR
WKLH	MILWAUKEE		243B	20.00	43-05-48	75.2	115.99	69.0
LIC	WI	BLH-19820914AI	96.5	247.00	87-54-19		46.99	CLEAR

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ATTACHMENT E-B

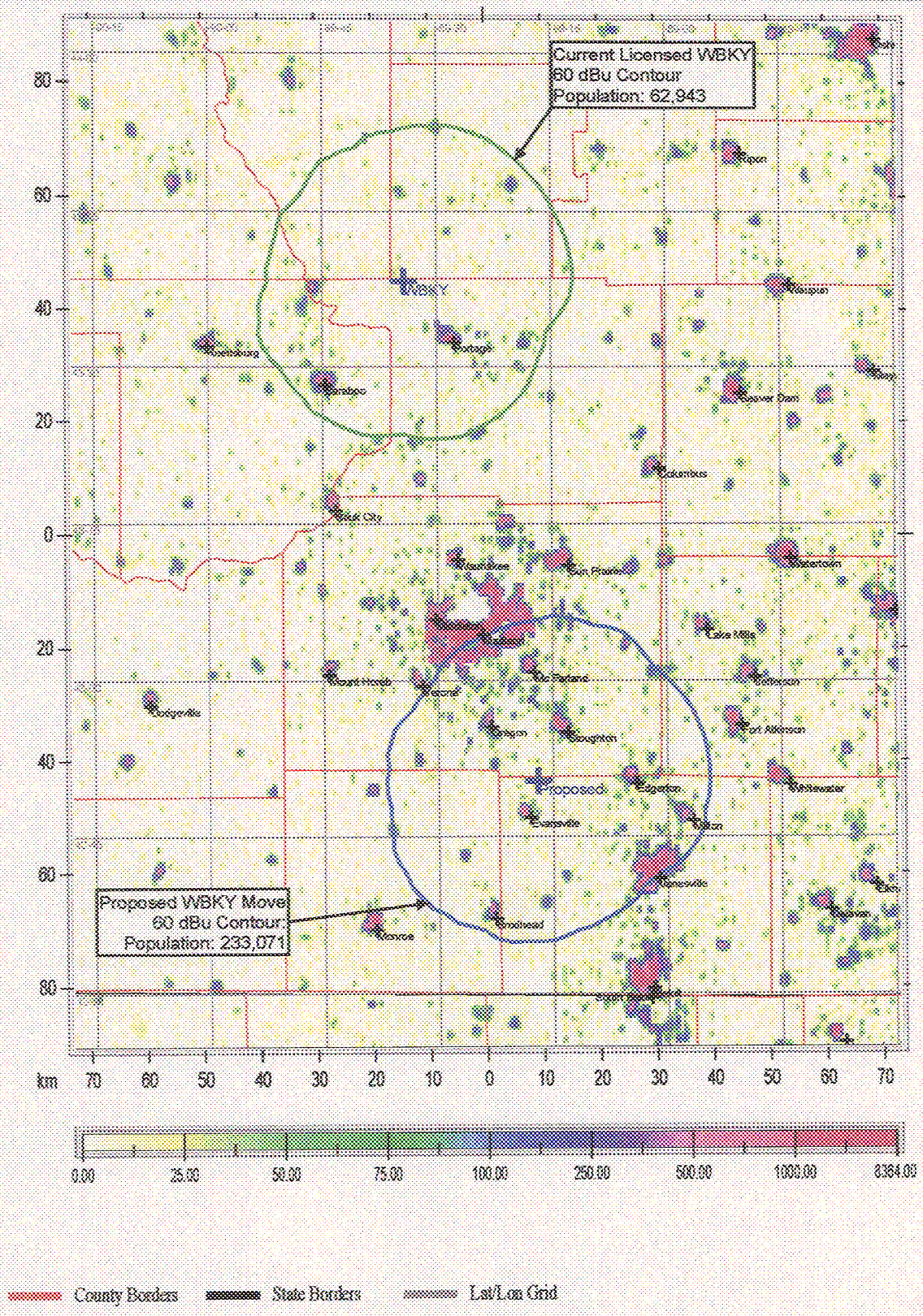
CHANNEL 240 DISTANCE SERERATION STUDY

LOCATION: STOUGHTON, WISCONSIN
SERVICE: COMMERCIAL FM
CHANNEL: 240
FREQUENCY: 95.9 MHZ.
ZONE: II
CLASS: A
COORDINATES: 42°-50'-21" N.L., 89°-16'-59" W.L. (ILLUSTRATIVE SITE COORDINATES)
PETITIONER: MAGNUM COMMUNICATIONS, INC.
DATE: JULY 29, 2003

CALL STATUS	CITY STATE	FCC FILE	CHAN. FREQ.	ERP(KW) EAH(MT)	LATITUDE LONGITUDE	BEAR. (DEG.)	DIST. (KM.)	REQ. (KM.)
WKCH	WHITEWATER		293A	6.00	42-54-24	80.0	44.06	10.0
LIC	WI	BLH-19971126KE	106.5	61.00	88-45-06		34.06	CLEAR
971030	MOUNT HOREB		294A	2.90	43-00-26	290.6	53.82	10.0
CP	WI	BPH-19971030ML	106.7	146.00	89-54-05		43.82	CLEAR

* Indicates "Short Spacing". The Portage, Wisconsin, Channel 240A allotment is the proposed channel to be realloted to Stoughton, Wisconsin.

----------END CHANNEL 240A STUDY----------


Current Licensed WBKY
60 dBu Contour
Population: 62,943
WBKY
Proposed
Proposed WBKY Move
60 dBu Contour
Population: 233,071
km
0.00
25.00
50.00
75.00
100.00
250.00
500.00
1000.00
6384.00
County Borders
State Borders
Lat/Lon Grid