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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

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MAR 13 2006

In the Matter of )  
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Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )  
(Crowell, Texas) )  
 )  
 )

Federal Communications Commission  
Office of Secretary

MB Docket No. 06-11  
RM-11304

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To: Marlene H. Dortch, Secretary  
Federal Communications Commission

COUNTERPROPOSAL

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LKCM RADIO LICENSES, L.P.

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March 13, 2006

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## TABLE OF CONTENTS

	Page
SUMMARY .....	I
I. PRELIMINARY MATTERS.....	2
II. CONFLICT WITH THE NPRM .....	3
III. DISCUSSION .....	4
A. Station KFWR, Mineral Wells, Texas .....	4
B. Station KKAJ, Springer, Oklahoma.....	5
C. Rule, Texas Allocation.....	7
D. Knox City, Texas Allocation .....	8
E. Crowell, Texas Allocation .....	9
F. Wellington, Texas Allocation .....	9
G. KYBE, Frederick, Oklahoma.....	10
H. KJKB, Jacksboro, Texas .....	11
I. Archer City, Texas Allocation .....	12
J. NEW ALLOTMENTS.....	13
1. Megargel, Texas.....	13
2. Rochester, Texas .....	14
IV. CONCLUSION.....	15

## SUMMARY

This Counterproposal is filed on behalf of LKCM Radio Group, L.P. ("LKCM"), the licensee of KFWR, Mineral Wells, Texas, Fort Worth Media Group GP, LLC ("FWMG"), the licensee of KYBE, Frederick, Oklahoma, and LKCM Radio Licenses, L.P. ("LKCM-LICO"), the proposed assignee of KFWR and KYBE. As a result of this Counterproposal, KFWR and KYBE will each change channel and upgrade to a higher class of station. The upgrades require channel changes for two licensed stations and five vacant allotments. One of the affected stations also must downgrade and change city of license. An agreement has been reached with the licensee of that station involving compensation for the downgrade and reimbursement for costs associated with the channel and city of license changes. With respect to the other station, an Order to Show Cause may be issued in compliance with Commission rules and policies.

This Counterproposal proposes, *inter alia*, a change in the channel of the vacant allotment at Crowell, Texas, from channel 293C3 to channel 248C3. As such, it conflicts with the Commission's Notice of Proposed Rule Making in MB Docket No. 06-11 proposing to add Channel 250A at Crowell, Texas, as that community's second local service. As will be shown, on the basis of the Commission's allotment priorities, this Counterproposal is preferred over the proposal to add a channel at Crowell.

Pursuant to this Counterproposal, station KFWR will upgrade from channel 240C1 to channel 240C, and KYBE will upgrade from channel 240A to channel 239C3, resulting in a combined net gain in service to over 723,000 people. In order to achieve these gains, the following changes are required: (1) station KKAJ, Ardmore, Texas, will downgrade from channel 239C1 to channel 238A, and change its city of license to

in an area of 10,356.3 square kilometers, and (3) the elimination of an existing short spacing.

The new arrangement of allotments and assignments is preferable to the NPRM's proposal for a second local service at Crowell, particularly when all of the benefits of the proposal are taken together. Moreover, although this Counterproposal involves changes to several stations, it can be implemented smoothly due to extensive preparatory work that has been done by the proponents. Accordingly, for the reasons set forth herein, the proponents urge the Commission to accept this Counterproposal for public comment and to adopt it in lieu of the proposal set forth in the NPRM.

Springer, Oklahoma, as that city's first local service; (2) the vacant allotment at Rule, Texas, will be modified from channel 239C2 to channel 288C2 with new allotment coordinates; and (3) station KJKB, Jacksboro, Texas, will be modified from channel 238A to channel 248A.

The channel change at Rule requires modification of the vacant allotment at Knox City, Texas, from channel 291A to channel 293A, which requires modification of the vacant allotment at Crowell, Texas, from channel 293C3 to channel 248C3, with new allotment coordinates, which, in turn, requires modification of the vacant allotment at Wellington, Texas, from channel 249A to Channel 237A, with new allotment coordinates.

The channel change at KJKB in Jackboro requires modification of the vacant allotment at Archer City, Texas, from channel 248C2 to channel 299C2, with new allotment coordinates.

In addition to the significant service gains achieved by the upgrades of KFWR and KYBE, the changes proposed herein also allow for the introduction of first local service at Rochester, Texas, on channel 239A, and at Megargel, Texas, on channel 249A, and new allotments to those communities are proposed herein (collectively, the "New Allotments"). All changes comply with the Commission's spacing rules and its policies with regard to changes in community of license.

