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February 5, 2008

2008 FEB - 5 P 3 19

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

Re: Petition for Rule Making  
Marquez, Texas (Channel 296A)

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my  
Petition for Rule Making proposing to add Channel 296A  
at Marquez, Texas.

Respectfully submitted,



Charles Crawford  
3500 Maple Avenue, #1320  
Dallas, Texas 75219  
(214) 642-6410

Marquez Cover

File of Charles Crawford 094  
DATE 08-19  
MB

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

Received & Inspected

FEB - 5 2008

FCC Mail Room

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

To: Office of the Secretary  
Attn: Chief, Audio Division,  
Media Bureau

**PETITION FOR RULE MAKING**

Charles Crawford hereby requests the allotment of Channel 296A to Marquez, Texas.<sup>1</sup> The following summarizes the changes requested in this Petition:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Marquez, TX	-----	296A

Petitioner respectfully submits that the public interest would be served by allocating Channel 296A to Marquez, Texas<sup>2</sup> as that community's first FM service. Marquez, Texas is an incorporated city with a population of 220 people.<sup>3</sup> Forty four businesses in Marquez have been

<sup>1</sup> Pursuant to *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006) ("*Streamlining R&O*"), Charles Crawford is contemporaneously filing a Form 301 application for this proposal along with the requisite filing fee. Should this channel be allotted to Marquez, Texas, Charles Crawford hereby states that he will construct the facility specified in the Form 301.

<sup>2</sup> City of Marquez, Texas, (903) 529-3020, (903) 529-2441 & (903) 529-3581.

<sup>3</sup>2000 US Census

No. of Copies rec'd  
List ABOVE

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given a credit rating by Dun & Bradstreet as of November 2002.<sup>4</sup> Marquez has its own Fire Department<sup>5</sup>, its own post office,<sup>6</sup> and a number of local churches.<sup>7</sup> Marquez is a community that is certainly deserving of a first 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 a local radio station."<sup>8</sup> The proposed channel 296A will provide additional diversity and an outlet for local self-expression to Marquez residents and therefore is in the public interest.

Attached hereto is a channel study confirming that Channel 296A can be allocated to Marquez, Texas, consistent with Section 73.207 of the Commission's Rules<sup>9</sup> with respect to all existing and proposed domestic allotments and facilities. (See, Attachment A) Note: the counterproposal

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<sup>4</sup> 2004/ 2004 Texas Almanac

<sup>5</sup> Marquez Fire Department, 129 S. Pearl, Marquez, TX 77865, (903) 529-1322.

<sup>6</sup> Marquez, Texas, 77865, (903) 529-3141.

<sup>7</sup> Robinson Chapel Baptist Church, 1328 Commerce, Marquez, TX 77865, (903) 529-1179. Marquez Baptist Church, (903) 529-3907. Marquez Church of Christ, 1455 Austin St., (903) 529-3505.

<sup>8</sup> Statement of Commissioner Kevin J. Martin, MM & O, MM Docket 99-240, released May 20, 2004.

<sup>9</sup> 47 C.F.R. 73.207.

to add channel 297C3 to Bédias, Texas, incorporated in MB Docket No. 06-66, was dismissed per Report & Order, (DA 07-4125), released October 5, 2007. (See, Attachment B) A 70 dBu signal can be provided to Marquez from the proposed reference coordinates. Reference coordinates for Channel 296A at Marquez, Texas are:

31 14 20 N  
96 23 45 W

I hereby certify that should this petition be granted and Channel 296A is allotted to Marquez, Texas as specified in my petition and in my Form 301 for this channel which I have simultaneously electronically filed with this Petition for Rule Making along with the requisite Form 301 filing fee, I will participate in the auction for the channel.

The factual information provided in these Comments is correct and true to the best of my knowledge.

Respectfully submitted,



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Charles Crawford  
3500 Maple Avenue, #1320  
Dallas, Texas 75219  
(214) 642-6410

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17<sup>th</sup> Street, N.W., Washington, D.C. 20036, Telephone (301) 340-1651, telecopier (301) 340-6811, 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.

