

COMMUNITY OF LICENSE CHANGE – SECTION 307(b) SHOWING

By filing this FCC Form 301 Minor Change application, Ramar Communications II, Ltd. (“Ramar”) seeks Commission approval to change the community of license of KSTQ-FM from Plainview, Texas to New Deal, Texas. Ramar hereby submits this showing regarding the merits under 47 U.S.C. §307(b) of licensing KSTQ-FM to New Deal, Texas, a community to which no radio stations are currently licensed. Pursuant to 47 U.S.C. §307(b), the Commission will authorize the relocation of a facility to another community when doing so will “provide a fair, efficient and equitable distribution of radio service.” Relocating KSTQ-FM will plainly achieve such a fair, efficient and equitable distribution.

New Deal qualifies as a community under Section 307(b). The Town of New Deal was incorporated in 1970 and is located approximately 11 miles from the City of Lubbock in Lubbock County. New Deal has its own elected government, and has a 2000 U.S. Census population of 708.¹

There are no radio stations currently licensed to New Deal. In contrast, there are eight full service radio stations licensed to Plainview, Texas, including KSTQ-FM. Relocating KSTQ-FM to New Deal therefore will not deprive Plainview of full service local transmission service. Furthermore, Plainview will continue to be well served by at least five aural services.² Plainview will receive protected service from 6 FM stations and 6 AM Stations, and New Deal will receive protected service from 20 FM stations and 8 AM Stations.³

In applying §307(b), “[t]he Commission generally has preferred a community with no local transmission service over one that already has a local station”⁴ It “is the usual 307(b) presumption that every separate community needs at least one local transmission service.”⁵ Given the attributes of New Deal as described herein, §307(b) plainly warrants granting that community its first transmission service under priority (3).

¹ See Attachment A.

² See e.g., *Palmetto Communications Company*, 6 FCC Rcd 1527, 1529 (1991) (explaining that well-served reception areas are areas presently receiving at least five fulltime radio services).

³ See Exhibit 32, Tables III and IV.

⁴ *North Texas Radio, Inc.*, 11 FCC Rcd 8531, 8535(¶12) (1996).

⁵ *Id.*(¶13). See also *Faye & Richard Tuck, Inc.*, 3 FCC Rcd 5374, 5376(¶20) (1988) (“*Tuck*”) (“The Commission has assessed the need for radio service primarily in light of the facilities presently available in the proposed communities and the relative population of the communities.”); *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (the FM allotment priorities are as follows: “(1) First full-time aural service; (2) Second full-time aural service; (3) First local service; (4) Other public interest matters.”).

This application also requests authority to change KSTQ-FM from Class C1 to Class C2. The land area and populations within the presently licensed and proposed 60 dBu and 70 dBu contours are set forth in Exhibit 32, Table II. As indicated therein, grant of this application will create a loss area of 7,616 square kilometers, and a gain area of 2,424 square kilometers. However, the entire loss area will continue to be served by five or more reception services, and therefore is considered well served. Due to the change in class, there will be a net loss of total service area and population for KSTQ-FM.

The predicted 70 dBu service contours of KSTQ-FM will cover the entire Lubbock Urbanized Area. However, because the station's presently licensed 70 dBu contour already covers 83.4% of that urbanized area, a showing under *Huntington Broadcasting Co. v. FCC*, 192 F3d 33 (D.C. Cir. 1951) and *Tuck* that demonstrates the independence of New Deal from the Lubbock Urbanized Area is not required.⁶ Nevertheless, out of an abundance of caution, an analysis of New Deal using the *Tuck* criteria is provided. Applying that criteria, New Deal is sufficiently independent of the Lubbock Urbanized Area to qualify for a first local service preference. Under *Tuck*, the FCC identified the following factors to evaluate a community's independence: (1) signal population coverage, *i.e.*, the degree to which the proposed station will provide service to both the suburban community and the larger metropolis; (2) the size and proximity of the suburban community relative to the metropolis; and (3) the interdependence of the suburban community with the metropolis. Of the three factors, the FCC deems the third to be most significant.

