

FEDERAL COMMUNICATIONS COMMISSION
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WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
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JAN 22 2016

Top O'Texas Educational Broadcasting Foundation
P. O. Box 8088
Amarillo, TX 79114

In re: K229BY, Happy, TX
BPFT-20151231ACA
Facility ID No. 147711

Dear Applicant:

This letter refers to the above-captioned translator application for K229BY, Happy, Texas.

Our 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 current 60 dBu licensed service area, (BLFT-20151123AAT).

The applicant recognizes this violation and requests waiver of Section 74.1233(a)(1) of the Commission's Rules by using a waiver granted to The Cromwell Group, Inc. of Illinois.¹ The waiver was granted based on several criteria. The first criteria is that the facility does not have a history of filing serial minor modification applications. The second criteria is that the proposed facility's contour is mutually exclusive with the licensed facility's contour. The third criteria is that the proposed translator does not implicate the concerns raised by the Commission concerning available frequencies in some markets and the fourth criteria is that the proposal will be a fill-in to an AM or FM station.

The first criteria is that the facility does not have a history of filing serial minor modifications application. This facility initially commenced operation in November of 2004 (BLFT-20041101AFH). Since the initial license, the facility has filed and licensed two channel (BLFT-20110103ABM and BLFT-20110407ACJ) changes and one site move (BLFT-20151123AAT). This waiver request application, BPFT-20151231ACA, is filed only one month after the last license application, BLFT-20151123AAT. The waiver request application would not comply with the waiver conditions unless BLFT-20151123AAT is built out. It is determined that "hop(s)" are required to allow this waiver request application therefore, the Mattoon waiver is denied.

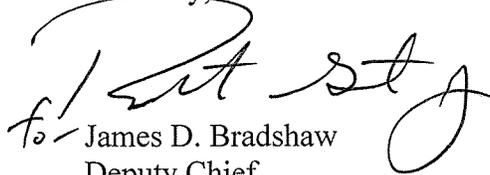
When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d

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

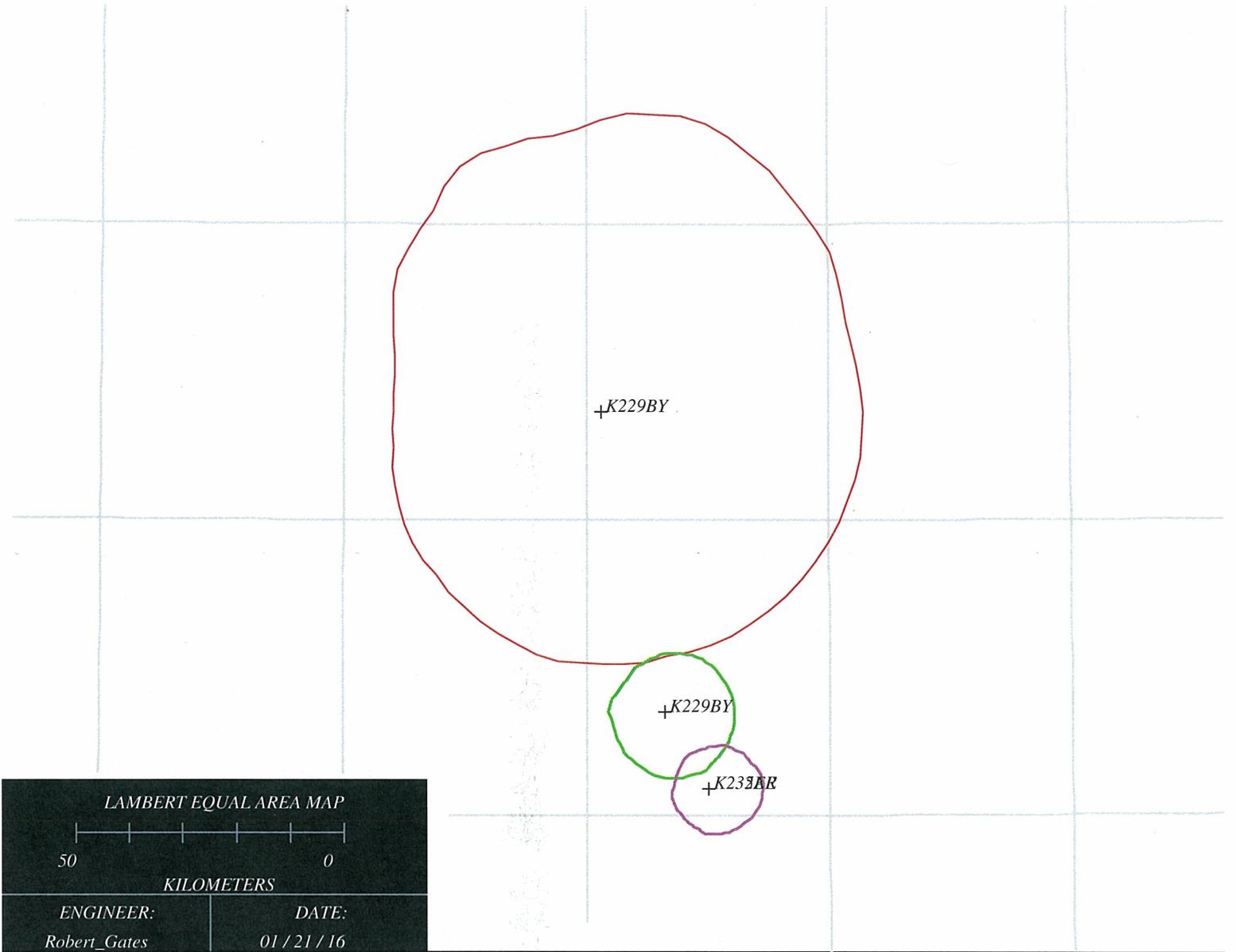
139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded The Original Company, Incorporated's waiver request the "hard look" called for under *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969), but find that 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 BPFT-20151231ACA IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Bradshaw". The signature is written in a cursive style with a large, sweeping initial "J".

to - James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau



THE FOLLOWING IS A LIST OF THE DATA WHICH APPEARS ON THE ABOVE MAP
 BOTTOM LATITUDE: 34.27 TOP LATITUDE: 35.89 LEFT LONGITUDE: -102.98 RIGHT LONGITUDE: -100.85
 MAP: ENLARGED CONUS MAP PROJECTION: Lambert Equal-area CENTER LAT: 35.08 LONG: -101.92 GRID SPACING: 0.50
 KILOMETERS / INCH = 29.50
 PLOT MADE ON : 21 January, 2016 10:03 HOURS

call	serv	city,state	application no.	contour	chan	erp	haat	rcamsl	coverage area	A1
K229BY	FX	HAPPY,TX	BPFT-20151231ACA	40.0 dBu (50,10)	229D	0.250	126.7	1243.0	7400.5 sq km	0
K229BY	FX	HAPPY,TX	BLFT-20151123AAT	60.0 dBu (50,50)	229D	0.250	79.3	1168.0	424.4 sq km	0
K232EE	FX	TULIA,TX	BLFT-20110407ACJ	60.0 dBu (50,50)	229D	0.100	65.2	1121.0	218.7 sq km	0
K235AR	FX	TULIA,TX	BLFT-20110103ABM	60.0 dBu (50,50)	232D	0.100	65.2	1121.0	218.7 sq km	0

No topographic data is available for this location.
 A1 - Number of radials where free space equation was used for field strength calculations.
 A7 - Number of radials where a HAAT less than 30 meters was adjusted to 30 meters.