This Counterproposal offers (1) first local service to three new communities (Springer, Oklahoma; Rochester, Texas; and Megargel, Texas) with a combined population of 1,203 persons, (2) total net service gains of approximately 645,000 persons

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FM Broadcast Stations	)	RM-11304
(Crowell, Texas)	)	

To: Marlene H. Dortch, Secretary  
Federal Communications Commission

**COUNTERPROPOSAL**

LKCM Radio Group, L.P. (“LKCM”), licensee of station KFWR, Mineral Wells, Texas, Fort Worth Media Group GP, LLC (“FWMG”), licensee of station KYBE, Frederick, Oklahoma, and LKCM Radio Licenses, LP (“LKCM-LICO”),<sup>1</sup> the proposed assignee of KFWR and KYBE (the “Proponents”) hereby submit this Counterproposal to the Notice of Proposed Rule Making (“NPRM”), DA 06-109, released January 20, 2006, in the above captioned proceeding.<sup>2</sup> The Proponents propose to (i) upgrade KFWR from channel 240C1 to channel 240C, (ii) upgrade KYBE from channel 240A to channel 239C3, (iii) allot Channel 239A to Rochester, Texas, and (iv) allot Channel 249A to Megargel, Texas. As discussed below, certain other changes to the FM Table of Allotments are necessary in order to make these modifications. The following table lists the proposed changes in the FM Table of Allotments (in alphabetical order):

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<sup>1</sup> FWMG and LKCM-LICO are wholly-owned subsidiaries of LKCM.

<sup>2</sup> The comment deadline set by the NPRM is March 13, 2006. Therefore, this Counterproposal is timely filed.

<b>Community</b>	<b>Present</b>	<b>Proposed</b>
Archer City, TX	248C2	299C2
Ardmore, OK	212C3, 216A, 239C1*, 253C3	212C2, 216A, 253C3
Crowell, TX	293C3	248C3
Frederick, OK	218C1, 240A	218C1, 239C3
Jacksboro, TX	238A	248A
Knox City, TX	291A, 297A	293A, 297A
Megargel, TX	----	249A
Mineral Wells, TX	240C1	240C
Rochester, TX	----	239A
Rule, TX	239C2	288C2
Springer, OK	----	238A*
Wellington, TX	248A, 253C3	237A, 253C3

\* The allotment of Channel 239C1 will be modified to Channel 238A at Springer, OK.

In support hereof, the Proponents state as follows:

**I. PRELIMINARY MATTERS**

1. Stations KFWR and KYBE are currently licensed to LKCM and its wholly-owned subsidiary, FWMG, respectively, and are in the process of being assigned to another wholly-owned subsidiary, LKCM-LICO. Together the three entities are the joint proponents of this Counterproposal to upgrade both KFWR and KYBE.

2. Station KKAJ, Ardmore, Oklahoma, is currently licensed to NM Licensing, LLC (“NML”). KKAJ will be required to change channel, downgrade and change community of license. NML has provided a statement consenting to the changes proposed in this

Counterproposal. See Attachment A. The Proponents hereby state that they will reimburse NML for its reasonable costs in changing the channel, class and community of license of station KKAJ, as required by FCC policy.<sup>3</sup>

3. Station KJKB, Jacksboro, Texas will be required to change channels from channel 238A to channel 248A. Proponents request that the Commission issue an order to show cause why the license of KJKB should not be modified to specify operation on channel 248A and state that they will reimburse the licensee of KJKB for its reasonable costs in changing the station's channel, as required.<sup>4</sup> As the channel change for KJKB is the only involuntary channel change of an operating station requested herein, this Counterproposal is consistent with the Commission's policy limiting the number of stations that may be required to make involuntary changes in the course of allotment proceedings.<sup>5</sup>

4. All other changes required by this Counterproposal involve changes to vacant allotments. However, should the Commission grant a construction permit for any of these allotments, the Proponents state that they will reimburse the permittees or licensees of such facilities for their reasonable costs in changing channels.

## II. CONFLICT WITH THE NPRM

5. The NPRM proposes the allotment of Channel 250A to Crowell, Texas, as its second local service.<sup>6</sup> This Counterproposal is in conflict with the Crowell proposal due to the proposed substitution of Channel 248C3 for Channel 293C3 at Crowell.<sup>7</sup>

6. Under the Commission's long-established allotment criteria, the changes proposed in this Counterproposal make it preferable to the Crowell proposal.<sup>8</sup> First, the

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<sup>3</sup> *Circleville, Ohio*, 8 FCC 2d 159 (1967).

<sup>4</sup> *Id.*

<sup>5</sup> *Columbus, Nebraska*, 59 RR 2d 1185 (1986).

<sup>6</sup> Crowell currently has an allotment of Channel 293C3.

