

**FEDERAL COMMUNICATIONS COMMISSION**  
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**FEB 19 2013**

John M. Torres  
1530 A Cass Street  
Milwaukee, WI 53202

In re: W277AC, Watertown, WI  
BPFT-20110613ACY  
Facility ID No. 24447

Dear Applicant:

This letter refers to the above-captioned translator application for W277AC, Watertown, Wisconsin.

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 60 dBu licensed service area, (BLFT-20110610ABF). 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.<sup>1</sup> However, in order to use the Mattoon waiver, the proposed site must be mutually exclusive to its licensed facility. Based on the co-channel relationship between the proposed and licensed facilities, the mutually exclusive contours are the 60 dBu protected contour and the 40 dBu interfering contour which must overlap. The application proposes channel 224 therefore, the proposed contours are not mutually exclusive with its licensed facility. 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 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).

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

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BPFT-20110613ACY IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



*for* James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau