



July 2008

Copps Carps Concerning Contour Calculations

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Over the years the localism battlefield has been marked by various stories of supposed public interest failures by broadcasters, supposed failures which supposedly lead ineluctably to the conclusion that the public is not being properly served. Such stories tend to be short on verifiable and/or verified detail and long on rhetorical flourishes – but they invariably cast the broadcast industry (or consolidation, or maybe just “big broadcasters”) as the Bad Guy.

Recently, however, in assigning blame for what he termed the “erosion of localism”, Commissioner Copps pointed his finger considerably closer to home. According to Copps, some of the fault should be laid at the feet of the Commission itself (well, maybe not the *whole* Commission – just those members who don’t see things as clearly as Copps does).

In a decision released on July 2, the Commission affirmed the staff’s approval of the modification of a Garden City, Missouri, FM station’s facilities. The licensee had proposed to move the station’s transmitter site some 40-50 miles away from Garden City. With conventional contour prediction methods, the proposed facilities would not have satisfied city-grade coverage requirements. But using an alternate methodology, the licensee was able to demonstrate compliance.

Such supplemental showings are permitted under Section 73.313(e) of the rules, which provides that alternative contour prediction methodology may be used “where the terrain in one or more directions from the antenna site departs widely from the average elevation”. While a couple of objectors claimed that no such “wide departure” in terrain was present between Garden City and the proposed transmitter site, the staff concluded – and the full Commission concurred – that that claim was wrong, and an alternate analysis was appropriate. The Commission also confirmed that the alternate analysis did establish compliance with the city-grade coverage requirement.

What got Commissioner Copps’s knickers in a twist, though, was the fact that, in a complete unrelated case which is still pending before the Commission, the staff had

declined to consider an alternate methodology analysis tendered by a party objecting to a new FM translator proposal in Berlin, New Hampshire. The objector claimed that, because of intervening mountains (we are, after all, talking about New Hampshire), the proposed translator would not be able to pick up the signal of its proposed primary station. In the objector's view, Longley-Rice showed that the primary station's signal would not go as far as might otherwise have been predicted. According to Copps, the staff refused to consider the objector's showing – and therein lies the rub, at least for Commissioner Copps.

As Copps sees it, the staff is “pull[ing] a quick one” by (1) allowing the use of alternate contour prediction methodologies to allow the Garden City station to show that its signal goes much farther than might have been thought – thus permitting it to move its transmitter farther away from its community, but then (2) refusing (in the New Hampshire translator case) to consider such methodologies which supposedly show that a station's signal really doesn't get as far as might have been predicted – thus permitting a translator authorization that might not otherwise have been granted. Copps sees this as a means by which the Commission “enable[s] broadcasters to move farther from their local communities, but bars them where they could keep broadcasters closer to home.”

It is of course true that even though you're paranoid, they might still be following you. But it is difficult to confirm here that anyone at the Commission – staff or Commissioners – has in fact been undertaking an anti-localism campaign by selectively allowing or disallowing Longley-Rice or similar alternate contour showings. Such a notion would seem unlikely in any event, even more so in light of the difficulties which the Commission has historically had in dealing with contour prediction methods.

Reliance on standardized signal prediction methodology is essential to the efficient processing of applications. But the assumptions necessary for a standardized approach mean that that approach will not necessarily be accurate for a wide range of situations which do not conform to the approach's assumptions. The Commission attempted to deal with this more than three decades ago, when it adopted the terrain roughness factor (known to the cognoscenti as “delta-h”, or Δh) as a means of assuring both ease of processing and reasonable accuracy in predictions even when the terrain in the relevant area “depart[ed] widely” from standard assumptions. But the routine use of the terrain roughness factor was suspended almost immediately after it was adopted. Applications were thereafter processed on a case-by-case basis.

In 2002, in an unpublished letter decision, the staff quietly announced, in a footnote, that alternate contour prediction methodologies would be permitted only when certain conditions pertained. In particular, terrain would be said to “depart widely” only where the terrain roughness factor had a value of “20 meters or less, or 100 meters or more”, or

where the predicted contour along radials toward the community of license varied by more than 30% from the prediction obtained using the standard method. This formulation, although never codified, has been the rule of thumb since.

According to the Commission's decision in the Garden City case, the alternate showing satisfied those standards, and thus could properly be invoked. Since the Commission has yet to act in the New Hampshire translator case – and since the staff does not appear to have formally published its decision which is now on appeal before the Commission – we can't be sure whether the staff's action there was consistent with applicable precedent. But it does seem a stretch to believe that the staff's refusal to consider an alternate contour showing in a translator case reflects a fundamental anti-localism bias. (Indeed, in view of the labor-intensive process necessary to evaluate alternate contour showings, the staff might be entirely justified in declining to accept *any* such showings in the context of secondary services, such as FM translators.)

Copps urges that the Commission should “revisit our technical and allotment rules as they relate to localism” and that “[l]ocalism must infuse everything we do”. It will be interesting to see whether Copps's statement will lead to any changes in the way that the staff addresses alternate contour prediction showings.