

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In re )  
 )  
Edgewater Broadcasting, Inc. )  
Licensee of FM Translator ) File No. BPFT-20171229ABE  
W256CL )  
Park Forest, IL )

To: Chief, Media Bureau

**INFORMAL OBJECTION**

Sound of Hope Radio NFP (“SOH”), permittee of low power FM radio station WQEG-LP, Chicago, Illinois, by its attorneys, pursuant to Section 73.3587 of the Commission’s Rules, 47 C.F.R. § 73.3587, submits this Informal Objection opposing grant of the proposed construction permit to Edgewater Broadcasting, Inc (“EBI”), licensee of FM translator W256CL. As SOH shall demonstrate, EBI has engaged in a pattern of successive modification applications with the ultimate goal of providing service in the heart of Chicago. As the Commission has stated in numerous cases, such practices are an abuse of the Commission’s processes and a waste of its resources.<sup>1</sup> Therefore, the EBI application should be dismissed or denied.

In several recent cases the Commission has expressed its opposition to allowing parties to submit a series of applications for the purpose of moving FM translators large distances toward larger markets, especially spectrum limited markets, such as Chicago. In *Harry C. Martin*, 29

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<sup>1</sup> SOH has standing to submit this Informal Objection. SOH will compete with EBI in the Chicago market. The fact that both entities are noncommercial does not limit SOH’s standing in this regard. *Coe W. Ramsey*, DA 17-1147 (MB 2017). In addition, SOH’s ability to relocate its facilities is directly impacted by the instant application.

FCC Rcd 12718 (MB 2014) (“*Martin*”), the Media Bureau stated:

We have held that an attempt to achieve a certain result by means of a Commission process, procedure, or rule that was not designed or intended for that purpose may represent an abuse of process. *Filing serial minor change applications to accomplish a move that would otherwise constitute an impermissible major change is such an abuse.*<sup>2</sup> (emphasis added)

In the *Martin* case, the Commission cited, *John F. Garziglia*, 26 FCC Rcd 12685 (MB 2011) (“*Mattoon*”), in which the Commission discussed the process by which some applicants have used several “hops” to achieve results not intended by the Commission’s rules. The Commission stated that use of such “hops” is an abuse of process:

Section 74.1233(a) of the Rules provides that “any change in antenna location where the station would not continue to provide 1 mV/m service to some portion of its previously authorized 1 mV/m service area” would be considered a “major change in the facilities of authorized stations.” Applications for major modifications of existing facilities can only be filed during filing windows.

Some translator licensees have attempted to accomplish what would otherwise be dismissed as an impermissible major change under Section 74.1233(a) by filing serial minor modification applications to “hop” to new locations that are sometimes over 100 miles away. *We believe the filing of serial modification applications represents an abuse of process.* We recently entered into a consent decree with a party that acknowledged this practice was an abuse of process and agreed to forfeit several authorizations. The purpose of the overlap requirement is “[t]o prevent ... FM translator stations from abandoning their present service areas.” The evident purpose of the serial applications is to achieve the prohibited result. *No rule specifically prohibits such a practice, but the Commission can take appropriate enforcement action, including denial of applications that are intended to evade the requirement or subvert its purpose pursuant to Section 308(a) of the Communications Act of 1934, as amended, on*

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<sup>2</sup> *Martin*, 29 FCC Rcd at 12719, citing, *Amendment of Sections 1.420 and 73.3584 of the Commission’s Rules Concerning Abuses of the Commission’s Processes*, Notice of Proposed Rulemaking, 2 FCC Rcd 5563 ¶ 2 (1987) (“We believe that ‘abuse of process’ may be characterized as any action designed or intended to manipulate or take improper advantage of a Commission process, procedure or rule in order to achieve a result which that process, procedure or rule was not designed or intended to achieve; or to subvert the underlying purpose of that process, procedure or rule.”)

*the ground that grant would not serve the public interest.*<sup>3</sup> (emphasis added)

In *Educational Media Foundation*, 29 FCC Rcd 15051 (2014), the Commission affirmed the decisions of the Media Bureau that such serial hops “are not mere administrative inconveniences but rather disallowed as an abuse of process.”<sup>4</sup>

Attached to this Informal Objection is Exhibit A, prepared by the engineering firm of Smith and Fisher. Exhibit A shows the six moves that Edgewater has made to bring its translator to the heart of Chicago. Exhibit A shows the moves have been a virtual straight line toward the heart of Chicago. Exhibit A also shows that four of the six construction permits did not place a 60 dBu contour over the entirety of the Park Forest, Illinois, the community of license. This is further evidence that the moves have not been made to improve service to its community of license. Also attached is Exhibit B, a print out of the Commission’s CDBS system, which shows that this pattern of successive modification applications filed by EBI, moving closer to the center of Chicago, has taken place over a very short period of time, further evidence that these modifications have been part of a concerted series of “hops.” Such a series of “hops” in such a short period of time cannot reasonably be considered necessary.

