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Policy Division  
International Bureau

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May 24, 2004

Ms. Marlene Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12<sup>th</sup> Street Lobby - TW - A325  
Washington, D.C. 20554

Re: Petition for Rule Making  
Milano, Texas

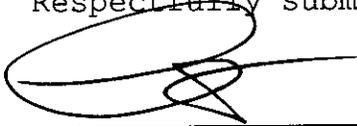
2003 JUL -1 P 5: 10

2003 JUL -1 P 5: 10

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of a Petition  
for Rule Making to add Channel 274A at Milano, Texas.

Respectfully submitted,



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077 Tele  
(214) 443-9308 Fax

MilanoCover

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JUN 1 2004

Policy Division  
International Bureau

Before the

Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )  
)  
Amendment of 73.202 (b) ) MB Docket No. \_\_\_\_\_  
Table of Allotments )  
FM Broadcast Stations )  
(Milano, Texas) )

To: John Karousos, Assistant Chief  
Audio Division of the  
Media Bureau

PETITION FOR RULE MAKING

Pursuant to 47 C.F.R. 1.401, Charles Crawford respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 274A at Milano, Texas.

DISCUSSION

Petitioner respectfully submits that the public interest would be served by allocating Channel 274A to Milano, Texas as that community's first local FM service. Milano, Texas is an incorporated community with a population of 400 people and 20 businesses that have been given a credit rating by Dun & Bradstreet as of the last quarter of 2000.<sup>1</sup> Milano has its own mayor, its own

<sup>1</sup> Texas Almanac 2002/ 2003.

independent school district, its own post office, volunteer fire department, city offices and a number of local churches. Milano is a community that is certainly deserving of local FM service. "Local radio stations play an important role in their communities, providing local news, information and entertainment to residents, and generally serving as good corporate citizens in the local community life. This is particularly true in smaller towns, where the radio stations are limited in number. Yet there are still rural areas of our country that do not have even one local radio station."<sup>2</sup> The proposed channel 274A will provide additional diversity and an outlet for local self-expression to Milano residents and therefore is in the public interest.

Attached hereto is a channel study confirming that Channel 274A can be allocated to Milano, Texas, consistent with the FCC's FM separation rules. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment A) Note: the Rule Making to add Channel 274A/ Milano was dismissed by Report and Order, DA 04-1282, released May 21, 2004. (See, Attachment B) Also note, the Rule Making proposing to add Channel 274A/ Normangee was dismissed by Report & Order, DA 03-3918, released December

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<sup>2</sup> Statement of Commissioner Kevin J. Martin, MM & O, MM Docket 99-240, released May 20, 2004.

16, 2003. (See, Attachment C)

Reference coordinates for Channel 274A at Milano, Texas  
are:

30 38 30 N  
96 55 00 W

Should this petition be granted and Channel 274A be allotted to Milano, Texas, Petitioner will apply for Channel 274A at Milano, Texas and after it is authorized, will promptly construct the new facility.

The factual information provided in this Petition for Rule Making is correct and true to the best of my knowledge.

Respectfully submitted,



Charles Crawford  
4553 Bordeaux Ave.  
Dallas, Texas 75205  
(214) 520-7077           Tele  
(214) 443-9308           Fax

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17<sup>th</sup> Street, N.W., Washington, D.C. 20036, telephone (202) 496-1289, telecopier (301) 762-0156, attorney for Charles Crawford. It is requested that the Commission and any parties who may file pleadings in the captioned matter serve copies to Mr. Bechtel as well as Charles Crawford.

