

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

Re: *In re Application of Peconic Bay Broadcasting Corporation and AAA Entertainment Licensing LLC for Assignment of Construction Permit of Station WEHM(FM) (formerly WCSO(FM)), Southampton, New York – File No. BAPH-20011207AAK*

This case is about defining local radio markets for purposes of our multiple ownership rules. While I concur in the result, it demonstrates just how irrational the Commission's old "contour-overlap" methodology could be and why moving to Arbitron markets was such an improvement.

In this case, AAA Entertainment sought FCC approval to own four FM stations on Eastern Long Island. The only way it could own that many FM stations under our rules, however, is by counting three Connecticut AM radio stations as being "in" the Eastern Long Island market—notwithstanding the fact that the Connecticut stations are separated from Long Island by Long Island Sound. Not surprisingly, there is no evidence in the record that these Connecticut stations focus on the needs of Eastern Long Island or that any economist would consider them part of the same local economic market. Indeed, the Commission's competition analysis tacitly acknowledges that they are in different markets by ignoring the Connecticut stations in assessing the competitive consequences of the proposed transaction.

A closer look at one of the Connecticut stations demonstrates the illogic of applying the contour-overlap methodology in this case. WADS-AM is licensed to serve the community of Ansonia, Connecticut, approximately 140-160 driving miles (via New York City) from the relevant area of Eastern Long Island. Given the distance, there is little chance that businesses on Eastern Long Island would advertise on WADS, or that residents on Eastern Long Island would commute to or shop in Ansonia, Connecticut. Given those facts, how does today's Order count WADS as being "in" the Eastern Long Island market? As the petitioner argues, it is at least partially due to the unique propagation characteristics of salt water. In Connecticut, WADS's signal forms a roughly circular pattern with a radius of about fifteen miles. But once the signal hits the Long Island Sound, it takes off and travels approximately another thirty miles before dying quickly when it hits the Long Island coastline. WADS's signal contour thus resembles something like an ice cream cone jutting across Long Island Sound. At the very tip of the cone, WADS's signal contour barely overlaps with the predicted contour of WCSO, one of the stations in AAA's proposed combination. I have attached to this statement the contour map showing WADS's overlapping "service" to Long Island. I will leave it to those with better eyes than mine to determine the precise overlap area, but to me it looks like about a quarter mile right near the shoreline.

The petitioner raises many of these concerns but the Order rejects them, finding that: (1) the degree to which salt water propagation allows the signals of WADS and the

other Connecticut stations to cross Long Island Sound is “undeterminable;” and (2) the overlap areas between the Connecticut stations and the proposed combination on Long Island “occur partially over land” and not solely over open water. Those assertions may both be technically true, but they also blink at reality. We may not know precisely the effect of salt water propagation, but one look at the Connecticut stations’ oddly-shaped signal contours indicates that its impact is significant. And while WADS does indeed overlap with WCSO “over land,” an overlap of a few hundred yards on a beach can hardly be deemed meaningful “service” to Eastern Long Island.

In the end, I concur in today’s Order because it comports with the Commission’s rules in effect when the transaction was consummated. It is a good reminder, however, of why the contour-overlap methodology was rightly scrapped in Arbitron-defined markets.

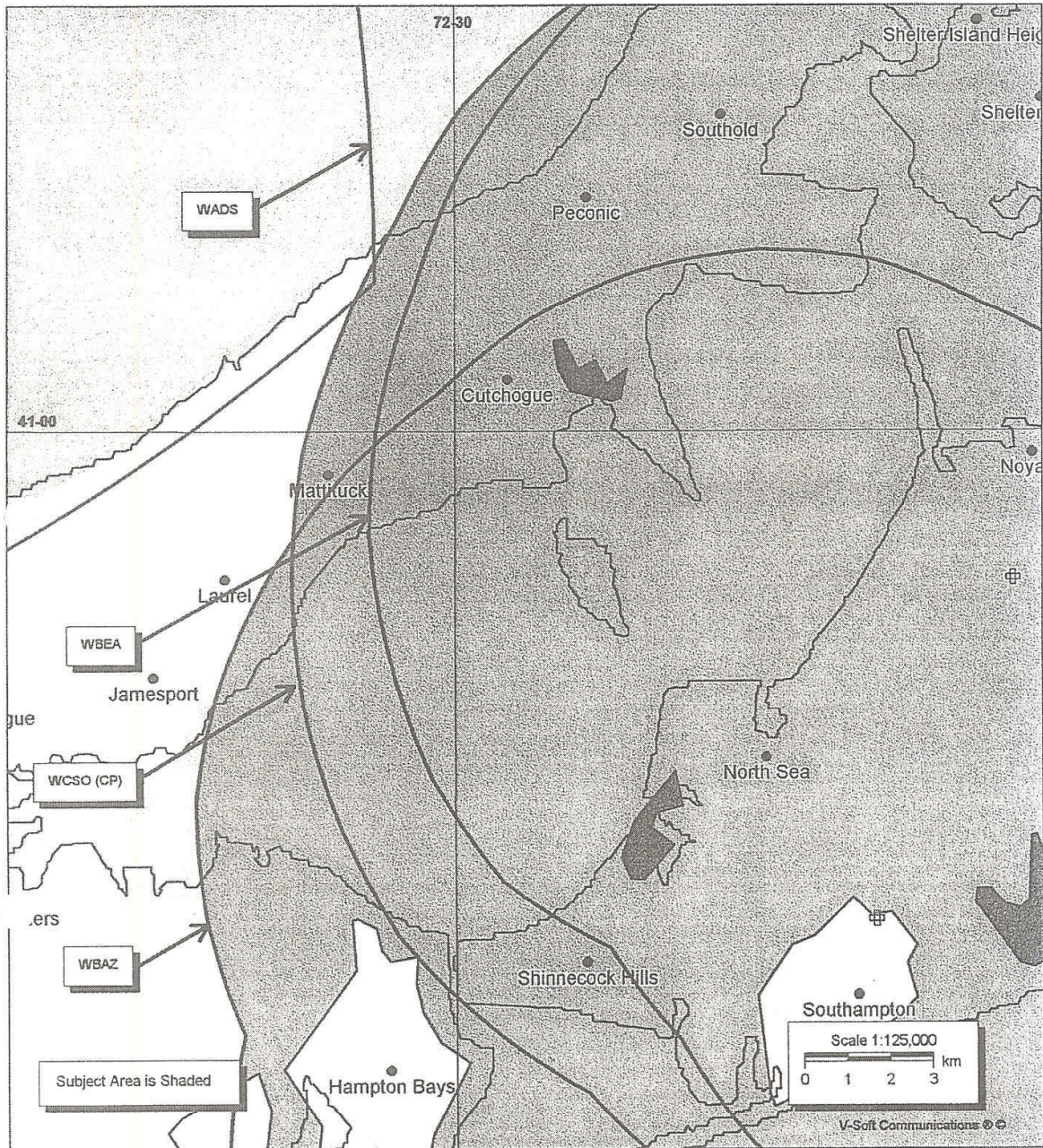


EXHIBIT #3A
WADS SERVICE TO SUBJECT AREA

**MULTIPLE OWNERSHIP
 COMPLIANCE STUDY
 All New York**

Bromo Communications, Inc.
 Atlanta, Georgia
 February 2002