Counterproposal will provide first local services to three communities: Springer, Oklahoma (2000 U.S. Census pop. 577); Rochester, Texas (2000 U.S. Census pop. 378); and Megargel, Texas (2000 U.S. Census pop. 248). In addition, it will provide a net gain in service to an area and population of 10,356.3 sq. km. and 645,053 persons, respectively.<sup>9</sup>

7. The Crowell petition, on the other hand, will merely provide a second local service to a single community of 1,141 persons (2000 U.S. Census). Based on the allotment priorities, the fact that three communities would receive a first local service clearly favors the Counterproposal.<sup>10</sup>

### **III. DISCUSSION**

#### **A. Station KFWR, Mineral Wells, Texas**

8. As indicated in the attached channel study,<sup>11</sup> channel 240C can be allotted to Mineral Wells, Texas at reference coordinates 33 2 25 N, 98 8 19 W, in compliance with the Commission's spacing rules, provided that changes are made to the allotments at Ardmore, Oklahoma; Rule, Texas; Frederick, Oklahoma; and Jacksboro, Texas.<sup>12</sup> Each of these changes is discussed in detail below.

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<sup>7</sup> See Exhibit E, Study 5.

<sup>8</sup> See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). 90 FCC 2d 88, 91 (1988). The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)].

<sup>9</sup> See Exhibit E, Narrative, Table 3. Upon construction of new facilities for station KYBE (see fn. 43, *infra*) the total net gains in area and population will increase to 14,582 sq. km and 720,025 persons. *Id.*

<sup>10</sup> See e.g., *Rose Hill, Trenton, Aurora and Ocracoke, North Carolina*, 11 FCC Rcd 21223 (1996); *Athens and Atlanta, Illinois*, 11 FCC Rcd 3445 (1996); and *Blanchard, Louisiana and Stephens, Arkansas*, 8 FCC Rcd 7083 (1993).

<sup>11</sup> See Exhibit E, Figure Study 1.

<sup>12</sup> A proposal to add Channel 239C1 at Healdton, Oklahoma, which would conflict with the proposed use of channel 240C at Mineral Wells, was dismissed by Report and Order in MM Docket No. 00-148, DA 03-1533 (May 8, 2003). The dismissal of this proposal with respect to channel 239C1 at Healdton is final, although other elements of the proposal remain on appeal. In any case, the Commission may accept and grant this Counterproposal based on the Report and Order in MM Docket No. 00-148. See Auburn, Alabama, et al., 18 FCC Rcd 10333 (2003).

9. From the proposed site, KFWR will provide a 70 dBu signal to Mineral Wells.<sup>13</sup> As an added benefit, allotment of channel 240C to Mineral Wells, at the proposed allotment coordinates, eliminates a short spacing between KFWR and KBGO, channel 239, at Waco, Texas.<sup>14</sup>

10. In addition, from the new site, KFWR will provide a 60 dBu signal to a population of 1,121,269 persons in an area of 26,475 sq. km,<sup>15</sup> with a loss area of 2,549 sq. km covering a population of 33,583 persons, representing a net gain of 682,344 persons and 10,053 sq. km.<sup>16</sup> The loss area will continue to be well served by five fulltime aural services.<sup>17</sup>

11. LKCM (and LKCM-LICO, the proposed assignee of KFWR) hereby state that should the Commission grant the upgrade from channel 240C1 to channel 240C, they will submit an application to operate KFWR on channel 240C and, when that application is granted, will promptly construct the facility on the higher-class channel.

**B. Station KKAJ, Springer, Oklahoma**

12. As indicated in the attached channel study,<sup>18</sup> channel 238A can be allotted to Springer, Oklahoma, at reference coordinates 34 21 56 N, 97 11 28 W, in compliance with the Commission's spacing requirements, with the deletion of channel 239C1 at Ardmore.<sup>19</sup> From the proposed site, KKAJ will provide a 70 dBu signal to Springer.<sup>20</sup>

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<sup>13</sup> See Exhibit E, Figure IA.

<sup>14</sup> See Exhibit E, Study 1.

<sup>15</sup> See Exhibit E, Narrative, Table 4.

<sup>16</sup> *Id.*, Table 3.

<sup>17</sup> See Exhibit E, Figure 1R1-1R5.

<sup>18</sup> See Exhibit E, Study 2.

<sup>19</sup> Any conflict with the proposed use of channel 239C1 at Healdton, Oklahoma, has been resolved by the dismissal of the Healdton proposal. See fn. 12, *supra*.

<sup>20</sup> See Exhibit E, Figure 2A.

13. The Commission has stated that in order to grant a change in community of license: (1) the proposed use of the channel must be mutually exclusive with its current use; (2) the existing community of license must retain local service; and (3) the proposed arrangement of allotments must be preferred over the existing arrangement under the Commission's allotment priorities.<sup>21</sup> The proposal meets each of these requirements.

14. First, as the attached channel study demonstrates, the proposed allotment of channel 238A at Springer is mutually exclusive with the current allotment of channel 239C1 at Ardmore.<sup>22</sup> Second, Ardmore will retain four local services: one AM, KVSQ; and three FMs, KLCU, KQPD, and KACO. Third, the allotment of first local service at Springer triggers Priority 3 under the Commission's allotment criteria, whereas retention of service at Ardmore triggers Priority 4, resulting in a preferential distribution of channels.

