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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of The Telecommunications Act of 1996	)	MB Docket No. 02-277
	)	
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets	)	MM Docket No. 01-317

To: The Commission

PETITION FOR RECONSIDERATION

Galaxy Communications, L.P. ("Galaxy"), pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, hereby petitions the Commission to reconsider specific aspects of the changes to the local radio ownership rules adopted by the Commission in the above-captioned *Report and Order* regarding the broadcast ownership rules.[1] Specifically, Galaxy requests that the Commission revise the local radio ownership rule (47 C.F.R. § 73.3555(a)) to: (1) count as one owned station a pair of same service, same market radio stations without overlapping contours that are commonly owned and that simulcast 100 percent of their programming; and (2) provide that a group of up to three commonly owned Class A FM stations in the same market shall count as one station. The adoption of these revisions would further the goals espoused by the Commission in the *Report and Order* by enabling smaller radio companies

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[1] Galaxy is the licensee of 14 radio stations in the Syracuse, Utica-Rome, and Albany-Schenectady-Troy Arbitron Metros within New York State.

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and new entrants to compete more effectively with entrenched broadcast companies, who dominate markets with stations with superior technical facilities.

I. The Commission Should Correct the *Report and Order's* Failure To Account For The Significant Competitive Disadvantage Under Which Broadcasters That Own Technically Inferior Stations Operate.

In the *Report and Order* adopting the new framework for broadcast ownership, the Commission affirmed its "longstanding commitment to promoting competition by ensuring pro-competitive market structures." *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Report and Order and Notice of Proposed Rulemaking, FCC 03-127, slip op. at ¶ 57 (released July 2, 2003) ("*Report and Order*"). In the context of local radio ownership, the Commission expressly stated as one of its goals "to ensure that radio stations outside of the dominant groups can remain viable and, beyond that, can prosper." *Id.* at ¶ 299. More specifically, in explaining its decision to retain numerical caps and AM/FM service limits, the Commission stated: "[O]ur objective is to prevent firms from gaining market dominance through the consolidation of a significant number of *key* broadcast facilities. *Id.* at ¶ 300 (emphasis added). Regrettably, the *Report and Order* falls short of promoting the desired level playing field among radio competitors by failing to account for the lesser technical capabilities of the facilities typically owned by small broadcasters.

The Commission acknowledges that broadcasters with technically inferior stations operating in markets dominated by broadcasters with more powerful stations face significant competitive disadvantages. *Id.* at ¶ 290 ("[R]adio stations are not all equal in terms of their technical capabilities . . . and . . . the technical differences among stations can cause radio station groups with similar numbers of radio stations to have vastly different levels of market power.") Yet, the Commission has not made any provision in its local radio ownership rule to account for this fact. While certain factors like format choice may partially mitigate these disadvantages, *see id.* at ¶ 291, the expansive reach of the more powerful stations simply overwhelms that of less powerful stations regardless of program offerings. To compete effectively with entrenched dominant clusters in a radio market, new entrants frequently acquire clusters of less powerful stations in an effort to approach, if not duplicate, the coverage area achieved by larger broadcasters' more powerful Class B and Class C facilities. For example, in the Syracuse market, Galaxy competes against market players with more powerful facilities with a cluster of six Class A FM stations and three AM stations. Two pairs of FM stations and one pair of AM stations simulcast 100 percent of their programming.

The prior contour-based local radio ownership rule did not impede this strategy because same-service stations being simulcast could not have overlapping contours, and therefore, were considered to be in separate markets. *See* 47 C.F.R. § 73.3556 (providing that no radio station shall simulcast more than 25 percent of its total broadcast time per week if the stations that duplicate programming are commonly owned and have principal community contours that overlap by more than 50 percent). The newly modified local radio ownership rule, however, includes in a market all stations rated above the line by Arbitron or considered home to the market and thus restricts the ability of small broadcast companies to acquire such clusters. Under the modified rule, every commonly owned station in an Arbitron Metro is counted towards the local ownership limit without consideration of the technical differences among stations or whether the stations serve different non-over-lapping segments of the market.

The Syracuse radio market provides a clear-cut example of how this anomaly in the new rule places smaller broadcasters and new entrants into a radio market at a competitive disadvantage rather than providing a level playing field for competitors as the Commission desires. The chart below shows that while Galaxy owns more radio stations in the Syracuse

Arbitron Metro than either Clear Channel Communications ("Clear Channel") or Citadel Broadcasting Corporation ("Citadel"), Galaxy's share of revenue for the Syracuse market is significantly less than the revenue shares of Clear Channel and Citadel.