February 5, 2008

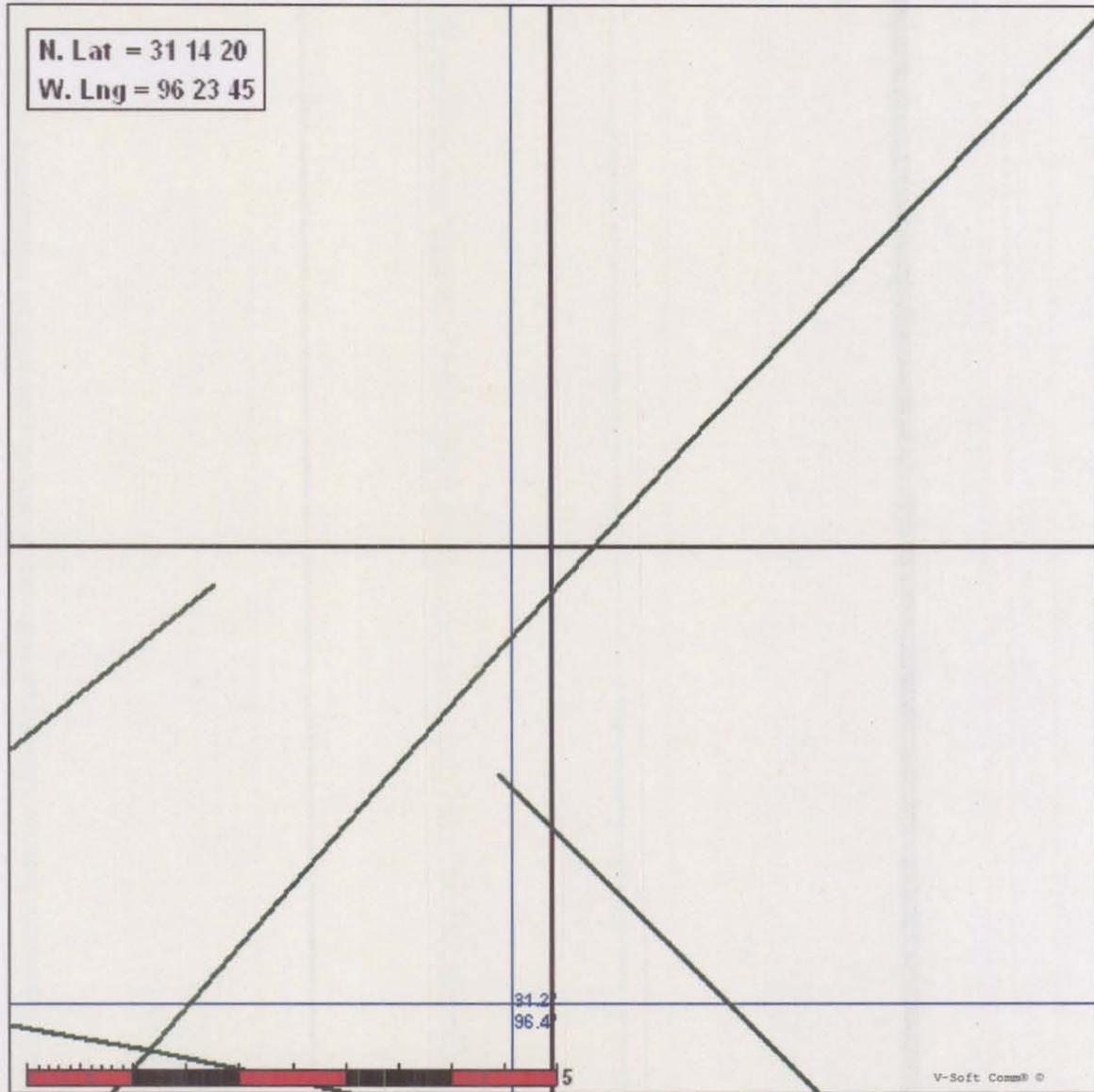
Marquez Petition 2

**Attachment A**

(Channel Study for Channel 296A at Marquez, Texas)

# CH 296 A, AA, 107.1 MHz

Kzia, Inc.

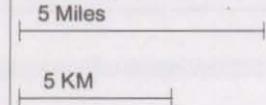


Data Date:01-29-08 Job Date:02-02-08

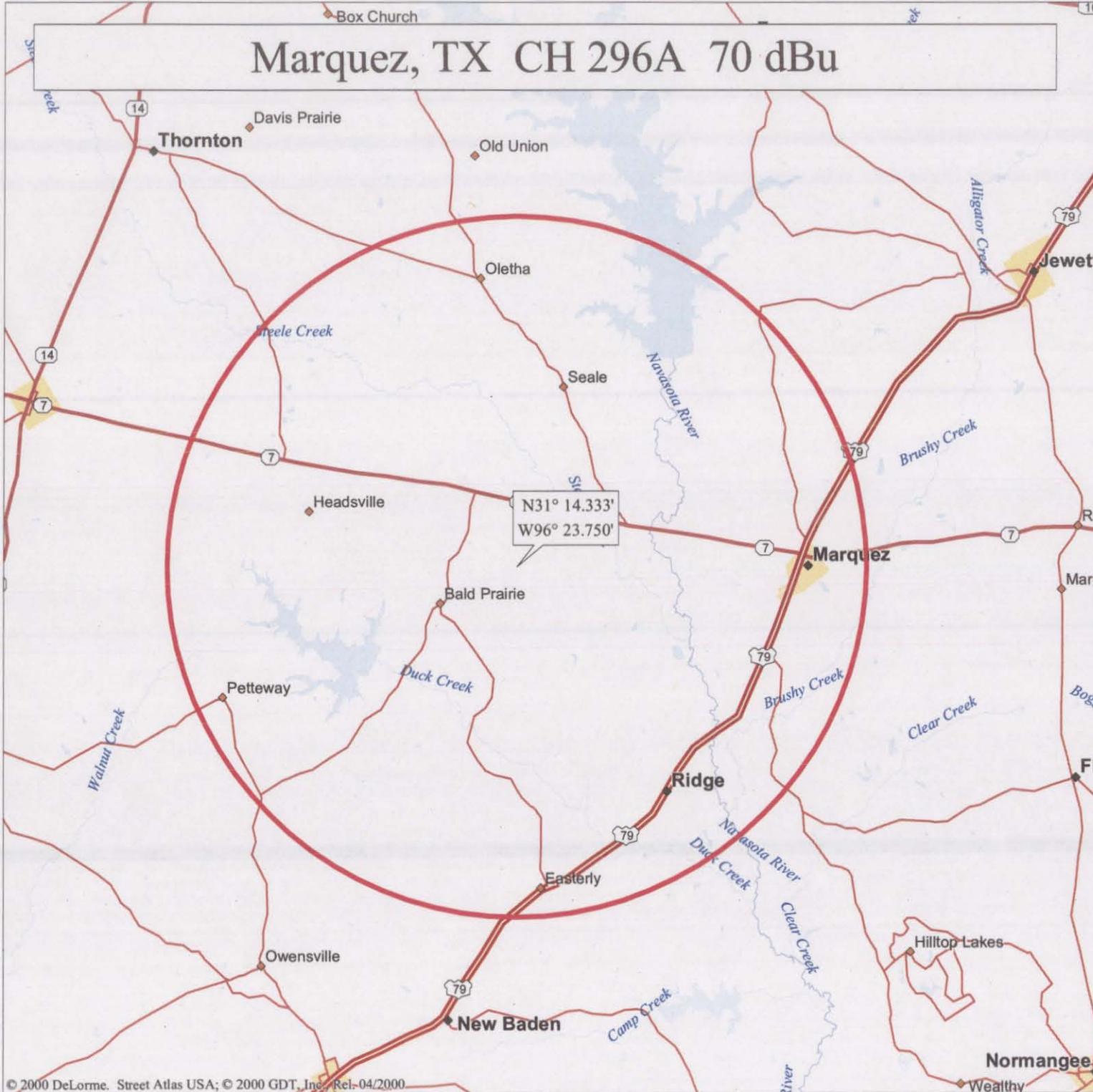
Call	CH#	Type	Location	Azi	D-KM	FCC	Margin	
RADD	297C3	ADD	Bedias	TX	140.3	66.77	89.0	-22.23
KHPT	295C	LIC	Conroe	TX	132.3	165.26	165.0	0.26
KDXX	296C1	LIC N	Benbrook	TX	318.3	201.85	200.0	1.85
KGSR	296C2	LIC N	Bastrop	TX	222.6	167.92	166.0	1.92
RDEL	297A	DEL	Caldwell	TX	193.2	77.45	72.0	5.45
KHTZ	297A	LIC	Caldwell	TX	193.2	77.45	72.0	5.45
KRVF	295C3	LIC	Kerens	TX	1.1	95.86	89.0	6.86
RADD	299A	ADD	Normangee	TX	150.2	39.07	31.0	8.07
RS1377	299A	RSV	Iola	TX	160.0	66.15	31.0	35.15
RADD	299A	ADD	Iola	TX	160.0	66.15	31.0	35.15
AP0915	299A	APP	Iola	TX	160.0	66.15	31.0	35.15
KDRW.C	294C3	CP -Z	Hewitt	TX	284.2	79.94	42.0	37.94
KDRW.A	294C3	APP N	Hewitt	TX	279.9	80.70	42.0	38.70
RDEL	297A	DEL	Nolanville	TX	262.2	114.11	72.0	42.11
KLFX.C	297A	CP N	Nolanville	TX	262.2	114.11	72.0	42.11
RDEL	297A	DEL	Nolanville	TX	262.2	114.11	72.0	42.11
KOOI	293C	LIC	Jacksonville	TX	48.0	137.27	95.0	42.27

# Marquez, TX CH 296A 70 dBu

Mag 11.00  
Sat Feb 02 17:22 2008  
Scale 1:250,000 (at center)



- Major Connector
- State Route
- US Highway
- Small Town
- Locale
- Population Center
- Land
- Water
- River/Canal
- Intermittent River



**Attachment B**

(Report & Order, (DA 07-4125), consolidated Dockets 06-43/  
Oakwood, Texas & 06-66/ Normangee, Texas, released October  
5, 2007, dismissed the counterproposal which proposed  
channel 297C3 to Bédias, Texas)

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
FM Table of Allotments,	)	MB Docket No. 06-43
FM Broadcast Stations.	)	RM-11313
(Oakwood, Texas)	)	
	)	
(Normangee, Texas)	)	MB Docket No. 06-66
	)	RM-11321

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: October 3, 2007**

**Released: October 5, 2007**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it two *Notices of Proposed Rule Making*.<sup>1</sup> We are consolidating these two proceedings because the counterproposals filed in each proceeding are mutually exclusive.<sup>2</sup> Charles Crawford filed comments and a 'Request for Approval of Withdrawal' ("Withdrawal Request") in both MB Docket No. 06-43 and MB Docket No. 06-66. Linda Crawford filed a counterproposal in MB Docket No. 06-43 and 'Request for Approval of Withdrawal.' In MB Docket No. 06-66, Roy Henderson, ("Henderson"), licensee of Station KHTZ, (*formerly* KLTR), Channel 297A, Caldwell, Texas, filed a counterproposal, 'Motion for Leave to Supplement Comments and Counterproposal,' and 'Memorandum of Law.' No other comments or counterproposals were received in response to this proceeding.

2. **Background.** The *Notice* in MB Docket No. 06-43, proposed the allotment of Channel 300A at Oakwood, Texas, as its first local service. Charles Crawford filed timely comments, reiterating its expression of interest in the proposed Oakwood allotment but later filed a Withdrawal Request in compliance with Section 1.420(j) of the Rules, stating that he desires to withdraw his petition and expression of interest.

3. In response to this *Notice*, Linda Crawford filed a timely counterproposal, requesting the allotment of Channel 299C3 at Bédias, Texas, as its first local service and Channel 300A at Oakwood, Texas at new reference coordinates to resolve the conflict with the *Notice*'s proposal. Linda Crawford requested to withdraw her counterproposal after the proceeding closed. This request complied with Section 1.420(j) requirements.

4. The *Notice* in MB Docket No. 06-66, proposed the allotment of Channel 299A at Normangee,

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<sup>1</sup> See *Oakwood, Texas*, Notice of Proposed Rule Making, 21 FCC Red 1643 (MB 2006) ("*Notice*") and *Normangee, Texas*, Notice of Proposed Rule Making, 21 FCC Red 3315 (MB 2006) ("*Notice II*").

<sup>2</sup> These two proceedings are being consolidated because the counterproposal, requesting the allotment of Channel 299C3 at Bédias, Texas filed by Linda Crawford in connection with MB Docket No. 06-43 conflicts with the counterproposal, proposing the reallocation of FM Station KHTZ from Channel 297A at Caldwell, Texas to Channel 297C3 at Bédias, Texas filed by Roy Henderson in MB Docket No. 06-66.

Texas, as its first local service. In compliance with Section 1.420(j) of the Rules, Charles Crawford later filed a Withdrawal Request, stating that he desires to withdraw his petition and expression of interest for Channel 299A at Normangee.

5. In response to this *Notice*, Henderson filed a timely counterproposal, requesting the reallocation of FM Station KHTZ, Channel 297A at Caldwell to Channel 297C3 at Bedias, Texas, as its first local service and modification of the FM Station KHTZ license; and the reallocation of FM Station KKLK, Channel 267A from Madisonville to Caldwell, Texas, to prevent removal of Caldwell's sole local service and modification of the FM Station KKLK authorization. Henderson filed a Memorandum of Law, stating that this proceeding is no longer contested and its proposal results in a preferential arrangement of allotments, under the Commission's FM allotment priorities.<sup>3</sup> Moreover, Henderson states that its proposal does not violate the Commission's backfill policy.<sup>4</sup>

6. **Discussion.** In compliance with Section 1.420(j) of the Rules, we will grant both requests of Charles Crawford to withdraw its petitions for Channel 300A at Oakwood, Texas, and Channel 299A at Normangee, Texas; and the request of Linda Crawford to withdraw her counterproposal filed in connection with MB Docket No. 06-43. Each party has filed an affidavit pursuant to Section 1.420(j) of the Rules, certifying that it has not nor will not receive, either directly or indirectly, any money or other consideration in connection with its respective withdrawal request. A showing of continuing interest is required before a channel is allotted to a community in compliance with the *Appendix* to the *Notice*. It is the Commission's policy to refrain from making a new allotment to a community absent an expression of interest. As such, we are dismissing the petitions, requesting the allotment of Channel 300A at Oakwood, Texas, and Channel 299A at Normangee, Texas, along with the counterproposal filed by Linda Crawford in accordance with Section 1.420(j) of the Rules.

7. We are also dismissing Henderson's counterproposal. Specifically, the proposed reallocation of FM Station KKLK, Channel 267A from Madisonville to Caldwell, Texas conflicted with the proposed allotment of Channel 267A at Rosebud, Texas, requested in MB Docket No. 05-229.<sup>5</sup> The proposed Rosebud allotment was still under consideration when Henderson filed its counterproposal. Counterproposals are required to be "technically correct and substantially complete" when filed and non-dependent on final actions in another proceeding.<sup>6</sup> In allocation proceedings, a counterproposal is deemed defective if it conflicts with, or contingent upon, a cut-off proposal or a non-final decision in another proceeding.<sup>7</sup> This policy not only affords protection to parties entitled to cut-off protection, it

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<sup>3</sup> See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988).

<sup>4</sup> See *Pacific Broadcasting of Missouri, LLC*, Memorandum Opinion and Order, 18 FCC Rcd 2291 (MB 2003); *recon denied*, Memorandum Opinion and Order, 19 FCC Rcd 10950 (2004) (stating that vacant allotments can no longer be used as a backfill for the purposes of replacing the community's sole local service).

<sup>5</sup> See *Rosebud and Madisonville, Texas*, Report and Order, 21 FCC Rcd 7898 (MB 2006); *recon denied*, Memorandum Opinion and Order, 22 FCC Rcd 3795 (MB 2007).

<sup>6</sup> See *Saint Joseph, Louisiana et al.*, Memorandum Opinion and Order, 21 FCC Rcd 2254 (MB 2006) (stating that the counterproposal was properly dismissed as an impermissibly contingent proposal; and that counterproposals are required to be technically correct and substantially complete when filed).

<sup>7</sup> See *Amboy, California, et al.*, Report and Order, 19 FCC Rcd 12405 (MB 2004), *citing Pinewood, South Carolina*, Memorandum Opinion and Order, 5 FCC Rcd 7609 (1990) (stating that it was proper to dismiss a petition conflicting with a cut-off counterproposal in another proceeding); *Auburn, Alabama, et al.*, Memorandum Opinion and Order, 18 FCC Rcd 10333 (MB 2003) (accepting only rulemaking proposals that rely upon actions in earlier rulemaking proceedings that are effective but not final); *Kaukauna and Cleveland, Wisconsin*, 6 FCC Rcd 7142 (MMB 1991) (continued....)

also is essential to the efficient processing of proposed changes to the FM Table of Allotments. Processing proposals that are not capable of being effectuated on the date of filing would cause an unnecessary expenditure of Commission resources and would impose an unfair burden on other parties.<sup>8</sup>

8. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

9. Accordingly, IT IS ORDERED, That the Petitions for Rule Making filed by Charles Crawford for Channel 300A at Oakwood, Texas and Channel 299A at Normangee, Texas, ARE DISMISSED.

10. IT IS FURTHER ORDERED, That the counterproposal filed by Linda Crawford, IS DISMISSED.

11. IT IS FURTHER ORDERED, That the counterproposal filed by Henderson, IS DISMISSED.

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

13. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

(Continued from previous page) \_\_\_\_\_  
(stating that the counterproposal was not acceptable for rule making because it was short-spaced to cut-off proposal in another proceeding).

<sup>8</sup> *See Cut and Shoot, Texas* 11 FCC Rcd 16383, 16384 (MMB 1996). (processing petitions for rule making which are contingent upon action by third parties "is not conducive to the efficient transaction of Commission business and imposes unnecessary burdens") *See also Auburn, supra* (processing contingent proposals is inefficient because "[t]he staff would either have to wait until the contingency is met, thereby further delaying action in a case, or would have to revisit a decision if a proposal was granted contingent on the outcome of an action that never occurred").