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FEDERAL COMMUNICATIONS COMMISSION
445 Twelfth Street, S.W.
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

PROCESSING ENGINEER: Harding Chism
TELEPHONE: (202) 418-2700
FACSIMILE: (202) 418-1411
MAIL STOP: 1800B3
INTERNET ADDRESS: Harding.Chism@fcc.gov

JUL 15 2005

Gregory L. Masters, Esq.
Wiley Rein & Fielding, LLP
1776 K Street, N.W.
Washington, DC 20006

In re: WFXC(FM), Durham, NC
Radio One Licenses, LLC
Facility Id # 36952
BPH-20050105ACE

Dear Mr. Masters:

The staff has under consideration the above-captioned one-step application filed on behalf of Radio One Licenses, LLC to change class from Channel 296A to Channel 296C3; and the amendment filed June 6, 2005 in response to staff letter dated May 4, 2005. For the reasons set forth below the amendment will be denied and the application will be dismissed.

The proposal is short-spaced to first adjacent channel Station WKQB(FM), Southern Pines, North Carolina. The application recognizes the short-spacing and requests processing pursuant to 47 C.F.R. § 73.215.[1] The proposal is also short-spaced to first adjacent channel Station WCLN-FM, Clinton, North Carolina. The application recognizes the short-spacing to WCLN-FM and states that it is in compliance with § 73.215. However, an engineering evaluation of WFXC(FM)'s proposal determined that the application is in violation of § 73.215(a), due to contour overlap with WCLN-FM. This is because WFXC(FM)'s proposed 60 dBu protected contour will overlap the WCLN-FM 54 dBu interfering contour by as much as 620 meters along the 343 degree bearing.

[1]The application complies with the requirements of § 73.215, with respect to WKQB(FM)'s construction permit BMPH-20030829AZF, but does not comply with respect to WKQB(FM)'s license.

WFXC(FM) amended its application and included a showing that demonstrated that no contour overlap will occur with WCLN-FM. This was accomplished by employing a 3-second terrain data base calculation of the WFXC(FM) and WCLN-FM contours. However, WFXC(FM)'s application is still in violation of § 73.215(a) due to prohibited contour overlap of WKQB(FM)'s licensed interfering contour.[2] Neither WFXC(FM)'s proposed facility nor the C3 allotment site comply with § 73.215 with respect to WKQB(FM)'s license.

Due to the § 73.215 violation with respect to WKQB(FM)'s license, WFXC(FM) has requested that its application be held in pending status until WKQB(FM) files an application for license to cover its construction permit BMPH-20030829AZF. However, WKQB(FM)'s construction permit does not expire until the end of the year. Until WKOB(FM) is licensed at the fully spaced transmitter site in its modification of construction permit, WFXC(FM) must continue to protect the presently licensed operation of WKOB(FM). It has been our longstanding practice not to grant conditioned permits for facilities that are dependent on a second station's construction permit, where the second station's changes do not implement allotment changes made through a rulemaking proceeding. Consequently, an amendment to protect the WKQB(FM) licensed facility is still required.[3]

Accordingly, in light of the above, Radio One Licenses, LLC.'s amendment IS HEREBY DENIED and Application, BPH-20050105ACE, as amended, being unacceptable for filing, IS HEREBY DISMISSED. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

George H. Gwinn

George H. Gwinn
Supervisory Engineer, Audio Division
Media Bureau

cc: Radio One Licenses, LLC
du Treil, Lundin & Rackely, Inc.

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[2] WFXC(FM)'s amendment also corrected a typographical error with the C3 allotment site coordinates, however we note that WFXC(FM)' s C3 allotment site remains short-spaced to the license site of WKQB(FM).

[3] 47 C.F.R. § 73.3564(a)(3) states that, "[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for corrective amendment." *See* Appendix B in the *Report and Order* in MM Docket No. 91-347, 7 FCC Rcd 5074, 57 Fed. Reg. 34872, released July 27, 1992.