Clear Channel, Citadel and Galaxy Radio Stations
In the Syracuse Arbitron Metro

Broadcaster	No. of Stations		No. of Class A FM Stations	Estimated 2002 Revenue Share[2]
	AM	FM		
Clear Channel	2	5	0	50.3%
Citadel	1	3	1	25.3%
Galaxy	3	6	6	15.3%

Galaxy's competitive disadvantage is further illustrated by information included in Attachments 1 and 2. Attachment 1 hereto lists the radio stations located in the Syracuse Arbitron Metro owned by Clear Channel, Citadel and Galaxy, as well as their class and population coverage, and notes which Galaxy stations simulcast programming. Attachment 2 includes maps, which depict the city grade contours of the Syracuse stations owned by Galaxy, Clear Channel and Citadel, and a listing of the population covered by these licensees' stations. This information makes clear that despite the disparity in the number of stations each company owns, Galaxy's stations cover significantly less area and population than the stations owned by Clear Channel and Citadel. Indeed, the population covered by Clear Channel's largest FM Station – WYYY – is 669,702. The population covered by Galaxy's largest FM station – WZUN – is 318,446, and that of its second largest FM station –WKRL – is 156,976. The population covered by Galaxy's AM stations is less than that covered by any of the AM stations owned by Clear Channel and Citadel.

The pro-competition policies underlying the decisions reached in the *Report and Order* require full consideration of the technical differences among stations located in Syracuse and other similarly situated markets. In the Monterey-Salinas-Santa Cruz, California and Nassau-

2 BIA Financial Network Inc. Media Access Pro Radio.

Suffolk, New York markets, for example, clusters of Class A FM stations commonly owned by smaller broadcast companies cover only a portion of the area encompassed by a single, more powerful Clear Channel station. *See* Attachment 3.[3] In light of these technical differences, Galaxy respectfully requests that the Commission revise the modified local radio ownership rule as set forth below.

II. Commonly Owned Same Service, Same Market Radio Stations That Fully Simulcast Programming Should Count As Only One Station For Purposes Of The Local Radio Ownership Rule.

The local radio ownership rule should be amended to recognize that pairs of same service stations in an Arbitron Metro without any city grade overlap and which fully simulcast programming should not be counted twice. Many small broadcast companies (including Galaxy in the Syracuse market) purchase less powerful facilities and simulcast programming, consistent with the Commission's rules, *see* 47 C.F.R. § 73.3556, in an effort to cover a larger portion of the market areas than would be possible if these stations broadcast separate programming. However, as the maps and population coverage information attached hereto illustrate, the combined population covered by either pair of simulcast Class A FM stations in Syracuse (approximately 200,000) is still significantly less than the population covered by more powerful facilities owned by Clear Channel and Citadel (approximately 450,000 to 650,000).

Treating same-service stations that are simulcast as a single station is consistent with how Arbitron reports ratings information. Arbitron's market reports currently indicate in the listing of stations those stations in a market that are simulcast. As stated in the attached

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[3] The Monterey-Salinas-Santa Cruz map depicts the city grade contours of six of the Class A FM stations owned or operated through an LMA by Mapleton Communications (KHIP; KMBY; KCDU, KPIG; KBTU; and KROQ) and of one Class B FM station licensed to Clear Channel (KDON). The Nassau-Suffolk map depicts the city grade contours of four Class A FM stations owned or operated through an LMA by Barnstable Broadcasting Incorporated (WRCN; WMJC; WBZO; and WLVG) and of one Class B FM station licensed to Clear Channel (WALK).

Declaration, senior executives of Arbitron have indicated to Galaxy's CEO that it intends to implement the use of "total line reporting" for stations that fully simulcast programming. See Attachment 4. Under this method, a licensee would designate which of the simulcast stations is the primary station, and Arbitron will list only one total rating for stations that are simulcast. Thus, for the Commission to count two stations which fully simulcast programming as one for purposes of the local radio ownership rule would be consistent with the Arbitron listing when it is revised, which serves as a basis for the relevant geographic radio market under the modified rule.[4]

Attachment 5 hereto offers, with appropriate limitations, a proposed amendment to the local radio ownership rule. Specifically, Galaxy proposes that the Commission count as a single station any pair of same-market, same-service radio stations without overlapping contours that are commonly owned that fully simulcast programming. By enabling small broadcast companies and new entrants to cover significant portions of a radio market by combining less powerful stations, the proposed amendment would strengthen competition in local radio markets in furtherance of the Commission's policy objectives. At the same time, the narrow tailoring of the rule amendment would neither promote spectrum inefficiency intrinsic to simulcasting (by requiring that there be no city grade overlap between the stations) nor invite abuse (by requiring that 100 percent of programming be duplicated). Accordingly, Galaxy urges the Commission to adopt the proposed amendment.

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[4] In the *Report and Order,* the Commission adopted Arbitron's local radio market definitions on the strength of the definitions' acceptance by the industry. *Report and Order* at ¶ 276 (describing the Arbitron market definitions as an "established industry standard").

III. Clusters Of Class A FM Stations Should Be Subject To An Ownership "Discount" Based On The Comparatively Limited Coverage Areas Of Such Stations Relative To Other Classes Of FM Radio Stations.

Allowing for greater consolidation of Class A FM stations in local markets would also further the Commission's pro-competitive policy goals. In the *Report and Order*, the Commission acknowledged that markets with several owners may appear more competitive than they actually are because "large markets may include a greater number of extremely small radio stations, as well as radio stations that are a significant distance from each other."[5] *Report and Order* at ¶ 291. Yet in a seemingly inconsistent statement, the Commission summarily dismissed the request to permit greater consolidation of less powerful radio facilities on the ground that it could "see no feasible way to account for unique market conditions or individual company holdings without frustrating [its] goal of providing regulatory certainty through relatively simple, bright-line rules." *Report and Order* at n.623. The Commission further stated that "the local radio ownership rule takes into account differences in power and class of radio stations where appropriate," but yet failed to explain how – if at all – the modified rule accounted for these technical differences. *Id.* The reason for such lack of explanation or rationale is simple – the local radio ownership rule, as modified, does not account for such differences.

The Commission could promote competition without adopting administratively burdensome rules simply by applying a "discount" to Class A FM stations comparable to that used to account for the technical limitations of UHF stations for purposes of the national television multiple ownership rule. *See* 47 C.F.R. § 73.3555(e)(2)(i). Analogizing Class A FM stations to UHF TV stations is appropriate -- and arguably even more so in radio than TV due to

[5] Although the Commission's discussion focuses on this phenomenon only in large markets, Galaxy respectfully submits that it is equally if not more prevalent in smaller and medium sized markets where there are typically fewer competitors and, as Syracuse exemplifies, where smaller operators generally own a significantly greater percentage of the technically inferior stations.

the lack of cable carriage -- because each is in direct competition with technically superior classes of stations with more powerful signals (i.e., Class B and Class C FM stations and VHF televisions stations). *See* 47 C.F.R. §§ 73.211, 73.614.

When the Commission adopted the UHF discount, it did so to remedy "the actual coverage limitation inherent in the UHF signal." *Amendment of Section 73.3555 of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations*, Memorandum Opinion and Order, 100 F.C.C. 2d 74, 93 (1985). Class A FM stations suffer from a comparable technical handicap. Indeed, the Commission has acknowledged that Class A FM stations and UHF TV stations face similar difficulties in surviving in a competitive market. *See, e.g., Kargo Broadcasting, Inc. (Assignor) and Bonneville International Corp. (Assignee) For Assignment of License of Station KRPN(FM), Roy, Utah*, Memorandum Opinion and Order, 5 FCC Rcd 3442, 3443 (1990) (contrasting the power and competitive position of a Class C station to the types of stations, including UHF-TV and Class A FM stations, that face competitive difficulties). Moreover, the disparity has the effect of creating a distorted field among broadcasters. There are a total of 469 commercial Class A FM stations in the United States. Only 152, or 32.5 percent of these stations are owned by public companies.[6] Thus, privately held broadcasters own twice as many of the Class A FM facilities. Thus, if it truly desires to guard against consolidation of the strongest stations in a market in the hands of too few owners and ensure a market structure that fosters opportunities for new entry into radio broadcasting, (*See Report and Order* at ¶ 291), the Commission should take into account, as it

[6] Public companies included in this total are: Beasley Broadcast Group, Inc., Big City Radio, Inc., Citadel Broadcasting Corporation, Clear Channel Communications Inc., Cox Radio, Inc., Cumulus Media Inc., Entercom Communications Corporation, Entravision Communications Corporation, Hispanic Broadcasting Corporation, Radio One, Inc., Regent Communications Inc., Saga Communications, Inc., Salem Communications Corporation, Spanish Broadcasting System Inc., Viacom Inc. (Infinity Broadcasting Corporation), and The Walt Disney Company (ABC Radio Inc.).

does in the case of UHF stations, coverage limitations when determining how to count Class A FM stations against the local radio ownership rule ownership limits.

As to how to determine the amount of the Class A FM "discount," Galaxy recommends using the class contour distances of FM stations set forth in Section 73.211 of the Commission's rules. Specifically, this method would compare the estimated coverage area of a Class A FM station to that of a more powerful FM station to determine, on a percentage basis, how much smaller the reach of the former is compared to the latter. Using this approach, the coverage area of a Class A FM station is calculated to be approximately nine percent of the coverage area of a Class C FM station – that is, it takes approximately 11 Class A station coverage areas to fill the coverage area of a single Class C station.[7] Less dramatic but still significant is the size difference between Class A and Class B coverage areas, with the former approximately 29 percent (or less than one-third) the size of the latter.[8]

This simple but reliable method of comparing radio station coverage areas offers compelling evidence of the need to implement, in the context of radio, some leveling mechanism akin to the UHF discount. Based on the more conservative one-to-three ratio of a Class A FM coverage area to a Class B FM coverage area, Galaxy recommends that the local radio ownership rule be amended to count as a single station up to three commonly owned Class A FM stations serving the same market. After dividing commonly owned Class A FM stations into groups of three, any remaining station or stations would be counted as a single station. For example, where

[7] Section 73.211(b) lists the distances of Class A and Class C contours as 28 kilometers and 92 kilometers, respectively. 47 C.F.R. § 73.211(b). Assuming a non-directional transmitting antenna, the coverage contour of a radio station is generally circular and therefore the coverage area would be calculated using the equation πr^2, where r equals the contour distance in kilometers. Thus, the coverage area of a Class A station is 2462.94 square kilometers, which is 9.26 percent the size of the 26,589.66 square kilometer coverage area of a Class C station.