15. Although the proposed downgrade and site change will result in a net loss in population served of 83,968 in an area of 7,538.8 sq. km,<sup>23</sup> the loss is more than made up through the gains achieved elsewhere in this Counterproposal. The loss area will continue to receive adequate service from six fulltime aural services.<sup>24</sup>

16. Springer is a community deserving of a first local service. As shown in Attachment B, it has numerous attributes of a community. Springer is an incorporated town listed in the 2000 U.S. Census with a population of 577 people. The United States Post Office Zip Code 73458 is exclusive to Springer. Children in Springer attend

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<sup>21</sup> See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License")*, 4 FCC Rcd 4870 (1989), *recon. Granted in part*, 5 FCC Rcd 7094 (1990).

<sup>22</sup> See Exhibit E, Study 2.

<sup>23</sup> See Exhibit E, Narrative, Table 3.

<sup>24</sup> See Exhibit E, Figure 2R1-2R5.

Springer Elementary School and Springer High School, part of the Springer School District. Springer is governed by a mayor, has city offices, and has its own fire department, local churches, including First Southern Baptist Church, Greater St. Paul Baptist Church, Jehovah Baptist Church, Mt. Olive Baptist Church, and Springer Missionary Baptist. According to the 2003 US Economic Census, 14 businesses are located in Springer, including four manufacturers, three retailers, as well as construction, transportation, real estate, and other service companies.

17. Springer is not located in any Urbanized Area. The proposed channel 238A 70 dBu contour does cover a portion of the Ardmore Urbanized Area. However, KKAJ currently covers the entire Ardmore Urbanized Area as channel 239C1. As such, a Tuck analysis is not necessary.<sup>25</sup>

18. NM Licensing, LLC, the licensee of KKAJ, has consented to the channel change, downgrade, and community of license change proposed herein and agreed that it will apply for Channel 238A at Springer should the Commission make the requested amendment to the Table of Allotments, and construct the facility if its application is granted.<sup>26</sup> The Proponents hereby state that they will reimburse the licensee of KKAJ for its reasonable expenses in changing KKAJ's channel, class, and community of license.

### **C. Rule, Texas Allocation**

19. As indicated in the attached channel study,<sup>27</sup> the vacant allotment at Rule, Texas, can be modified from channel 239C2 to channel 288C2 in compliance with the Commission's spacing rules, at new reference coordinates 33 10 29 N, 99 49 26 W, provided that channel 293A is substituted for the vacant channel 291A allotment at Knox

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<sup>25</sup> *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Red 10352 (1995).

<sup>26</sup> See Attachment A.

City, Texas (discussed below). From the proposed new reference coordinates, the station will provide a 70 dBu signal to Rule.<sup>28</sup>

20. An allotment facility at Rule on Channel 288C2, at the new reference coordinates, will provide a 60 dBu signal to a population of 22,803 in an area of 8,560.3 sq. km, compared to the existing Rule allotment facility, which would provide a 60 dBu signal to a population of 20,626.<sup>29</sup> Proponents also note that the new reference coordinates are 6.6 km from the community reference coordinates, compared to a distance of 12.7 km for the current reference coordinates.<sup>30</sup>

21. Should the Commission grant an authorization for the vacant allotment at Rule, Texas, the Proponents state that they will reimburse the permittee/licensee for its reasonable costs in changing channel.

#### **D. Knox City, Texas Allocation**

22. The vacant allotment at Knox City, Texas, can be modified from channel 291A to channel 293A at the current allotment coordinates in compliance with spacing requirements,<sup>31</sup> provided that channel 248C3 is substituted for the vacant channel 293C3 allotment at Crowell, Texas (discussed below). From the current allotment coordinates, the new Knox City allotment will provide a 70 dBu contour over the entire community.<sup>32</sup>

23. Should the Commission grant an authorization for the vacant allotment at Knox City, Texas, the Proponents state that they will reimburse the permittee/licensee for its reasonable costs in changing channel.

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<sup>27</sup> See Exhibit E, Study 3.

<sup>28</sup> See Exhibit E, Figure 3A.

<sup>29</sup> See Exhibit E, Narrative, Table 4.

<sup>30</sup> See Exhibit E, Narrative, Table 1.

<sup>31</sup> See Exhibit E, Study 4.

<sup>32</sup> See Exhibit E, Figure 4A.

### **E. Crowell, Texas Allocation**

24. The vacant allotment at Crowell, Texas can be modified from channel 293C3 to channel 248C3 at new reference coordinates 34 0 48 N, 99 44 34 W in compliance with spacing requirements,<sup>33</sup> provided that channel 237A is substituted for the vacant channel 249A allotment at Wellington, Texas (discussed below). From the proposed reference coordinates, the proposed Crowell allotment will cover the community with a 70 dBu contour.<sup>34</sup>

25. Should the Commission grant an authorization for the vacant allotment at Crowell, the Proponents state that they will reimburse the permittee/licensee for its reasonable costs in changing channel.

