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November 9, 2015

Citicasters Licenses, Inc.
2625 S. Memorial Drive
Suite A
Tulsa, OK 74129

In re: NEW(FM), Silverton, OR
BNPFT-20130830ACQ
Facility ID No. 139397

Dear Applicant:

This letter refers to the above-captioned application for a new translator station at Silverton, Oregon, and the associated waiver request. For the reasons set forth below, the waiver request is denied and the application is dismissed.

An engineering study of the application reveals that it is in violation of 47 C.F.R. § 74.1233(a)(1), and the procedures set forth in the Auction 83 Public Notice inviting the filing of the subject application.¹ Specifically, Section 74.1233 states that “a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels.” The application proposes operation on channel 272 while the underlying short-form application (BNPFT-20030317AQY) proposed channel 250. The applicant recognizes this violation and requests waiver of Section 74.1233(a)(1) based on purported displacement by co-channel interference from station KXPC(FM), Aloha, OR, (BLH-20130729APT).

Displacement relief is only justified when a full service FM station commences operation in the vicinity of an authorized and operating translator and there is interference caused or received by the translator to/from the authorized FM station. Furthermore, to qualify for displacement, the translator station must be precluded from using a minor change channel by other authorized facilities. Since the proposed translator is an unbuilt/unlicensed facility, the proposed facility has not been displaced. Therefore, displacement relief is not warranted in this case and Section 74.1233(a)(1) will not be waived to permit operation on channel 272.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666

¹ See *Media Bureau Announces FM Translator Auction Filing Window and Filing Procedures*, 28 FCC Rcd 11098 (2013).

(D.C. Cir 1968 (per curiam)). We have afforded Citicasters Licenses Incorporated's waiver request the "hard look" called for under WAIT Radio v. FCC, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233.

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BNPFT-20130830ACQ IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Troy Langham