[8] The coverage area of a Class B contour is 8494.62 square kilometers based upon its reference distance of 52 kilometers.

a broadcaster owns two or three Class A stations in a single market, only one station would be counted against its ownership limit in that market. If the broadcaster owns four, five or six Class A stations, the broadcaster would be deemed to own two stations in the market.[9] Galaxy submits that the adoption of this administratively simple method of accounting for the technical limitations of Class A FM stations will help to ensure the viability of small broadcasters and continue to provide realistic opportunities for new entrants to compete.

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[9] To ensure that small broadcast companies with Class A FM stations that simulcast do not receive undue benefit under Galaxy's proposed rule changes, where both the proposed simulcast rule and the Class A "discount" rule apply, only the simulcast rule would be applied.

Conclusion

For the foregoing reasons, Galaxy urges the Commission to further the pro-competitive goals driving the reformation of the broadcast ownership rules by adopting the pair of amendments to the local radio ownership rule proposed herein, which will enable small broadcast companies and new entrants to compete against larger, more dominant market participants.

Respectfully submitted,

GALAXY COMMUNICATIONS, L.P.

By: ______________________
Edward F. Levine
President and CEO, GC Radio, Inc.,
Its General Partner

September 4, 2003

ATTACHMENT 1

Radio Stations Owned by Clear Channel, Citadel and Galaxy in the Syracuse Arbitron Metro

Owner	Station	Class	Population Coverage
Clear Channel	WBBS(FM)	B	508,716
Clear Channel	WPHR(FM)	B	233,293
Clear Channel	WWDG(FM)	B	239,791
Clear Channel	WHEN(AM)	B	644,848
Clear Channel	WYYY(FM)	B	669,072
Clear Channel	WWHT(FM)	B	525,905
Clear Channel	WSYR(AM)	B	632,926
Citadel	WAQX(FM)	B1	449,356
Citadel	WNSS(AM)	B	396,979
Citadel	WNTQ(FM)	B	625,433
Citadel	WLTI(FM)	A	339,513
Galaxy	WZUN(FM)	A	318,466
Galaxy	WSCP-FM	A	14,037
Galaxy	WSCP(AM)	D	23,847
Galaxy	WKRH(FM)	A	60,547
Galaxy	WKRL(FM)	A	156,976
Galaxy	WSGO(AM)	D	23,847
Galaxy	WTLA(AM)	B	320,771
Galaxy	WTKW(FM)	A	117,479
Galaxy	WTKV(FM)	A	62,406

Note: Galaxy simulcasts the follow pairs of stations: WSCP-FM and WSCP(AM); WKRH and WKRL; WSGO and WTLA; and WTKW and WTKV.

ATTACHMENT 2

TECHNICAL EXHIBIT
GALAXY COMMUNICATIONS, L.P.

Technical Narrative

This technical statement was prepared on behalf of Galaxy Communications, L.P. (Galaxy). Based on a request from Galaxy, two maps were prepared depicting the principal community contours for the stations tabulated below (5 mV/m contour for AM stations, 3.16 mV/m contour for FM stations).

Call Sign / Facility ID	Location	Facilities
	Galaxy Communications, L.P. Stations	
WKRH(FM)/56996	Minetto, NY	Channel 293A 5 kW 100 m
WKRL-FM/54547	North Syracuse, NY	Channel 265A 6 kW 50 m
WSCP(AM)/1046	Sandy Creek-Pulaski, NY	1070 kHz 2.5 kW-D NDD
WSCP-FM/1047 Licensed	Pulaski, NY	Channel 269A 2.5 kW 111 m
WSCP-FM/1047 Authorized CP	Pulaski, NY	Channel 269A 5 kW 109 m
WSGO(AM)/24130	Oswego, NY	1440 kHz 1 kW-D ND1
WTKV(FM)/24131	Oswego, NY	Channel 288A 4 kW 121 m
WTKW(FM)/22234	Bridgeport, NY	Channel 258A 5.7 kW 103 m
WTLA(AM)/54546	North Syracuse, NY	1200 kHz 1 kW-D DAN
WZUN(FM)/60253	Phoenix, NY	Channel 271A 6 kW 81 m
	Citadel Stations	
WAQX-FM/52606	Manlius, NY	Channel 239B1 25 kW 91 m
WLTI(FM)/58719	Syracuse, NY	Channel 290A 4 kW 61 m
WNSS(AM)/50515	Syracuse, NY	1260 kHz 5 kW-D DAN
WNTQ(FM)/50514	Syracuse, NY	Channel 226B 97 kW 201 m
	Clear Channel Stations	
WBBS(FM)/48730	Fulton, NY	Channel 284B 50 kW 150 m
WHEN(AM)/7080	Syracuse, NY	620 kHz 5 kW-D NDD
WPHR(FM)/25018	Auburn, NY	Channel 295B 14 kW 287 m
WSYR(AM)/48720	Syracuse, NY	570 kHz 5 kW-D DA2
WWDG(FM)/22134 Licensed	Deruyter, NY	Channel 286B 42 kW 165 m

Call Sign / Facility ID	Location	Facilities
WWDG(FM)/22134 Application	Deruyter, NY	Channel 286B 26 kW 210 m
WWHT(FM)/57842	Syracuse, NY	Channel 300B 50 kW 152 m
WYYY(FM)/48725 Authorized CP	Syracuse, NY	Channel 233B 100 kW 198 m
WYYY(FM)/48725 Licensed	Syracuse, NY	Channel 233B 100 kW 198 m

As shown in the table above, the stations are grouped by owner. Figure 1 is a map depicting the principal community contours of the stations either owned by Galaxy or by Citadel. The Galaxy stations are shown in red and the Citadel stations are shown in green.