It is clear that this is a pattern of abuse exactly as the Commission has discussed. Moreover, Chicago is one of the most spectrum limited markets in the U.S. This is an abuse of process that could be a significant impediment for SOH and other LPFM permittees seeking to serve the underserved communities of Chicago.

Throughout the application process, SOH has asserted its intention to serve the underserved Chinese community of Chicago. The abusive method that EBI has used to file its

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<sup>3</sup> *Mattoon*, 26 FCC Rcd at 12686-87.

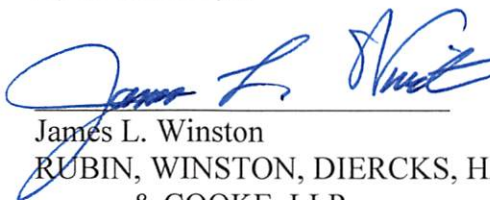


pending application will prevent SOH from modifying its construction permit or license to move closer to the Chinese community of Chicago. The public interest will be well served by denial of the EBI modification, enabling SOH to submit a modification application to move closer to the Chinese community of Chicago. SOH requests that the Commission dismiss or deny the EBI modification application as an abuse of process.

Respectfully submitted,

**SOUND OF HOPE RADIO NFP**

By its Attorneys,

A handwritten signature in blue ink, appearing to read "James L. Winston", is written over a horizontal line.

James L. Winston  
RUBIN, WINSTON, DIERCKS, HARRIS  
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<sup>4</sup> *Educational Media Foundation*, 29 FCC Rcd at 15052.

# **EXHIBIT A**

**ENGINEERING MAP  
PREPARED BY SMITH AND FISHER**

**Smith and Fisher, LLC**

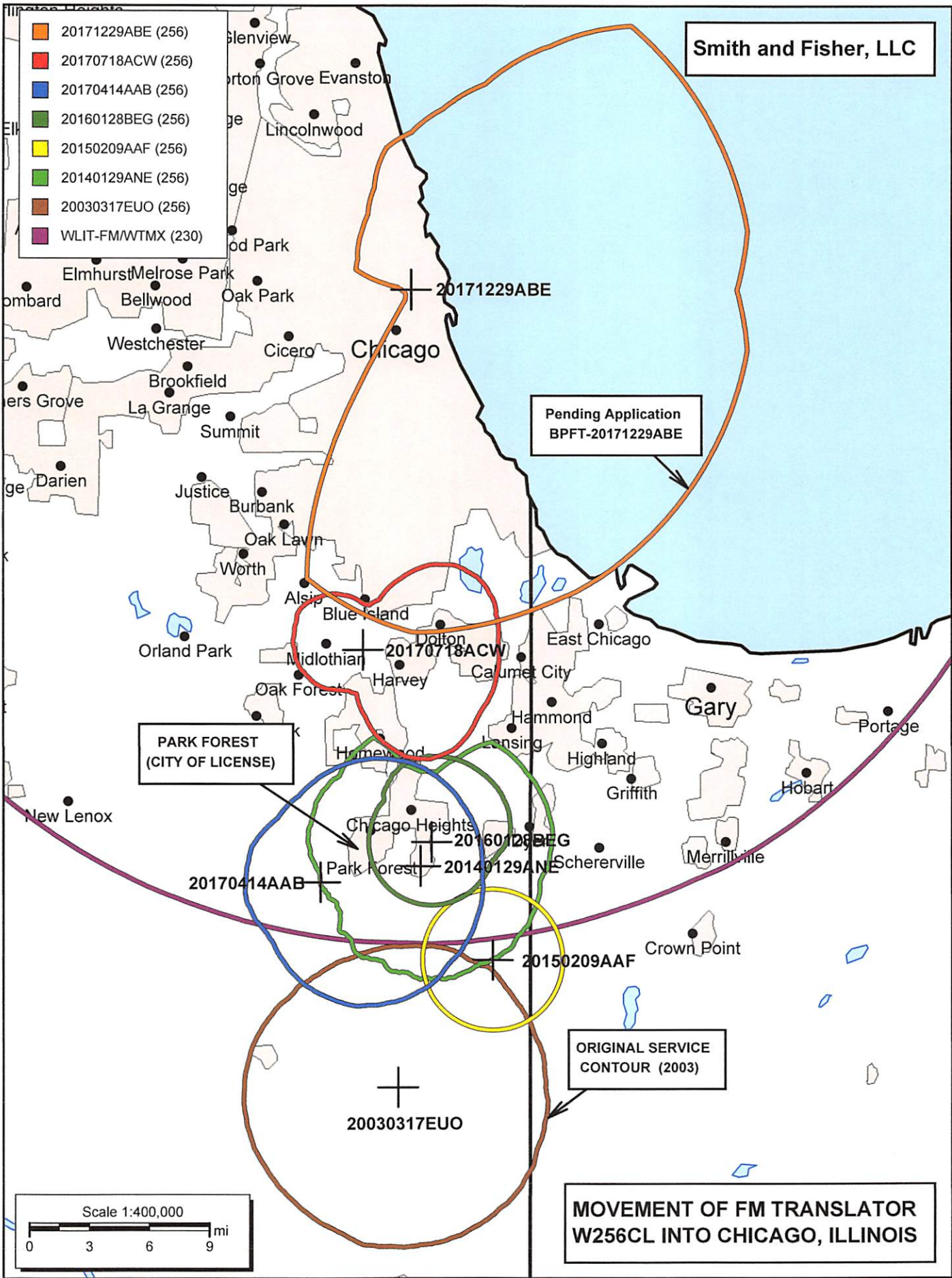
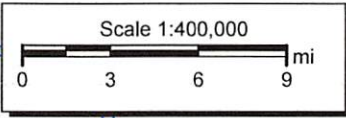
- 20171229ABE (256)
- 20170718ACW (256)
- 20170414AAB (256)
- 20160128BEG (256)
- 20150209AAF (256)
- 20140129ANE (256)
- 20030317EUO (256)
- WLIT-FM/WTMX (230)

