

**CONCURRING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *CMP Houston-KC, LLC for Minor Modification of Construction Permit of Station KFME-FM, Garden City, MO; Shaw Communications, Inc., Application for a New FM Translator Station, Berlin, NH*

These cases provide another example of how the Commission tips the playing field against local interests—particularly local *rural* interests. Standing alone, the cases may seem unremarkable. When juxtaposed, however, they reveal how even arcane broadcast engineering rules can be manipulated to make it easier to loosen the bonds between broadcast stations and the local communities they are licensed to serve.

The first case deals with an FM station’s application to move its transmitter to Independence, Missouri (part of the Kansas City, Missouri metropolitan area). The station is not licensed to Kansas City but to Garden City, a rural community of about 1,500 residents approximately 40-50 miles to Kansas City’s southeast. Because of the distance, the station would not cover Garden City with the requisite city grade signal strength using the Commission’s standard prediction methodology. Specifically, using the Commission’s standard methodology, the station’s city grade contour falls some 13.5 km short of providing adequate coverage to Garden City.

Nevertheless, the Commission approves the site move under Section 73.313(e) of our rules, which permits alternative coverage calculations where the topography in question “departs widely” from the average terrain assumed by our standard methodology. The station seeking the site change demonstrated that the terrain in the direction of Garden City is particularly smooth, and therefore that its coverage extends beyond what the Commission’s standard model would predict. Commission staff analyzed the data and confirmed that Garden City will, in fact, receive a city grade signal due to the flat terrain.

The lesson of *Garden City* therefore seems to be that we will use our standard prediction methodology to assess signal coverage, but if the terrain varies significantly from our baseline assumptions, we will be guided by the facts on the ground. The rule itself gives the example of a mountain ridge that “may indicate the practical limit of service although the prediction method may indicate otherwise.” *See* 47 CFR §73.313(e).

Which brings us to the Berlin, New Hampshire case. There, the issue is whether a proposed FM translator station in Berlin, New Hampshire can—as required by our rules—receive the off-air signal of the “main station” located in Conway, New Hampshire. An objecting party asserts that, in reality, several tall mountains preclude the signal of the Conway station from reaching the proposed translator in Berlin. Under the reasoning of *Garden City*, one would expect the Commission: (1) to examine whether the mountainous New Hampshire terrain “departs widely” from our baseline assumptions, and, if so, (2) to assess whether, in fact, the intervening mountains prevent the Conway signal from reaching Berlin.

But that's where the Commission pulls a quick one. While it *permits* the station in *Garden City* to use unusual terrain to show that its signal actually reaches *farther* than the standard prediction model, it *refuses* to permit the objecting party in *Berlin* to use unusual terrain to show that the Conway station's signal actually travels *less far* than predicted. In essence, the Commission recognizes the reality of the flat Missouri terrain but then assumes away the existence of mountains in New Hampshire. The only way to make sense of this approach is that the Commission permits alternative showings where they enable broadcasters to move farther from their local communities, but bars them where they could keep broadcasters closer to home.

I want to make clear that I am not concluding that the broadcasters in these cases cannot and will not serve their local communities. Perhaps the Missouri station can fully serve the needs and interests of the people of Garden City from its distant Kansas City tower site.¹ Perhaps the Berlin translator will be just as "local" as if it actually received an off-air signal from the main station in Conway. But I fear—over time and over similar cases—our approach takes its toll.

Ultimately, the erosion of localism is not the result of a particular rule change or single event. It is the result of countless steps—some large, some small—that incrementally shift the center of gravity until we wake up one day and wonder where we are and how we ever got here. That's why the localism problem can't be fixed overnight and why the issues can't be cordoned off in a single "localism" proceeding. Localism must infuse everything we do—including, perhaps surprisingly, our choice of engineering methodologies.

I reluctantly concur in these items because they arguably adhere to existing Commission precedent. But we can and should revisit our technical and allotment rules as they relate to localism, some of which are raised here (including the more general policies regarding distant FM translators raised in *Berlin*). The localism dam may have been breached, but that doesn't mean it's not repairable and all we can do is watch the water level continue to rise. It's time to roll up our sleeves and get to work.

¹ On the other hand, one cannot glean much comfort from the station's branding on its website as "Jack FM Kansas City" and the fact that the station's main studio is located some 50 miles from Garden City in Mission, Kansas.