Figure 2 is a map depicting the principal community contours of the stations either owned by Galaxy or by Clear Channel. The Galaxy stations are once again shown in red and the Clear Channel stations are shown in blue.

The AM coverage contours were generated using the antenna patterns as identified in the FCC's CDBS and the appropriate Ground Wave Field Strength versus Distance Graph of 47 CFR 73.184. Ground conductivity data was obtained from FCC Figure M3. Distances to the FM contours were determined based on the method of 47 CFR 73.313. Terrain data was derived from the N.G.D.C. 30-second computer database for each of the FM stations using radials evenly-spaced every 10 degrees of azimuth.

Below is a tabulation of the 2000 U.S. Census population within each of the principal community contours.

Call Sign / Facility ID	2000 U.S. Census Population Within Principal Community Contour
Galaxy Communications, L.P. Stations	
WKRH(FM)/56996	60,547
WKRL-FM/54547	156,976
WSCP(AM)/1046	23,847
WSCP-FM/1047 Licensed	14,037
WSCP-FM/1047 Authorized CP	16,874
WSGO(AM)/24130	23,847

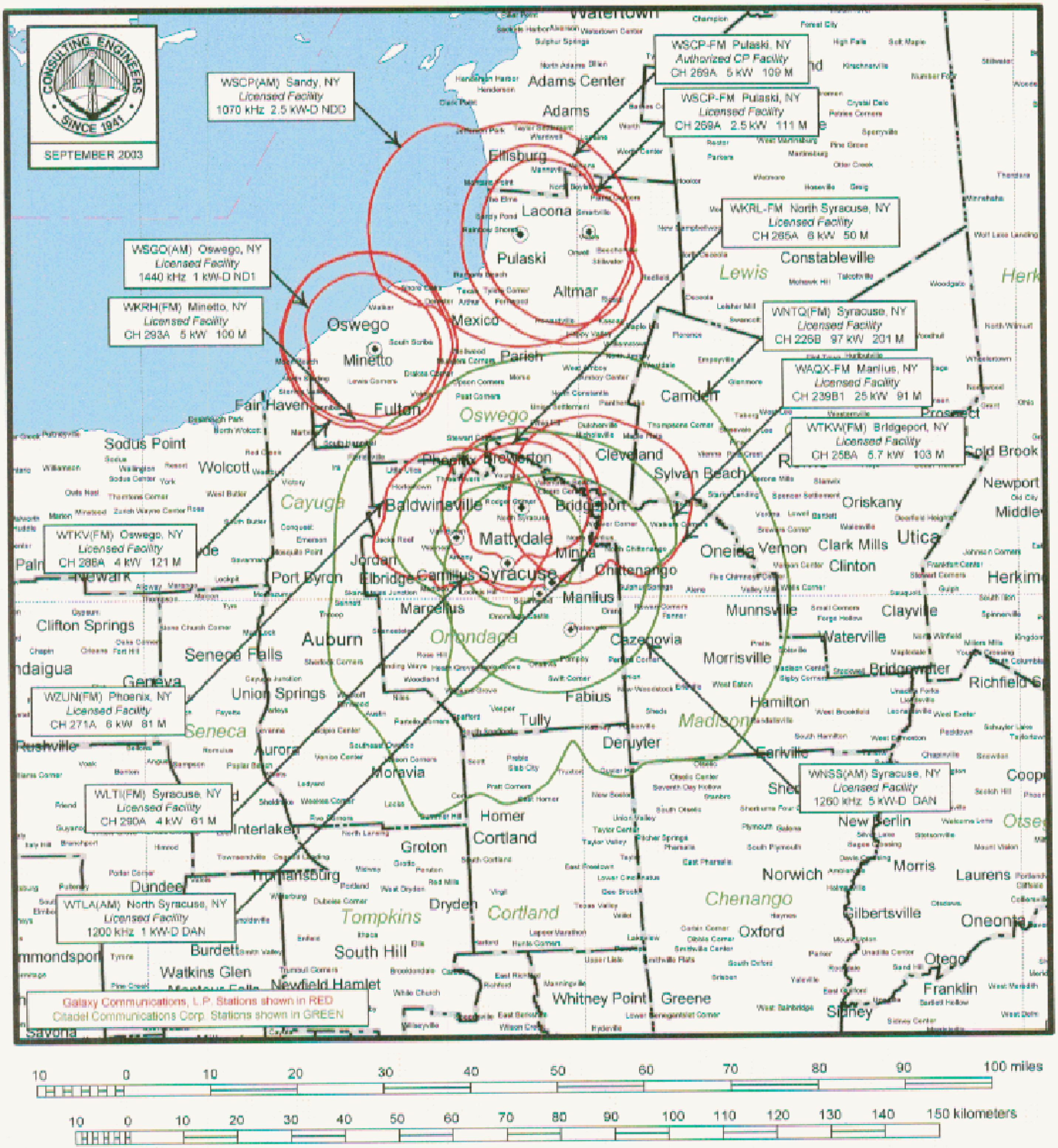
Call Sign / Facility ID	2000 U.S. Census Population Within Principal Community Contour
WTKV(FM)/24131	62,406
WTKW(FM)/22234	117,479
WTLA(AM)/54546	320,771
WZUN(FM)/60253	318,466
Citadel Stations	
WAQX-FM/52606	449,356
WLTI(FM)/58719	339,513
WNSS(AM)/50515	396,979
WNTQ(FM)/50514	625,433
Clear Channel Stations	
WBBS(FM)/48730	508,716
WHEN(AM)/7080	644,848
WPHR(FM)/25018	233,293
WSYR(AM)/48720	632,926
WWDG(FM)/22134 Licensed	239,791
WWDG(FM)/22134 Application	395,622
WWHT(FM)/57842	525,905
WYYY(FM)/48725 Authorized CP	666,930
WYYY(FM)/48725 Licensed	669,072