New Deal, Texas is located approximately 11 miles north of Lubbock, Texas. The 2000 U.S. Census population of New Deal is 708, while the 2000 U.S. Census population of Lubbock is 199,564.⁷ Thus, the population of New Deal is 0.35% of the population of Lubbock. The FCC has previously found that size disparity and proximity are outweighed by the degree of independence of the proposed community.⁸

The *Tuck* factors used to evaluate the independence of a community are as follows:

(1) The extent to which community residents work in the specified community, rather than the larger community. As noted above, New Deal is approximately 11 miles from Lubbock, the central city of the Lubbock Urbanized Area. The U.S. Census Bureau does not provide current information on the resident-workers in the New Deal area. According to the 2000 Census, the mean travel time for the New Deal labor force is 20.1 minutes. That relatively short travel time reflects the presence of significant employment opportunities in New Deal itself. In fact, the U.S. Census Bureau's 2004 Industry Code Summary for New Deal indicates that there were 11 businesses located in New Deal that employed 126 people.⁹ In addition, the New Deal Independent School District, the largest employer in New Deal, currently employs

⁶ *Tullahoma, Tennessee, and New Market, Alabama*, 19 FCC Rcd 11000 (Audio Division 2004) (citing *Long Beach and East Los Angeles, California*, 10 FCC Rcd 2864, 2869 (M.M.Bur. 1995), and *Boulder and Lafayette, Colorado*, 12 FCC Rcd 583 (M.M.Bur. 1997)).

⁷ See Attachment B.

⁸ *Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16986 (Alloc. Br. 1996) (signal population coverage, size and proximity issues are pertinent but less significant than evidence of independence).

⁹ See Attachment C.

approximately 97 people.¹⁰ These figures provide ample evidence that a significant percentage of community residents work within New Deal as opposed to Lubbock.

(2) Whether the smaller community has its own newspaper or other media that covers the community's local needs and interests. Journalism students at New Deal High School write, layout and distribute *The New Deal District Communicator*, a weekly publication that covers local sports, school district information, including Board of Education meetings and minutes, and local community news and upcoming events. The New Deal Independent School District website describes the newspaper as “a laboratory experience for Journalism.” Approximately 1,000 copies of the newspaper are distributed to various parts of the New Deal community as well as to each district school during the school year and once during the summer.¹¹ *The New Deal District Communicator* accepts advertisements from local New Deal businesses.

In addition, the town of New Deal operates its own website, which provides information to community residents about upcoming events, the minutes of New Deal City Council meetings, town services and local weather conditions.

(3) Whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area. New Deal was originally settled in 1909 as the town of Monroe, being named after Monroe G. Abernathy, a promoter of the Santa Fe Railroad. A school was built in the town in 1917, and by the late 1920s, Monroe had grown to include various businesses, including a general store, cotton gins, a lumberyard and café. The town was renamed New Deal in 1949 after Franklin D. Roosevelt’s New Deal Program.¹²

As evidenced by the attached letter dated May 15, 2007 from Mr. Wayne McCray, the Mayor Pro Tem of New Deal, community leaders and residents consider New Deal to be a distinct community that is separate from and independent of Lubbock and the nearby Lubbock Urbanized Area. New Deal is a predominantly rural, agricultural community that describes itself as “a small town with a big heart.” Residents of New Deal participate in local civic organizations such as the New Deal Lions Club and Future Farmers of America. New Deal has its own elected government and independent school district, and is home to a variety of commercial establishments and churches, including New Deal Methodist Church and New Deal First Baptist Church.¹³

(4) Whether the specified community has its own local government and elected officials. New Deal has a Mayor/Council form of government. The citizens of New Deal elect six Council members, including the Mayor. New Deal also has a City Attorney and a City Secretary, positions that are appointed by the Council. According the New Deal website, “[t]he Primary function of the City of New City Council is to set policy, consider bids and contracts, review/approve the budget, determine tax and fee structures, and consider requests from citizens.”¹⁴

¹⁰ See Attachment H.

¹¹ See Attachment D.

¹² See Attachment A.

¹³ See Attachment E.

¹⁴ See Attachment A.

