

FCC FOCUS

Strange Ruling on International Issue

In a stunning decision, the FCC has swept aside the voluminous engineering material submitted in the XHBCE-FM proceeding and has granted the request of Broadcast Company of the Americas for Section 325(c) authority to electronically deliver programming to Class C1 Station XHBCE-FM, Tecate, Baja California, Mexico.

An objective observer might be understandably confused on how the Commission came to this decision, one that should have the attention of every station close to the international border.

The Commission's Order and Authorization (O&A) granting the 325 authority is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-473A1.doc

LONG-RUNNING PROBLEM

The case involves FM station XHBCE-FM, and AM stations XESS, XESDD and XEKTT, in Baja North, Mexico.

Aerial photographs taken by Lazer Broadcasting in May 2005 uncovered evidence of apparent massive violations of international broadcasting agreements – from AM stations that should have been built with multiple towers (but were not), to XHBCE-FM's Class B facility that was apparently operating from the wrong location (and 1,700 feet too high), to a Class C1 antenna that apparently cannot protect the U.S. (This antenna was built to handle 100 kW ERP, far above the 8.2 kW value ultimately allowed by the SCT)

While the operators of the stations have repeatedly and vehemently denied any wrongdoing, Lazer Broadcasting along with Emmis Communications filed information with the FCC that appeared to have shattered the heart of the Baja stations' defense.

According to the Lazer/Emmis attorneys ("Lazer"), the document provides, "...conclusive evidence that BCA and Quetzal have been engaged in a high-stakes game of fraud on the FCC" in order to save their Section 325(c) permits.

DOCUMENTED FACTS

Maps, color photos and engineering drawings accompany Lazer's easy-to-read pleading and show how the alleged misdeeds were accomplished. You may read the Lazer/Emmis filing (3.3 MB) at http://earthsignals.com/add_CGC/Reply_BCA_Oppose.pdf

Color photos illustrating the situation are posted separately at this URL: http://earthsignals.com/add_CGC/Reply_BCA_Oppose_Photos.pdf

If you read nothing else, download the first document and read "pdf" pages 28 thru 33, starting with the title, "The True Location of XHBCE's Class B Plant is Revealed." It would help to print the Exhibit E-2 map beforehand ("pdf" page 39) as a guide.

It is fascinating to see the step-by-step process that Lazer claims was used to obscure the true location of a valuable broadcast property. How do you move coordinates from one place to another anyway? Once you have read that, you will probably want to read more.

A PUZZLING DECISION

In many ways, this O&A is incredible. It goes to great lengths to avoid deciding the most basic issues raised – including the allegation that the XHBCE Class B facility was built on a mountaintop far from its authorized location (a ravine).

The O&A also caves in regarding a directional antenna pattern issue for XHBCE's Class C1 site by simply saying, "In matters such as this, we rely on the responses of SCT (Mexico's FCC), since it has the authority to regulate XHBCE-FM" (para. 12).

The FCC failed to take into account that XHBCE's own range-measured pattern violates the SCT-stipulated pattern and that Lazer Broadcasting's engineering report, which relied on data from ERI's NEC modeling of the XHBCE antenna, showed the same thing.

IS ANYONE PAYING ATTENTION?

It is amazing that the Commission did not see fit to take a single field strength measurement on XHBCE's Class C1 operation – or tell us about it if they did.

Perhaps aware that this lack of oversight could encourage lawlessness in the U.S./Mexican Border Zone, the Commission stated in footnote 36 that, "We will, however, periodically monitor transmissions to ensure that the transmissions are in accordance with the 1992 USA-Mexico FM Broadcasting Agreement."

This hotly contested case was a golden opportunity for the Commission to strut its stuff and take a measurement – but it apparently did nothing.

Finally, the Commission faults Lazer Broadcasting for not providing sufficient evidence that XHBCE is causing actual interference to the reception of Lazer's co-channel station KXRS-FM in Hemet, CA. The demand for an expanded showing – whereas the real focus should be on the correct operating parameters and antenna pattern – is an invitation for chaos in the Border Zone.

BAD SITUATION FOR BORDER STATIONS

Now, a situation may develop that every unscrupulous operator will be tempted to crank up the power, move to an unauthorized site or broadcast on any desired frequency (this happened recently), until proof positive of interference arrives. The burden of proof should not be on the victim station.

In summary, the Commission's mishandling of this case has sent the wrong message across the U.S./Mexican Border Zone.

Then again, some feel the Commission is but a ghost of its former self. The agency has been paying less and less attention to Rule compliance for broadcast stations and has no genuine interest in conducting the type of field measurements that it says in the O&A are needed. But worse, the Commission has, in this case, thrown a colossal canister of cold water on efforts by private parties to take up the slack.

Much of the material for this story was drawn from articles written by Robert Gonsert, president of Communications General Corporation, consulting radio engineers, Fallbrook, CA.

Over the years, Bob has dealt with many cross-border situations, but has never seen apparent Rule violations as egregious as those portrayed here. Bob can be reached at <r.gonsert@ieee.org>.