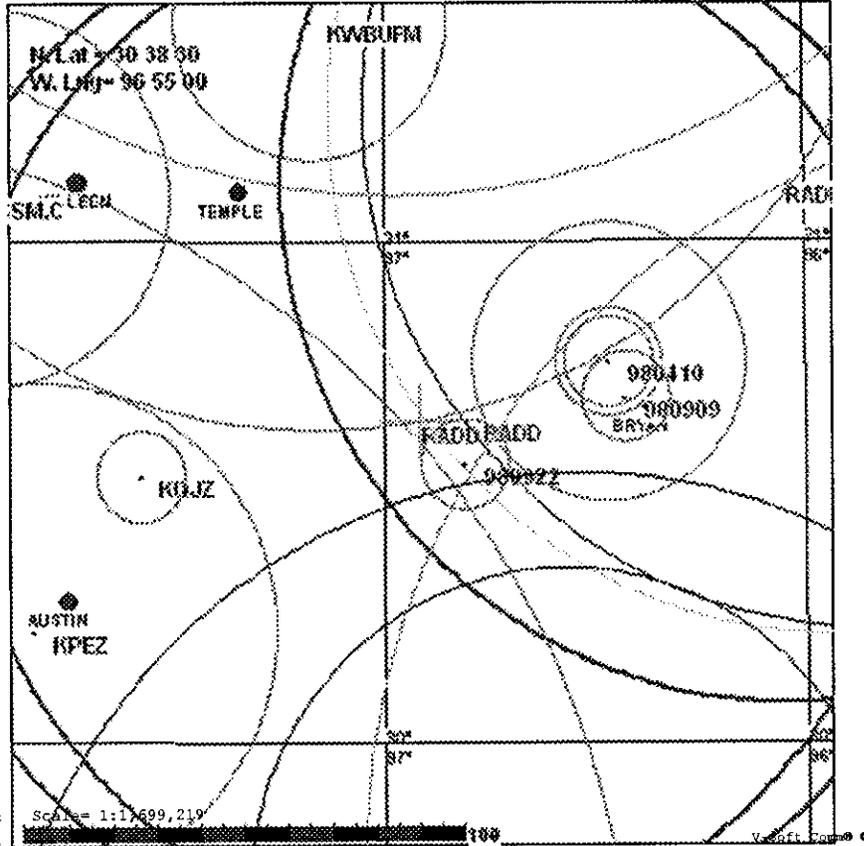
May 24, 2004

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**ATTACHMENT A**

(Channel Study for Channel 274A/ Milano, Texas)

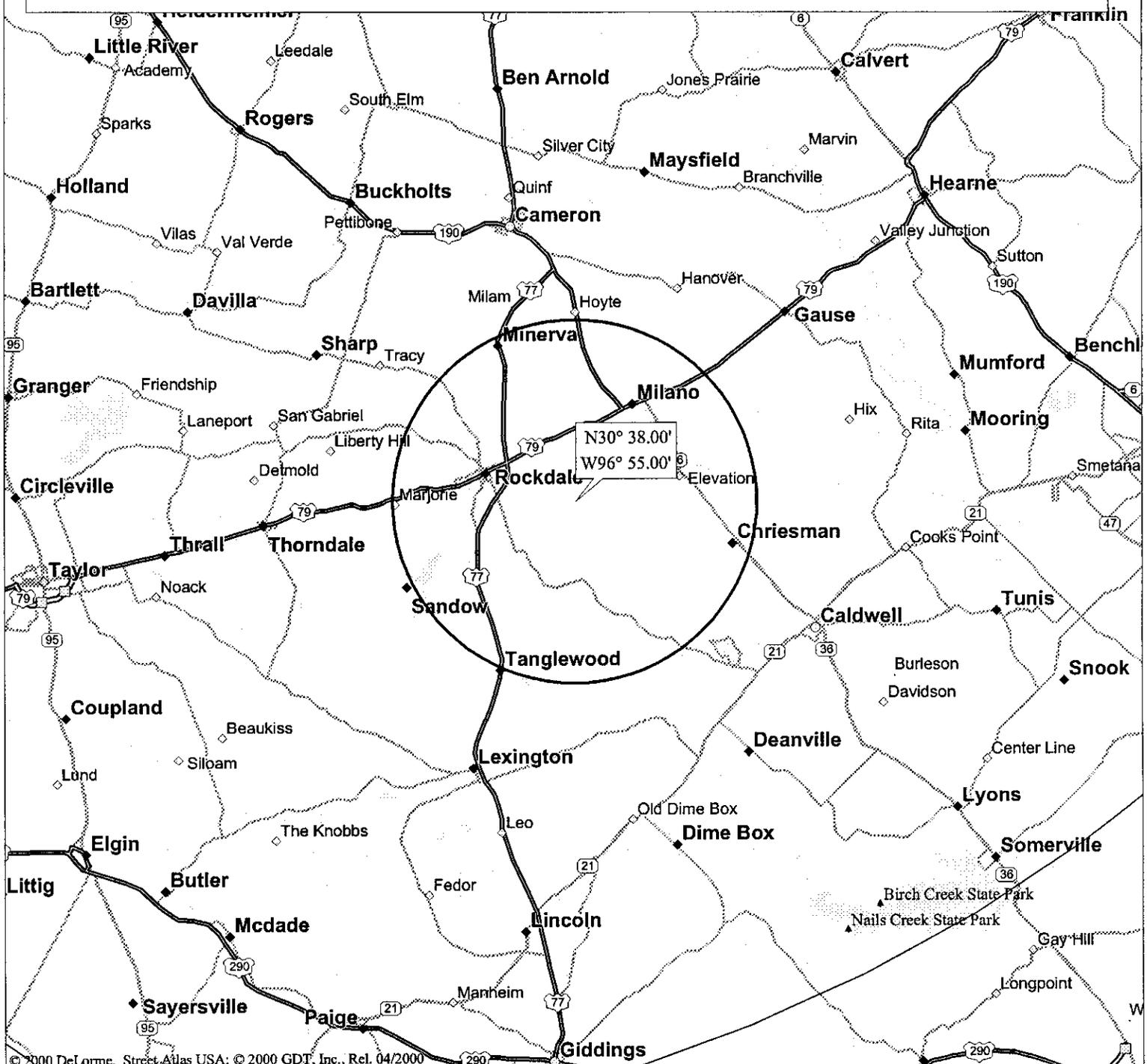
FM PROSP<sup>(TM)</sup> LOCATE STUDY CH 274 A 102.7 MHz