Pending Application  
BPFT-20171229ABE

PARK FOREST  
(CITY OF LICENSE)

ORIGINAL SERVICE  
CONTOUR (2003)

**MOVEMENT OF FM TRANSLATOR  
W256CL INTO CHICAGO, ILLINOIS**



# **EXHIBIT B**

**W256CL APPLICATION SERIES  
PRINTOUT FROM CDBS**





## Application Search Details

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Search returned: 11 matching applications

## Application Search Results

File Number	Form	Paper/ Elect	Call Sign	Facility Id	Service	Status	Status Date	Details
BPFT 20171229ABE	349	E	W256CL	152811	FX	ACCEPTED FOR FILING	01/02/2018	<a href="#">Info</a>   <a href="#">Application</a>
BLFT 20170825ABG	350	E	W256CL	152811	FX	GRANTED	09/11/2017	<a href="#">Info</a>   <a href="#">Application</a>
BPFT 20170718ACW	349	E	W256CL	152811	FX	GRANTED	07/31/2017	<a href="#">Info</a>   <a href="#">Application</a>
BLFT 20170717ACV	350	E	W256CL	152811	FX	GRANTED	07/28/2017	<a href="#">Info</a>   <a href="#">Application</a>
BMPFT 20170414AAB	349	E	W256CL	152811	FX	GRANTED	05/10/2017	<a href="#">Info</a>   <a href="#">Application</a>
BPFT 20160128BEG	349	E	W256CL	152811	FX	GRANTED	02/04/2016	<a href="#">Info</a>   <a href="#">Application</a>
BLFT 20160127AFF	350	E	W256CL	152811	FX	GRANTED	02/08/2016	<a href="#">Info</a>   <a href="#">Application</a>
BMPFT 20150209AAF	349	E	W256CL	152811	FX	GRANTED	03/16/2015	<a href="#">Info</a>   <a href="#">Application</a>
BMPFT 20140129ANE	349	E	W256CL	152811	FX	GRANTED	07/25/2014	<a href="#">Info</a>   <a href="#">Application</a>
BNPFT 20130828AFF	349	E	W256CL	152811	FX	GRANTED	12/27/2013	<a href="#">Info</a>   <a href="#">Application</a>
BNPFT 20030317EUO	349	E	W256CL	152811	FX	GRANTED	12/27/2013	<a href="#">Info</a>   <a href="#">Application</a>

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CERTIFICATE OF SERVICE

I, Sheree Kellogg, a secretary in the law firm of Rubin, Winston, Diercks, Harris & Cooke, L.L.P., do hereby certify that on January 19, 2018, a true copy of the foregoing "Informal Objection" was mailed, first class U.S. mail, postage pre-paid to the following:

Clark Parrish  
Edgewater Broadcasting, Inc.  
160 Gooding Street West, Suite B  
Twin Falls, ID 83301

  
Sheree Kellogg

January 19, 2018