



Federal Communications Commission  
Washington, D.C. 20554

July 9, 2013

Spanish Broadcasting System Holding Company, Inc.  
c/o Joseph A. Garcia  
2601 South Bayshore Drive  
Penthouse 2  
Coconut Grove, FL 33133

1800E1-MRS

TV Red de Puerto Rico, Inc.  
c/o Jorge R. Figueroa  
P.O. Box 903  
Saint Just, PR 00978-0903

Re: Application for Digital LPTV Displacement  
Station W18DQ-D  
Santa Isabel, Puerto Rico  
File No. BDISDTL-20101102ABM  
Facility ID No. 181871

Dear Applicant/Petitioner:

This is with respect to the above referenced application filed by TV Red De Puerto Rico (“TV Red”) for displacement relief for digital low-power television (“LPTV”) station W18DQ-D, Santa Isabel, Puerto Rico. Spanish Broadcasting System Holding Company, Inc. (“SBS”) filed a *Petition to Deny*, opposing the grant of W18DQ-D’s displacement application. For the reasons set forth below, we grant the *Petition to Deny* and dismiss the application for displacement relief.

Background. On February 25, 2010, TV Red was granted a construction permit to build a LPTV station on channel 18.<sup>1</sup> TV Red also has a pending construction permit application for channel 38 at Sabana Grande, Puerto Rico.<sup>2</sup> TV Red’s pending construction permit is mutually exclusive with an application filed by SBS for channel 38 at Mayaguez, Puerto Rico.<sup>3</sup>

On November 2, 2010, TV Red filed an application for displacement relief seeking to modify its construction permit for W18DQ-D to specify operation on channel 38 instead of channel 18. TV Red filed the displacement application because it predicted that by operating on channel 18 it would receive interference from three full-power television stations: WECN (TV), WKPV (TV) and WVEO (TV).<sup>4</sup> The

<sup>1</sup> File No. BNPDTL-20090825BLH.

<sup>2</sup> File No. BNPDTL-20090825BMJ.

<sup>3</sup> File No. BNPDTL-20090825BRC.

<sup>4</sup> WECN (TV), Naranjito, Puerto Rico, is a co-channel full service digital television station within 50 kilometers of W18DQ-D. TV Red also claims that it receives interference from full-service digital television stations WKPV (TV), Ponce, Puerto Rico and WVEO (TV), Aguadilla, Puerto Rico. *See Opposition* at 3-4.

displacement application for W18DQ-D was placed on Public Notice on December 17, 2010. SBS filed a timely *Petition to Deny* on January 18, 2011.

SBS' *Petition to Deny* requests we dismiss or hold in abeyance TV Red's displacement application for the following reasons: (1) W18DQ-D is not predicted to receive any actual harmful interference from nearby full-power stations and any change to its operating channel is therefore a major change requiring a filing window;<sup>5</sup> (2) TV Red had full knowledge at the time of initial application of W18DQ-D's proximity to WECN (TV) and the potential for receiving interference;<sup>6</sup> and (3) TV Red is abusing the displacement rules to obtain the channel 38 channel assignment.<sup>7</sup> Due to the priority we provide displacement applications,<sup>8</sup> granting TV Red displacement relief would result in the dismissal of SBS' construction permit application for channel 38 at Mayaguez, Puerto Rico.

TV Red filed an *Opposition to SBS' Petition to Deny* on January 31, 2011. TV Red's *Opposition* states that its displacement application "fully complies with the applicable FCC rules regarding digital displacement applications."<sup>9</sup> No *Reply* was filed by SBS.

Discussion. Because LPTV stations are secondary to full-power television stations,<sup>10</sup> when evaluating a LPTV application for a new station the Commission only considers interference *caused* by LPTV stations.<sup>11</sup> For this reason, the Commission does not consider interference that may be *received* by a LPTV station. It is the responsibility of the applicant seeking a LPTV new station, in this case TV Red, to know if an existing full-power television station's signal would cause interference so significant that LPTV operations could be compromised. If the potential for such interference was discovered, we would expect that the LPTV applicant would look for an alternate channel allotment.

The displacement process for LPTV stations was adopted by the Commission to protect LPTV stations from interference caused from changes to the facilities of primary services (e.g., full-power digital television stations) *after* the LPTV station was assigned its channel. The displacement process has been particularly important to LPTV stations in the context of the full-power digital television transition and addressing interference issues that arise from full-power stations new digital channel assignments. Nonetheless, interference received by a LPTV station from an existing full-power television station is immaterial if the LPTV station was aware or should have been aware of the potential for receiving interference at the time of initial application.

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<sup>5</sup> *Petition to Deny* at 3-4.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 6-7. We do not address this claim as no substantive evidence has been provided to us demonstrating that TV Red is actually abusing the Commission's displacement rules. Our determination is solely based on the underlying technical claims made in the displacement application and subsequent filings.

<sup>8</sup> 47 C.F.R. §§ 73.3572(a)(4)(ii) and 74.787(a)(4).

<sup>9</sup> *Opposition* at 6.

<sup>10</sup> *See, e.g.*, 47 C.F.R. § 74.706.

<sup>11</sup> "An application for a new low power TV, TV translator, or TV booster station or for a change in the facilities of such an authorized station will not be granted when it is apparent that interference will be *caused*." 47 C.F.R. § 74.703(a) (*emphasis added*).

When TV Red filed its initial application for channel 18, it should have been aware of the potential for interference from WECN (TV), WKPV (TV) and WVEO (TV). All three of these digital full-power stations were licensed at the time of TV Red's initial application and according to our records none have undergone an authorized facility change that would have resulted in W18DQ-D receiving increased actual or predicted interference. We agree with SBS that the fact that TV Red should have been aware of potential interference from WECN (TV)—as well as WKPV (TV) and WVEO (TV)—is dispositive.<sup>12</sup> We have not been presented with any evidence that the predicted interference that TV Red is using as the basis for its displacement application is any different from the interference TV Red should have known about when it filed its initial application to operate on channel 18. TV Red has failed to demonstrate that it has been *displaced* from channel 18 as the result of new, actual or predicted interference. Therefore, TV Red does not qualify for displacement relief at this time.

Accordingly, IT IS ORDERED that the *Petition to Deny* filed by Spanish Broadcasting Holding Company, Inc., IS GRANTED and the application for displacement relief (File No. BDISDTL-20101102ABM) filed by TV Red De Puerto Rico, for digital low-power television station W18DQ-D, Santa Isabel, Puerto Rico, IS DISMISSED.

Sincerely,

Hossein Hashemzadeh  
Deputy Chief  
Video Division  
Media Bureau

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<sup>12</sup> *Petition to Deny* at 5.