Dates:  
 Data:05-18-04  
 Job :05-21-04

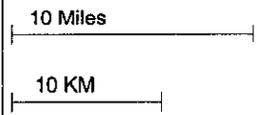
Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	274A	ADD	Milano	TX	3.52	259.9	115.0	-111.48
RADD	274A	ADD	Caldwell	TX	10.60	89.1	115.0	-104.40
RADD	274A	ADD	Normangee	TX	98.78	57.8	115.0	-16.22
KBRQ	273C1	LIC-Z	Hillsboro	TX	133.01	350.1	133.0	0.01
RADD	274A	ADD	Centerville	TX	116.27	54.4	115.0	1.27
RDEL	274A	DEL	Centerville	TX	116.27	54.4	115.0	1.27
KSRX	274C1	LIC	San Antonio	TX	203.06	228.4	200.0	3.06
980922	220A	APP	Caldwell	TX	14.05	132.2	10.0	4.05
RADD	274A	ADD	Centerville	TX	123.33	55.9	115.0	8.33
KVJM	276A	LIC-Z	Hearne	TX	45.05	72.9	31.0	14.05
KLTN	275C*	LIC	Houston	TX	180.86	122.6	165.0	15.86
RADD	273C1	ADD	Columbus	TX	148.99	166.0	133.0	15.99
980515	220C3	APP	College Station	TX	45.05	72.9	12.0	33.05
980410	220A	APP	Bryan	TX	45.05	72.9	10.0	35.05
980909	220A	APP	Bryan	TX	47.27	83.6	10.0	37.27
RADD	273A	ADD	Columbus	TX	109.41	162.4	72.0	37.41
KPEZ	272C2	LIC	Austin	TX	99.03	242.2	55.0	44.03
KDMX	275C*	LIC	Dallas	TX	215.17	358.5	165.0	50.17
KQJZ	221A	LIC	Hutto	TX	64.50	259.2	10.0	54.50
KWBUFFM	277A	LIC	N Waco	TX	92.05	344.4	31.0	61.05
KSSM.C	276C3	CP	N Copperas Cove	TX	110.53	296.8	42.0	68.53
KSSM	276C3	LIC-Z	Copperas Cove	TX	110.53	296.8	42.0	68.53