(5) Whether the smaller community has its own telephone book provided by the local telephone company or zip code. New Deal has its own Post Office (located at 309 N. Monroe Street, New Deal, Texas) and zip code (79350).¹⁵ New Deal does not have its own telephone book.

(6) Whether the community has its own commercial establishments, health facilities, and transportation systems. New Deal is home to more than a dozen commercial establishments, including New Deal Travel Center Restaurant and Integrity Homes of New Deal.¹⁶ New Deal also has an Economic Development Board.¹⁷ There are no health facilities or separate transportation systems in New Deal.

(7) The extent to which the specified community and the central city are part of the same advertising market. As noted above, *The New Deal District Communicator* covers local sports, school district information, including Board of Education meetings and minutes, and local community news, that is distributed to various parts of the New Deal community as well as to each district school. Local New Deal businesses can advertise in *The New Deal District Communicator*, and therefore can reach residents of New Deal without relying on Lubbock media sources.

(8) The extent to which the specified community relies on the larger metropolitan area for various municipal services. New Deal provides a variety of municipal services to its residents. New Deal has its own police department and volunteer fire department that provides fire suppression, rescue and EMS first responder services to New Deal and a portion of Northern Lubbock County. New Deal has its own Municipal Court Judge and City Attorney.¹⁸ New Deal also provides water and sewage services to the community. New Deal is served by the New Deal Independent School District, which is comprised of New Deal High School, New Deal Middle School and New Deal Elementary School, each of which are located within the New Deal boundaries. The New Deal Independent School District is financed primarily by taxes imposed by New Deal and funding from the State of Texas.¹⁹ New Deal contracts out with private companies for other services, such as garbage collection. Highways that pass through New Deal are maintained by the State of Texas.

Under §307(b), the controlling factors in determining whether this application proposing a change in the community of license of KSTQ-FM from Plainview to New Deal, Texas provides for a fair, efficient, and equitable distribution of radio service are whether the proposal will provide a first local service to the proposed community of license and whether the original community of license will continue to have local transmission and adequate protected reception service after the change. The proposed change serves the statutory objective because: (1) New

¹⁵ See Attachment F.

¹⁶ See Attachment G.

¹⁷ See Attachment A.

¹⁸ See Attachment A.

¹⁹ See Attachment H.

Deal lacks any local transmission service of its own, (2) New Deal is a community that is independent of the Lubbock Urbanized Area, and (3) Plainview will continue to receive more than five full-time protected services.²⁰ The public interest and §307(b) compellingly warrant the grant of this application so that KSTQ-FM can provide the first local service to New Deal.

For the foregoing reasons, Ramar respectfully submits that the proposed change in community of license will produce a fair, efficient, and equitable distribution of radio service and that this application should therefore be granted.

²⁰ See, e.g., *Palmetto Communications Company*, 6 FCC Rcd 1527, 1529 (1991) (explaining that well-served reception areas are areas presently receiving at least five fulltime radio services).

**Letter dated May 15, 2007 from
Mr. Wayne McCray, Mayor Pro Tem,
New Deal, Texas**

**CITY OF NEW DEAL
P.O. BOX 126
NEW DEAL, TEXAS 79350**

PHONE: (806) 746-6399

FAX: (806) 746-6505

May 15, 2007

To Whom It May Concern:

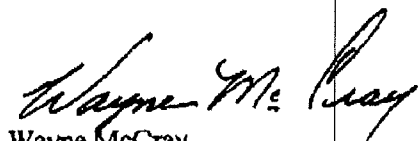
I understand that this letter will be submitted to the Federal Communications Communication in connection with an application to change the community license of a nearby FM station to New Deal, Texas.

The City of New Deal was incorporated in 1970. New Deal has its own elected government, police department, and volunteer fire department, and provides water and sewage services to the community. In addition, New Deal has a variety of commercial establishments and churches within its borders.

Community leaders and residents perceive New Deal to be a distinct community that is independent of the City of Lubbock and the Lubbock, Texas Urbanized Area.

We support this proposal and would welcome having an FM station licensed to New Deal that will serve the needs and interest of the community.

Sincerely,


Wayne McCray
Mayor Pro tem