Jerome J. Manarchuck

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237

September 3, 2003

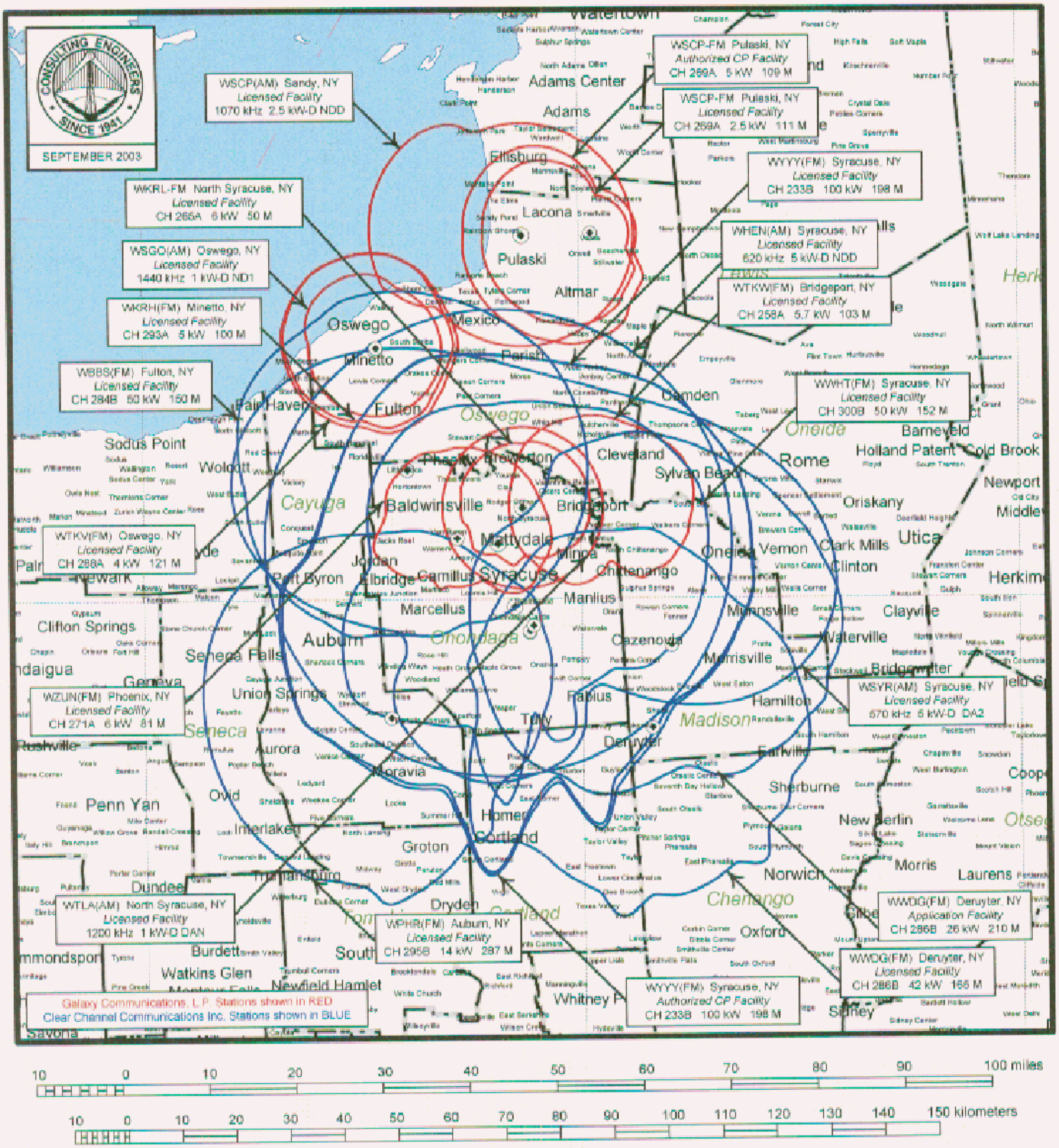
Figure 1



PRINCIPAL COMMUNITY CONTOURS OF SUBJECT STATIONS

du Treil, Lundin & Rackley, Inc., Sarasota, Florida

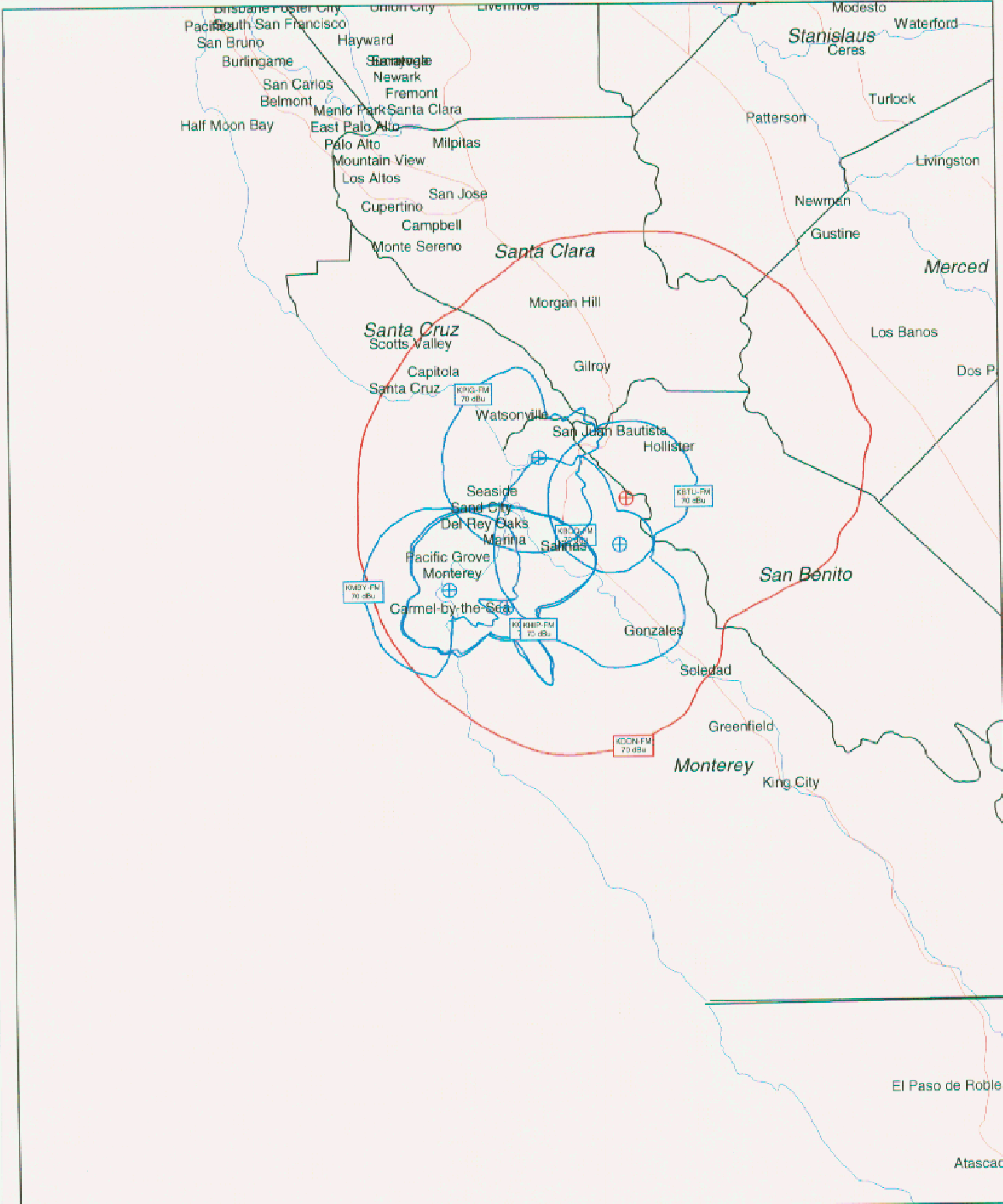
Figure 2



PRINCIPAL COMMUNITY CONTOURS OF SUBJECT STATIONS

du Treil, Lundin & Rackley, Inc., Sarasota, Florida

ATTACHMENT 3



City Contours

Map Center: Latitude: 36-33-09

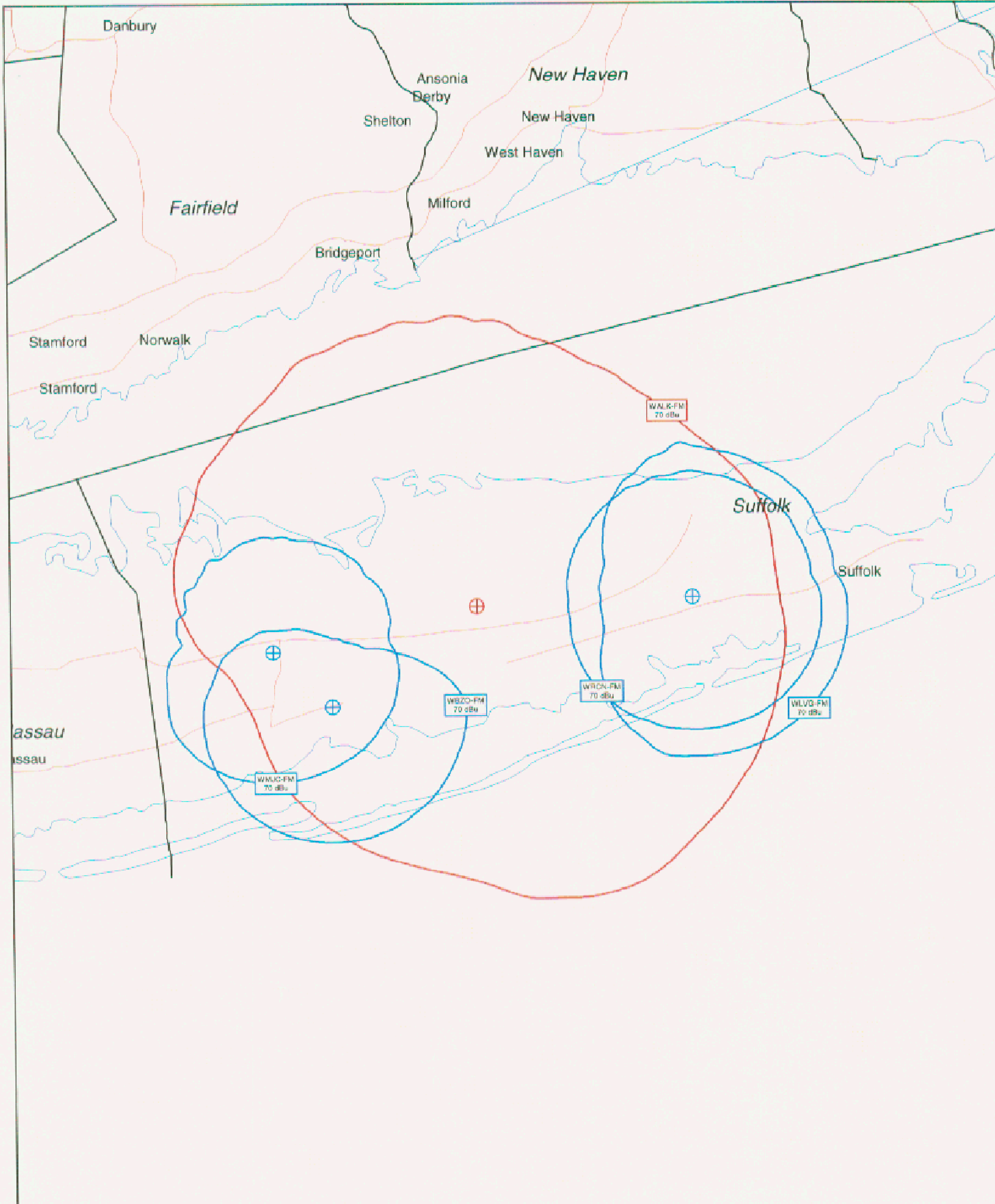
Longitude: 121-47-17

Map Scale: 1:1,000,000

Miles

10 0 10 20

BIA Map Viewer ©1995-2001 SiteSafe Inc.



City Contours	Map Center:	Latitude:	40-50-37	Miles
		Longitude:	72-59-44	5 0 5 10
	Map Scale:	1:500,000		

ATTACHMENT 4

DECLARATION

1. I am the President and CEO of GC Radio, Inc., general partner of Galaxy Communications, L.P.

2. To the best of my knowledge and understanding all of the facts set forth in the foregoing Petition for Reconsideration of the Federal Communication Commission's Report and Order with respect to its 2002 Biennial Regulatory Review of the broadcast ownership rules are true and correct.