# Milano, TX CH 274A 70 dBu



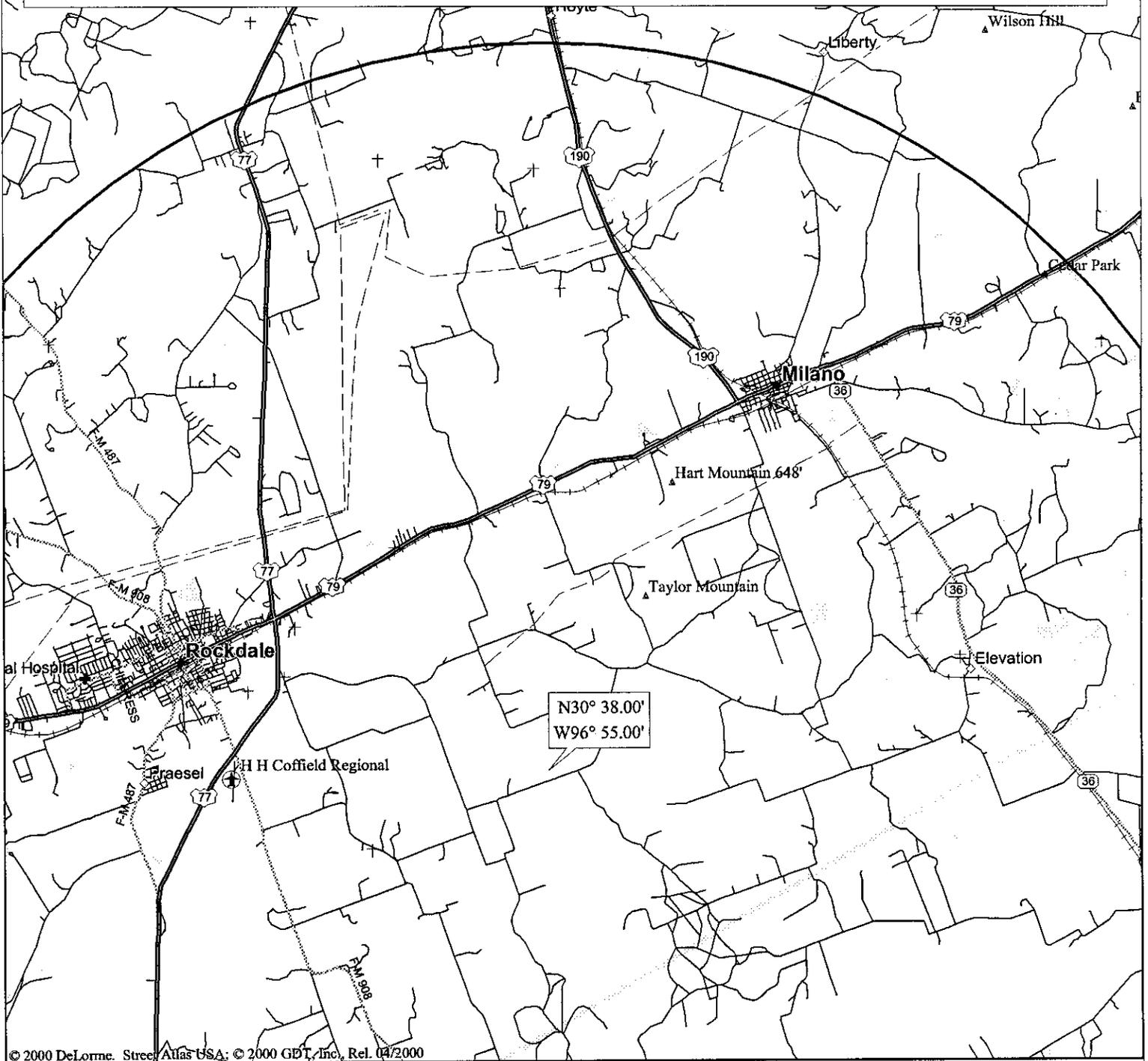
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Mag 10.00  
 Fri May 21 15:25 2004  
 Scale 1:500,000 (at center)



- |  |                           |  |                  |
|--|---------------------------|--|------------------|
|  | Local Road                |  | Large City       |
|  | US Highway                |  | Park/Reservation |
|  | Interstate/Limited Access |  | Locale           |
|  | Major Connector           |  | City             |
|  | State Route               |  | Land             |
|  | Exit                      |  | Water            |
|  | County Seat               |  |                  |
|  | Small Town                |  |                  |

# Milano, TX CH 274A 70 dBu



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Mag 12.00

Fri May 21 15:26 2004

Scale 1:125,000 (at center)

2 Miles

2 KM

- |  |                 |  |                  |
|--|-----------------|--|------------------|
|  | Local Road      |  | Summit           |
|  | US Highway      |  | Hospital         |
|  | Major Connector |  | Park/Reservation |
|  | State Route     |  | Locale           |
|  | Utility/Pipe    |  | Public Airport   |
|  | Railroad        |  | Cemetery         |
|  | Small Town      |  | County Boundary  |
|  | Airfield        |  | Water            |

**ATTACHMENT B**

(Report & Order, DA 04-1282, dismissing petition to add  
Channel 274A/ Milano)

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 02-177
Table of Allotments,	)	RM-10489
FM Broadcast Stations.	)	
(Milano, Texas)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: May 19, 2004**

**Released: May 21, 2004**

By the Assistant Chief, Audio Division:

1. At the request of David P. Garland (“Petitioner”), the Audio Division has before it a *Notice of Proposed Rule Making*<sup>1</sup> proposing the allotment Channel 274A at Milano, Texas, as the community’s first local aural transmission service. Petitioner filed comments in support of the proposal reaffirming his intention to apply for the channel, if allotted. Comments and a counterproposal were filed by Roy E. Henderson (“Henderson”), licensee of Station KLTR(FM), proposing the upgrade of Channel 297A to 297C3, and the reallocation of Channel 297C3 from Caldwell to Bedia, Texas. To accommodate the upgrade and reallocation, Henderson also proposed (a) the allotment of Channel 274A at Caldwell, Texas, as a replacement service; and (b) the modification of the reference coordinates for vacant Channel 274A at Centerville, Texas.<sup>2</sup> Maurice Salsa filed opposing comments to the counterproposal. Petitioner and Henderson filed a “Joint Motion for Dismissal of the Garland Petition RM-10489, Adoption of Henderson Counterproposal and Approval of Settlement Agreement.”

2. In support of his counterproposal, Henderson stated that Bedia is a Census Designated Place with its own post office, zip code (77831), and has a 2000 population of 500 persons (2001 Rand McNally Road Atlas). The town is located in the northeast part of Grimes County, Texas. Bedia is a separately listed community in the local telephone directory and presently lists 15 local businesses and a total of 30 businesses showing a web site in Bedia, with its local affairs and interests governed by a committee of the Bedia Civic Association. There is also a State Bank of Bedia, civic center, a volunteer fire department, along with six churches. Henderson asserts that Bedia is a long-established town and qualifies as a community deserving of a new local radio service. Henderson affirms his intention to apply for Channel 297C3, if reallocated to Bedia, Texas.

<sup>1</sup> *Milano, Texas*, 17 FCC Rcd 12824 (2002).

<sup>2</sup> The counterproposal was technically defective and not placed on Public Notice.

3. The parties submitted for approval a Settlement Agreement whereby petitioner agreed to dismiss his Milano proposal in payment of out-of-pocket expenses expended in the preparation, application, and prosecution of its petition for rule making. The parties also submitted an itemization of said expenses.<sup>3</sup>

4. As an initial matter, we address the reallocation of Channel 297C3 from Caldwell to Bedias which requires, *inter alia*, the allotment of Channel 274A at Caldwell as a replacement service. Henderson stated that using the FCC F(50,50) curve, the 70 dBu contour at maximum facility will serve more than 90% of Caldwell, Texas. He also noted that the terrain roughness (Delta H) of the path from the community to the transmitter site is 15, and that the Longley-Rice analysis shows that the 70 dBu predicted contour travels more than 10% further than the FCC F(50,50) curves on a azimuth toward Caldwell. Engineering studies premised on Alternate Propagation Method(s) such as Longley-Rice are sometimes submitted as a showing to supplement the required analysis based on the Commission's propagation model, "in cases where the terrain. . .departs widely" from the average terrain and the "contour distances are different from what may be expected in practice." See Section 73.313(e). Here, Henderson fails to demonstrate that the terrain around the proposed site for Channel 274A at Caldwell departs widely (in excess of 50 meters Delta H) from the average terrain, other than stating that the Delta H of the path to the transmitter is 15. The F(50,50) curves in Section 73.333 of the Commission's Rules are based on terrain variations up to 50 meters Delta H. Henderson made no showing that it was appropriate to utilize a different propagation methodology. He did not show that the predicted distances to the 70 dBu contour were in question using the F(50,50) curves due to terrain around the proposed site departing widely from the average rolling terrain assumed for those curves.

5. Moreover, the Commission normally does not evaluate specific terrain data in allotment proceedings. Instead, the Commission generally assumes that a station's city grade coverage contour is a circle with a defined radius from a hypothetical transmitter site. Thus, compliance with our city grade coverage requirement is determined by a simple distance calculation. If the far boundary of a community is farther than the length of the circle's radius from the closest hypothetical transmitter site, we will not make the allotment. At the allotment stage, we generally cannot determine what specific transmitter sites will ultimately be applied for, nor whether the petitioner will be the successful applicant. Although the Commission in *Woodstock and Broadway* accepted an alternative methodology for determining signal propagation for upgrades, and more recently for change of community cases, the decision was predicated on the fact that there was an "existing authorization."<sup>4</sup> For this reason, we do not apply this policy to new allotments. When making these exceptions, petitioners have taken the affirmative steps of securing assurances from the proposed site's owner, and have obtained FAA approval for a tower at the proposed site. Petitioners have also submitted substantial evidence that, using our standard prediction method, but relaxing the normal assumption of uniform terrain, its proposed facilities will comply with our principal city coverage requirements. Even if this policy did apply to new allotments, Henderson has failed to show that no alternative transmitter sites are possible, and has not requested a waiver of the city grade coverage requirements. Further, our engineering analysis has determined that there are no terrain variations that would preclude using FCC's standard methodology. Therefore, the allotment of Channel 274A at the site specified is not consistent with Section 73.315 of the Commission's Rules. Since counterproposals must be "technically correct and substantially complete" at the time they are filed, we are dismissing the counterproposal for being

