WASHINGTON, DC OFFICE
fifth floor
flour mill building
1000 potomac street nw
washington, dc 20007-3501
TEL *202 965 7880* FAX *202 965 1729*

OTHER OFFICES
new york, new york
portland, oregon
seattle, washington

GSBLAW.COM

GARVEY SCHUBERT BARER

Please reply to JOHN M. PELKEY
jpelkey@gsblaw.com TEL EXT *2528*

ORIGINAL

May 5, 2005

ORIGINAL

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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MAY - 5 2005

Federal Communications Commission
Office of Secretary

Re: Comments of Akron Broadcasting Company
Amendment of Section 73.202(b)
FM Table of Allotments
FM Broadcast Stations
(Akron, CO)
Reclassification of License of
Station KRFX(FM), Denver, Colorado
MB Docket No. 05-102

Dear Ms. Dortch:

Transmitted herewith on behalf of Akron Broadcasting Company are an original and four copies of its Comments with respect to the above-referenced rule making proceeding.

If there are any questions concerning this submission, please contact the undersigned directly.

Sincerely,

John M. Pelkey

Enclosure

JMP:yg

0+4

Before The

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 05-102
FM Table of Allotments	)	RM-10630
FM Broadcast Stations	)	
(Akron, CO)	)	
	)	
Reclassification of License of	)	
Station KRFX(FM), Denver, Colorado	)	

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MAY - 5 2005

Federal Communications Commission
Office of Secretary

To: Office of the Secretary

Attention: Assistant Chief, Audio Division
Media Bureau

Comments of Akron Broadcasting Company

Through a Petition for Rule Making and an amendment thereto,[1] Akron Broadcasting Company ("ABC") requested that the Commission amend the FM Table of Allotments to allot Channel 279C1 to Akron, Colorado, as that community's first local service. In response, the Commission released a *Notice of Proposed Rule Making* ("*NPRM*") in the above-captioned proceeding proposing the requested change to the Table of Allotments and soliciting the submission of comments by May 5, 2005.[2] ABC, through counsel, hereby submits its comments in support of the proposal set forth in the

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[1] ABC filed its Petition for Rule Making ("Petition") on May 24, 2002, and an Amendment to Petition for Rule Making ("Amendment") on July 29, 2002

[2] *See NPRM,* MB Docket No.05-102 (RM-10630), DA 05-654 (adopted March 9, 2005; released March 14, 2005).

NPRM. That proposal is consistent with Commission policy and advances the public interest. As a result, the proposed rule making should be adopted.

I. The Proposed Allocation Satisfies the Highest of the Unsatisfied Allotment Priorities and Can be Made in Full Compliance with the Commission's Technical Requirements.

As ABC explained in its Petition and Amendment, allocation of Channel 279C1 to Akron would provide the 1,711 residents of Akron with their first local service[3] As the Commission has acknowledged, because "there are virtually no populated areas of the country where our higher allotment priorities, such as first reception service, have not been attained[,] . . . as a practical matter, provision of first local service is the highest of our allotment priorities which remains in any significant degree unsatisfied." *See Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094, 7096 (1990).[4] Because it would provide such first local service, the proposed rule making helps to satisfy this *de facto* highest of the allotment criteria. As a result, adoption of the proposal would be in the public interest.[5]

Moreover, allocation of Channel 279C1 can take place in full conformity with the Commission's technical requirements. As noted in the *NPRM*, the proposal meets all spacing requirements now that KRFX(FM) has been downgraded to C0 status.[6] In

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[3] Petition at 3.

[4] The four allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (with co-equal weight being given to priorities (2) and (3)). *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1982).

[5] ABC also pointed out to the Commission that, from the reference coordinates proposed by ABC, nearly 42,000 people would receive an additional service. Amendment at 2.

[6] *NPRM* at n.1 and ¶ 3.

addition, as is demonstrated in Exhibit A attached hereto, principal community coverage of Akron is achieved from the reference coordinates.

II. ABC Reaffirms its Commitment to Apply for the Requested Facilities and Construct those Facilities Promptly.

In its Petition, ABC committed that, if the proposed amendment to the Table of Allotments were adopted, it would promptly apply for an authorization to construct the new facilities and, if it were awarded the construction permit, to construct the new facilities promptly.[7] ABC hereby reaffirms that earlier commitment and, in accordance with paragraph 2 of the Appendix to the *NPRM*, specifically states its intention to apply for facilities to operate on Channel 279C1 at Akron if that channel is allocated to Akron, and, if authorized, to promptly construct the new facilities, place the facilities in operation, and seek a license covering the construction of the facilities.

III. Conclusion

The above facts demonstrate that the Commission's allocation criteria would be best served by the allocation of Channel 279C1 to Akron, Colorado, as such allocation would provide that community with its first local service. In addition, inasmuch as the allocation to Akron complies with all separations requirements and would allow city grade coverage of all of Akron, the proposal is consistent in all respects with the Commission's rules.

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[7] Petition at 1.