26. Proponents note further that, from the new reference coordinates, the proposed Crowell allotment facility on channel 248C3 will provide a 60 dBu signal to a population of 6,908 in an area of 4,802.9 sq. km, compared to the existing allotment facility, which would place a primary contour over a population of 6,092.<sup>35</sup> Proponents also note that the new reference coordinates are 3.7 km from the community reference coordinates, compared to a distance of 10.7 km for the current reference coordinates.<sup>36</sup>

### **F. Wellington, Texas Allocation**

27. The vacant allotment at Wellington, Texas, can be modified from Channel 248A to Channel 237A at new reference coordinates 34 57 56 N, 100 16 08 W in compliance

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<sup>33</sup> See Exhibit E, Study 5. The proposal to allot channel 248C3 at Crowell is the trigger for this Counterproposal, since, as noted above, the substitution of channel 248C3 for channel 293C3 conflicts with the NPRM to allot channel 250A at Crowell as its second local service.

<sup>34</sup> See Exhibit E, Figure 5A.

<sup>35</sup> See Exhibit E, Narrative, Table 4.

<sup>36</sup> See Exhibit E, Narrative, Table 1.

with spacing requirements.<sup>37</sup> From these coordinates, the allotment will cover Wellington with a 70 dBu contour.<sup>38</sup>

28. From the new reference coordinates, the proposed Wellington allotment facility on channel 237A will provide a 60 dBu signal to a population of 4,556 in an area of 2,516 sq. km, compared to the existing allotment facility, which would provide a 60 dBu signal to a population of 3,141.<sup>39</sup> Proponents also note that the new reference coordinates are 13.2 km from the community reference coordinates, compared to a distance of 14.1 km for the current reference coordinates.<sup>40</sup>

29. Should the Commission grant an authorization for the vacant allotment at Wellington, Texas, the Proponents state that they will reimburse the permittee/licensee for its reasonable costs in changing channel.

#### **G. KYBE, Frederick, Oklahoma**

30. As indicated in the attached channel study,<sup>41</sup> channel 239C3 can be substituted for channel 240A at Frederick, Oklahoma at new reference coordinates 34 23 16 N, 99 11 33 W in compliance with the Commission's spacing requirements, provided that the Rule, Texas, and Ardmore, Oklahoma, channel changes are made as discussed above. From the proposed site, the station will provide a 70 dBu signal to Frederick.<sup>42</sup>

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<sup>37</sup> See Exhibit E, Study 6.

<sup>38</sup> See Exhibit E, Figure 6A.

<sup>39</sup> See Exhibit E, Narrative, Table 4.

<sup>40</sup> See Exhibit E, Narrative, Table 1.

<sup>41</sup> See Exhibit E, Study 7.

<sup>42</sup> See Exhibit E, Figure 7A.

31. The change in class and site at KYBE will result in a net gain in population served of 41,309 persons in an area of 2,855.1 sq. km.<sup>43</sup> The change will create loss of service to 252 persons in an area of 176.5 sq. km.<sup>44</sup> The loss area will continue to be well served with at least five aural services.<sup>45</sup>

32. FWMG (and LKCM-LICO, the proposed assignee of KFWR) hereby state that should the Commission grant the upgrade of KYBE from channel 240A to channel 239C3, they will submit an application to operate KYBE on channel 239C3 and, when that application is granted, will promptly construct the facility on the new, higher-class channel.

#### **H. KJKB, Jacksboro, Texas**

33. In order to allot channel 240C to Mineral Wells, Proponents propose to substitute channel 248A for channel 238A at Jacksboro, Texas, and request the Commission to issue an order to show cause why the license of station KJKB should not be modified to specify operation on channel 248A. Channel 248A can be allotted to Jacksboro at the current transmitter site of KJKB in compliance with the Commission's spacing

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<sup>43</sup> See Exhibit E, Narrative, Table 3. There is currently a pending application for a co-channel "one-step" upgrade of KYBE to channel 240C3. See File No. BPH-20051114AJM. Compared with KYBE's application facility on Channel 240C3, the allotment of Channel 239C3 for KYBE as proposed herein would result in a net gain in population served of 28,251 persons in an area of 2,013 sq. km, and a loss of service to 252 persons in an area of 176.5 sq. km. See Exhibit E, Narrative, Table 3.

<sup>44</sup> See Exhibit E, Narrative, Table 3.

<sup>45</sup> See Exhibit E, Figure 7R1.

requirements, provided that channel 299C2 is substituted for vacant channel 248C2 at Archer City, Texas (discussed below).<sup>46</sup>

34. Should the Commission decide to substitute channel 248A for channel 238A at Jacksboro, LKCM will reimburse the licensee of KJKB for the reasonable costs involved in changing its channel.