3. In particular, I have been informed by senior executives of Arbitron that Arbitron intends to implement a total line reporting system for radio stations in a particular market that simulcast programming. Under the contemplated system, a licensee would be directed to designate a primary station and listening to that station as well as any stations it simulcasts would be reported only under the call sign of the primary station.

EXECUTED this 4th day of September 2003.

Edward F. Levine

ATTACHMENT 5

Proposed Amendments to Section 73.3555(a) of the Commission's Rules.

Section 73.3555 is amended by adding new paragraphs (a)(3) and (a)(4) and an explanatory note.

<u>§ 73.3555 Multiple ownership.</u>

* * *

(a)(3) For purposes of determining the number of AM and FM broadcast stations in which a person or single entity may have a cognizable interest:

(i) pairs of same service stations in the same radio market that simulcast 100 percent of programming and that are commonly owned and whose principal community contours (predicted or measured 5 mV/m groundwave for AM stations and predicted 3.16 mV/m for FM stations) do not overlap shall be counted as a single station; and

(ii) up to three Class A FM stations in the same market that are commonly owned shall be counted as a single station.

(4) In a market where an entity commonly owns Class A FM stations for which the provisions of both paragraphs (a)(3)(i) and (a)(3)(ii) apply, only the provisions of paragraph (a)(3)(i) shall apply to those stations.

Note to Paragraph (a)(3)(ii): After dividing the commonly owned Class A FM stations of a broadcaster into groups of three, any remaining station(s) should be counted as a single station. For example, a broadcaster with four or five commonly owned Class A FM stations in the same market would have two stations counted against its ownership limit in that market. A broadcaster with two commonly owned Class A FM stations would have one station counted against its ownership limit.