Accordingly, ABC respectfully requests that the Table of FM Allotments be amended as follows:

Community	Present Allotment	Proposed Allotment
Akron, Colorado	--	279C1

Respectfully submitted,

Akron Broadcasting Company

By: _____
John M. Pelkey
Its Attorney

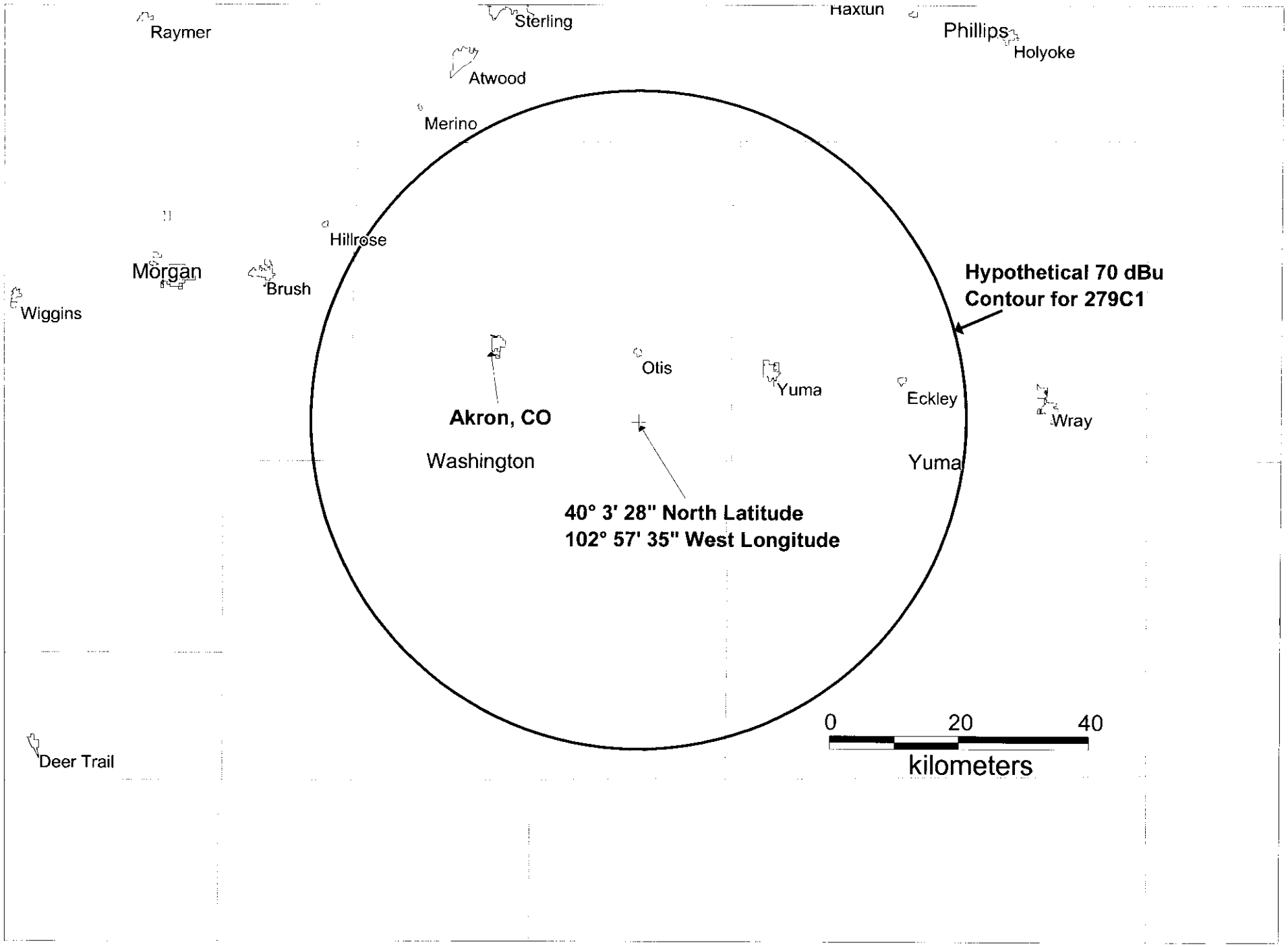
Garvey Schubert Barer
5th Floor, 1000 Potomac Street, N.W.
Washington, DC 20007

202/965-7880

Date: May 5, 2005

Exhibit A

Principal Community Coverage



City Grade Coverage of Proposed Allotment at Akron, Colorado

CERTIFICATE OF SERVICE

I, Yvette J. Graves, hereby certify that on this 5th day of May, 2005, a copy of the foregoing "Comments of Akron Broadcasting Company" have been served by U.S. first-class mail, postage prepaid to the following.

Jacor Broadcasting of Colorado, Inc.
c/o Marissa G. Repp, Esq.
Hogan & Hartson L.L.P.
Columbia Square
555 13th Street, N.W.
Washington, D.C. 20004-1109

*Victoria M. McCauley
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

Yvette J. Graves

*Hand Delivery