### **I. Archer City, Texas Allocation**

35. As indicated in the attached channel study, channel 299C2 can be substituted for vacant channel 248C2 at Archer City, Texas,<sup>47</sup> in compliance with the Commission's

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<sup>46</sup> See Exhibit E, Study 8. Several proposals for allotments that would conflict with the proposed allotment of channel 248A at Jacksboro have been dismissed or denied. First, a proposal to add Channel 248C at Keller, Texas, was dismissed by Report & Order in MM Docket No. 00-148, DA 03-1533 (May 8, 2003). The dismissal of this proposal with respect to Channel 248C at Keller is final, although other elements of the proposal remain on appeal. Second, Channel 248C1 at Archer City, Texas, was deleted by Report & Order in MB Docket No. 03-116, DA 03-2468 (Jul. 25, 2003). Third, a counterproposal to allot Channel 248A at each of Henrietta, Chillicothe and Woodson, Texas, was dismissed by Report and Order in MB Docket No. 04-410, DA 06-271 (Feb. 6, 2006). The Commission may accept and grant this Counterproposal based on these actions. See Auburn, Alabama, et al., *supra* fn. 12.

The Proponents also note that the proposed substitution of channel 248A for channel 238A at Jacksboro at the current KJKB transmitter site, while short-spaced to the allotment reference coordinates for station KLAJ on channel 248C2 at Tom Bean, Texas, protects modified facilities for KLAJ on that allotment that have been constructed, and for which a covering license application is pending. See File No. BLH-20060124AFV; 47 C.F.R. § 73.208(a)(i).

Finally, the Proponents note that the FCC's database contains a reservation for Channel 248C2 at Archer City with new allotment coordinates, which appear to be part of a petition for rule making to add Channel 251A to Electra, Texas. The Electra petition has been withdrawn. See Attachment C. In any case, this Counterproposal is not contingent on the Electra proposal, inasmuch as the Channel 251A at Electra would be facilitated by the Proponents' proposed substitution of Channel 299C2 at Archer City as part of this Counterproposal.

<sup>47</sup> A construction permit issued for the Channel 248C2 at Archer City, Texas (call sign KRZB) was issued on February 7, 2000. By Memorandum Opinion and Order, FCC 01-317 (Oct. 26, 2001), the permittee was granted an additional three year construction period expiring October 26, 2004. The permit was not constructed and was automatically forfeited as of that date. The Commission has denied the permittee's requests for extension or tolling of the construction permit and rejected numerous appeals of that denial. Although the Proponents believe it is not required, to the extent necessary the Proponents request that the Commission issue an order to show cause regarding this channel change and state that they will reimburse the former Archer City permittee for the reasonable costs of changing channel in accordance with the Circleville policy, if the former permittee is successful in its appeals of the permit's expiration.

spacing requirements at new allotment coordinates 33 32 30 N, 98 46 30 W.<sup>48</sup> From the proposed site the station will provide a 70 dBu signal to Archer City.<sup>49</sup>

## J. NEW ALLOTMENTS

The preceding changes to the Table of Allotments make possible the allotment of two FM channels at two additional communities. As each of these proposals provides its community with a first local service, Priority 3, it is in the public interest for the Commission to allot these channels to these communities. LKCM states its interest in these allotments and affirms that if the channels are allotted, it will apply for construction permits for these allotments, and, if granted, promptly construct the facilities.

### 1. Megargel, Texas

36. As indicated in the attached channel study, the proposed channel substitution at Archer City makes it possible to allot channel 249A to Megargel, Texas, at coordinates 33 27 32 N, 99 2 24 W in compliance with the Commission's spacing rules.<sup>50</sup> From the proposed site the station will provide a 70 dBu signal to Megargel.<sup>51</sup> The facility will serve 6,881 persons within the 60 dBu contour in an area of 2,516 sq. km.<sup>52</sup>

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<sup>48</sup> Exhibit E, Study 9. Several proposals for allotments that would conflict with the proposed allotment of Channel 299C2 at Archer City have been dismissed or denied. First, a proposal to allot Channel 299C2 at Archer City, Texas, as part of a petition to add Channel 248C1 at Holliday, Texas, was dismissed by FCC letter dated December 8, 2004 at the request of the proponent, Charles Crawford. Second, a proposal to add Channel 298C2 at Seymour, Texas, was dismissed by Report and Order in Docket No. 00-148, DA 03-1533 (May 8, 2003). The dismissal of the proposal with respect to Channel 298C2 at Seymour is final, although other elements of the proposal remain on appeal. Third, a proposal to add Channel 298A at Woodson, Texas, and a counterproposal in the same proceeding to substitute Channel 299C2 for Channel 248C2 at Archer City, and add channel 248A at each of Henrietta, Chillicothe and Woodson, Texas, were dismissed by Report and Order in MB Docket No. 04-410, DA 06-271 (Feb. 6, 2006). The Commission may accept and grant this Counterproposal based on those actions. See Auburn, Alabama, et al., supra fn. 12. See also fn. 46, supra, regarding a database reservation for Channel 248C2 at Archer City in connection with a withdrawn proposal for Channel 251A at Electra, Texas.

<sup>49</sup> See Exhibit E, Figure 9A.

<sup>50</sup> See Exhibit E, Study 10.

<sup>51</sup> See Exhibit E, Figure 10A.

<sup>52</sup> See Exhibit E, Narrative, Table 4.

37. As shown by the attached materials, Megargel is a community deserving of a local service.<sup>53</sup> Megargel is an incorporated community with a population of 248 people. Megargel has its own post office (zip code 76370), police department, fire department, mayor, a local church and a number of local businesses. Education in Megargel is provided by the Megargel ISD.

38. The allotment to Megargel furthers Priority 3 by providing the community with a first local service. Should channel 249A be allotted at Megargel, LKCM will apply for a construction permit on the channel and, if such construction permit is issued, will promptly construct a station to serve Megargel.

## **2. Rochester, Texas**

39. As indicated in the attached channel study, the proposed channel substitution at Rule, Texas, makes it possible to allot channel 239A to Rochester, Texas, at coordinates 33 13 32 N, 99 58 50 W in compliance with the Commission's spacing rules.<sup>54</sup> From the proposed site the station will provide a 70 dBu signal to Rochester.<sup>55</sup> The facility will serve 8,015 persons within the 60 dBu contour in an area of 2,516 sq. km.<sup>56</sup>

40. As shown by the attached materials, Rochester is a community deserving of a local service.<sup>57</sup> Rochester, Texas is an incorporated community with a population of 378 people (2000 US Census). According to the US Economic Census (2003), nine businesses are located in Rochester. Rochester has its own post office, its own zip code (79544), a police department, fire department, mayor, a local church, and a number of

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<sup>53</sup> See Attachment D.

<sup>54</sup> See Exhibit E, Study 11.

<sup>55</sup> See Exhibit E, Figure 11A.

<sup>56</sup> See Exhibit E, Narrative, Table 4.

<sup>57</sup> See Attachment E.

businesses. K-12 education is provided in Rochester by the Rochester County Line ISD, at Rochester High School.

41. The allotment to Rochester furthers Priority 3 by providing the community with a first local service. Should channel 239A be allotted at Rochester, LKCM will apply for a construction permit on the channel and, if such construction permit is issued, will promptly construct a station to serve Rochester.

#### IV. CONCLUSION

Grant of this Counterproposal is in the public interest because it will provide new first local services at Springer, Oklahoma, and Rochester and Megargel, Texas, and a net overall gain in 60 dBu service to 645,053 people in an area of 10,356.3 additional sq. km.<sup>58</sup> The Proponents are confident that the changes can be implemented smoothly with a minimum of disruption.

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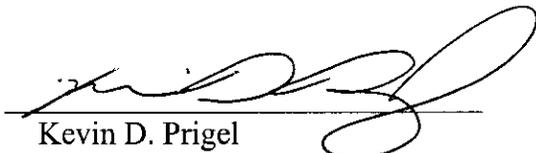
<sup>58</sup> See Exhibit E, Narrative, Table 3.

**Verification**

I, Kevin D. Prigel, hereby verify that the foregoing Counterproposal is true and correct and was not interposed for the purpose of delay.

Respectfully submitted,

**LKCM RADIO GROUP, L.P.  
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March 13, 2006

**EXHIBIT E**

**EXHIBIT E – ENGINEERING STATEMENT**

by

**ENTRONICS**

for

**LKCM RADIO GROUP, L.P.  
FORT WORTH MEDIA GROUP GP, LLC  
LKCM RADIO LICENSES, L.P.**

**Overview**

This Engineering Exhibit has been prepared in support of the Counterproposal of LKCM Radio Group, L.P., Fort Worth Media Group GP, LLC, and LKCM Radio Licenses, L.P. (“Proponents”), submitted in response to the Notice of Proposed Rule Making issued in MB Docket No. 06-11, which proposes to modify the FM Table of Allotments to add channel 250A at Crowell, Texas, as that community’s second local service. The allotments proposed in the Counterproposal will result in a more advantageous distribution of allotments, providing net service gains to more than 645,000 persons and first local service to three communities.

The Counterproposal requires changes in the channel, location or class of three licensed facilities and five vacant allotments. A gain/loss study has been completed for each of the licensed stations and is included in this exhibit. With respect to each loss area created, a study has been completed to demonstrate that the area will remain well served by at least five other fulltime stations.

## Table of Contents

Overview.....	1
Table of Contents.....	2
Engineering Narrative.....	4
Table 1: Proposed Change Table.....	5
Table 2: Proposed Table of Allotments.....	5
Table 3: Gain and Loss Table.....	6
Table 4: Area and Population Count Summary.....	7
Methodology.....	8
Spacing Studies.....	8
Gain Loss Studies.....	8
Remaining Service Studies.....	9
Certification.....	10
Overview Map.....	11
KFWR Mineral Wells, TX.....	12
Exhibit E, Study 1 Proposed Channel 240C, Mineral Wells, TX Allotment Study.....	12
Exhibit E Figure 1A Proposed KFWR Mineral Wells, Texas Community of License Coverage Map.....	14
Exhibit E Figure 1GL KFWR Mineral Wells, Texas Gain Loss Area Map.....	15
Exhibit E Table 1R KFWR Mineral Wells, Texas Remaining Service.....	16
KKAJ, Springer, Oklahoma.....	22
Exhibit E, Study 2 Proposed KKAJ, Springer, Oklahoma Allotment Study.....	22
Exhibit E Figure 2A Proposed KKAJ-FM Springer Oklahoma Allotment Community of License Coverage Map.....	23
Exhibit E Figure 2GL Proposed KKAJ, Springer, Oklahoma Gain Loss Area Map.....	24
Exhibit E Table 2R Proposed KKAJ, Ardmore (Springer), Oklahoma Remaining Services.....	25
Rule, Texas.....	31
Exhibit E, Study 3 Proposed Rule, Texas Allotment Study.....	31
Exhibit E Figure 3A Proposed Rule, Texas Community of License Coverage Map.....	32
Exhibit E Figure 3GL Proposed Rule, Texas Gain Loss Area Map.....	33
Knox City, Texas.....	34
Exhibit E, Study 4 Proposed Knox City, TX Allotment Study.....	34
Exhibit E Figure 4A Proposed Knox City, Texas Community of License Coverage Map.....	35
Crowell, Texas.....	36
Exhibit E, Study 5 Proposed Crowell, TX Allotment Study.....	36
Exhibit E Figure 5A Proposed Crowell, Texas Community of License Coverage Map.....	38
Exhibit E Figure 5GL Proposed Crowell, TX Gain Loss Area Map.....	39
Wellington, Texas.....	40
Exhibit E, Study 6 Proposed Wellington, Texas Allotment Study.....	40

Exhibit E Figure 6A Proposed Wellington, Texas Community of License Coverage Map .....	41
Exhibit E Figure 6GL Proposed Wellington, Texas Gain Loss Area Map.....	42
Frederick, Oklahoma.....	43
Exhibit E, Study 7 Proposed KYBE Frederick, Oklahoma Allotment Study.....	43
Exhibit E Figure 7A Proposed KYBE Frederick, Oklahoma Community of License Coverage Map.....	44
Existing Class A Station .....	45
Exhibit E Figure 7GL-1 Proposed KYBE to Existing Class A in Frederick, Oklahoma Gain Loss Area Map .....	45
Exhibit E Table 7R-1 Proposed KYBE Frederick, Oklahoma Remaining Service Existing Class A Operation.....	46
Application Reference Coordinate.....	48
Exhibit E Figure 7GL-2 Proposed KYBE Frederick, Oklahoma Gain Loss Area Map Application Reference Point.....	48
Exhibit E Table 7R-2 Proposed KYBE Frederick, Oklahoma Remaining Service Application Reference Point .....	49
Application Transmitter Site.....	55
Exhibit E Figure 7GL-3 Proposed KYBE Frederick, Oklahoma Gain Loss Area Map Application Transmitter Site.....	55
Exhibit E Table 7R-3 Proposed KYBE Frederick, Oklahoma Remaining Service Application Transmitter Site.....	56
KJKB Jacksboro, Texas.....	58
Exhibit E, Study 8 Proposed KJKB Jacksboro, Texas Allotment Study .....	58
Exhibit E Figure 8A Proposed KJKB Jacksboro, Texas Community of License Coverage Map.....	59
Archer City, Texas.....	60
Exhibit E, Study 9 Proposed Archer City, Texas Allotment Study .....	60
Exhibit E Figure 9A Proposed Archer City, Texas Community of License Coverage Map .....	61
Exhibit E Figure 9GL Proposed Archer City, Texas Gain Loss Area Map.....	62
Megargel, Texas.....	63
Exhibit E, Study 10 Proposed Megargel, TX Allotment Study.....	63
Exhibit E Figure 10A Proposed Megargel, Texas Community of License Coverage Map .....	64
Exhibit E Figure 10GL Proposed Megargel, Texas Gain Area Map .....	65
Rochester, Texas.....	66
Exhibit E, Study 11 Proposed Rochester, TX Allotment Study .....	66
Exhibit E Figure 11A Proposed Rochester, Texas Community of License Coverage Map .....	67
Exhibit E Figure 11E Proposed Rochester, Texas Community of License Coverage Map Expanded .....	68
Exhibit E Figure 11GL Proposed Rochester, Texas Gain Area Map .....	69