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<sup>3</sup> In compliance with Section 1.420(j) of the Commission's Rules, Henderson submitted a declaration stating that Petitioner was not paid any consideration of any kind in excess of legitimate and prudent expenses incurred.

<sup>4</sup> See *Woodstock and Broadway, Virginia*, 3 FCC Rcd 6398 (1988).

technically defective.<sup>5</sup>

6. IT IS ORDERED, That the petition for rule making filed by David P. Garland, IS DISMISSED, as requested.

7. IT IS FURTHER ORDERED, That the counterproposal filed by Roy E. Henderson, IS DISMISSED.

8. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Roy E. Henderson  
1110 West William Cannon Drive, Suite 402  
Austin, Texas 78745-5460  
(Licensee of Station KLTR(FM))

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Sharon P. McDonald, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau

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<sup>5</sup>See, e.g., *Fort Bragg, California*, 6 FCC Rcd 5817 (1991); *Provincetown, et al., Massachusetts*, 8 FCC Rcd 19 (1992); and *Sanford and Robbins, North Carolina*, 12 FCC Rcd 1 (1997).

**ATTACHMENT C**

(Report & Order, DA 03-3918, dismissing petition to add  
Channel 274A/ Normangee, Texas)

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 02-128
Table of Allotments,	)	RM-10450
FM Broadcast Stations.	)	
(Centerville, Texas)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: December 12, 2003**

**Released: December 16, 2003**

By the Assistant Chief, Audio Division:

1. In response to a petition filed by David P. Garland ("Petitioner"), the Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*<sup>1</sup> proposing the allotment of Channel 274A at Centerville, Texas, as the community's third local FM transmission service. Petitioner filed comments supporting the allotment of Channel 274A at Centerville, Texas.

2. Sonoma Media Corporation ("Sonoma") filed comments and a counterproposal proposing the allotment of Channel 274A at Normangee, Texas, rather than at Centerville, Texas.<sup>2</sup> Sonoma subsequently submitted a motion requesting the dismissal of its comments and counterproposal and representing that neither Sonoma nor any of its principals had received or been promised any consideration of any kind in return for the requested dismissal.<sup>3</sup> We will grant Sonoma's motion.

2. Centerville, Texas, with a population of 947 persons, is the county seat of Leon County, Texas. Centerville is an incorporated place with its own ZIP code (75833). Centerville is a community for allotment purposes, and allotment of Channel 274A at Centerville, Texas, would serve the public interest. Channel 274A can be allotted to Centerville in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 5.4 kilometers (3.3 miles) east of Centerville at 31-14-49 NL and 95-55-23 WL.

3. A filing window for Channel 274A at Centerville, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a

<sup>1</sup> *Owen, Wisconsin, Hartington, Nebraska, Lone Pine, California, Terrebonne, Oregon, Amboy, California, Sutton, Nebraska, Wynnewood, Oklahoma, Roundup, Montana, and Centerville, Texas*, 17 FCC Rcd 9557 (M. Bur. 2002)

<sup>2</sup> The proposed reference coordinates for Channel 274A at Normangee were 31-06-41 NL and 96-02-20 WL.

<sup>3</sup> See "Motion of Sonoma Media Corporation to Dismiss Its Comments and Counterproposal," filed August 23, 2002. Roy E. Henderson, president and owner of Sonoma Media Corporation, submitted a sworn declaration regarding the lack of any consideration in payment for Sonoma's requested dismissal.

subsequent order.

4. Accordingly, IT IS ORDERED, that the motion of Sonoma Media Corporation, requesting dismissal of its comments and counterproposal in this proceeding, IS GRANTED; and

5. IT IS FURTHER ORDERED, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, That effective January 29, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Centerville, Texas	274A, 278A, 290C3

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202)418-7072 Questions related to the application filing process for Channel 274A at Centerville, Texas, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau