

FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, S.W.
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO SERVICES DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: <https://www.fcc.gov/media/radio/audio-division>

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Summit Media Broadcasting, LLC
120 Main Street
Sutton, WV 26601

In re: W221EF, Sutton, WV
File# 93991
Facility ID # 200358

Dear Applicant:

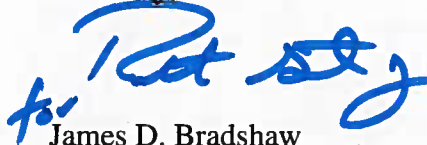
This letter refers to the above-captioned translator application for W221EF, Sutton West Virginia.

An engineering study reveals that the application is in violation of Section 74.1233(a)(1) of the Commission's Rules. Specifically, the proposed 60 dBu service area fails to provide service to some portion of its original "longform" application (BNPFT-20180319AAJ). The applicant recognizes this violation and requests waiver of Section 74.1233(a)(1) of the Commission's Rules claiming that the proposal qualifies for the standard set forth in the *Mattoon* letter.¹ In order to use the *Mattoon* waiver standard, the proposed site is mutually exclusive to its "licensed" facility. This facility is an unbuilt and unlicensed facility. As a result, the request for waiver of Section 74.1233(a)(1) is denied.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded Triad Family Network, Inc's waiver request the "hard look" called for under *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233(a)(1).

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application File# 93991 IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

¹ *The Cromwell Group, Inc. of Illinois*, Letter, 26 FCC Rcd 12685 (MB 2011) ("*Mattoon*").