



Federal Communications Commission
Washington, D.C. 20554

September 23, 2022

In Reply Refer To:
1800B3-KV

Marble City Media, LLC
c/o M. Scott Johnson, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209

In re: W252BE, Tarrant, AL
Shelby Broadcast Associates, LLC
Facility ID No. 141124
Application File Nos. BLFT-20140411AAT,
BMLFT-20140520ALM, BPFT-20170511AAL,
and BLFT-20181016ABE

Interference Complaint

Dear Counsel:

This letter refers to Marble City Media, LLC's (Marble City) Interference Complaint (Complaint), filed on February 10, 2017,¹ as supplemented.² The Complaint alleges that Translator Station W252BE, Tarrant, Alabama (W252BE or Station)³ is causing harmful interference to the over-the-air reception of Station WFXO(FM), Stewartville, Alabama (WFXO(FM) or Complaining Station).⁴

¹ Complaint of Marble City, Application File No. BLFT-20140411AAT (rec'd Feb. 10, 2017).

² Addendum to Complaint, Application File No. BLFT-20140411AAT (rec'd Mar. 9, 2017) (Addendum); Reply to Response to Interference Complaint and FCC Letter of Inquiry and Opposition to W252BE Modification Application, Application File Nos. BMLFT-20140520ALM and BPFT-20170511AAL (rec'd May 18, 2017) (2017 Supplement); Request Relating to Interference Complaint, FCC Letter of Inquiry and Opposition to W252BE Modification Application, Application File No. BPFT-20170511AAL (rec'd Jun. 8, 2017) (Complaint Abeyance Request); Revival of Complaint and Petition for Cancellation of W252BE License, Application File No. BMLFT-20140520ALM (rec'd a Jul. 20, 2018) (Complaint Revival-Petition); Supplement to Complaint Revival-Petition, Application File No. BMLFT-20140520ALM (rec'd Jul. 20, 2018) (2018 First Supplement); Reply to Opposition to Complaint Revival-Petition, Application File No. BMLFT-20140520ALM (rec'd Aug. 15, 2018) (2018 Second Supplement); Comments on License Application, Application File No. BLFT-20181016BE (rec'd Oct. 19, 2018) (Comments); Letter, Application File Nos. BLFT-20140411AAT, BMLFT-20140520ALM, BPFT-20170511AAL, and BLFT-20181016ABE (rec'd Nov. 6, 2019) (2019 Supplement). Collectively, these filings will be referred to as the Supplements.

³ W252BE is licensed to Shelby Broadcast Associates, LLC (Shelby).

⁴ Marble City is the licensee of Station WFXO(FM), Stewartville, Alabama.

In the *Translator Interference Order*,⁵ the Commission revised its rules (Rules) relating to FM translator interference complaints and the complaint resolution process. The Commission stated that once effective, all complaints would be decided under the revised Rules.⁶

On October 7, 2019,⁷ the Media Bureau (Bureau) informed Marble City that the Complaint as supplemented did not comply with the Commission's rules (Rules) concerning translator interference. To continue processing the Complaint, the Bureau directed Marble City to file, within 30 days, certain additional information detailed in the *Bureau Letter*.⁸ The Bureau further informed Marble City that "failure to submit the required information will result in the dismissal of the Complaint."⁹

In a November 6, 2019, letter response, Marble City declined to submit the information requested in the *Bureau Letter*. Specifically, Marble City explained that "both WFXO and W252BE have modified their technical operations, and those changes have necessarily altered the factual situation, including areas of potential interference, since the time of the [filing] of the initial complaint."¹⁰ Marble City further declared that "the *Translator Interference Order* is not relevant to the present proceeding, as the primary issue is no longer interference to WFXO's past facilities, but rather that Shelby does not have a license to operate W252BE."¹¹

We find that Marble City has failed to provide the supplemental information required to continue processing the Complaint under the revised Rules. Accordingly, we dismiss the Complaint and Supplements. Regarding Marble City's allegations that the W252BE license has expired, we note that Marble City has raised these allegations in a petition to deny the pending W252BE assignment application and a petition for reconsideration of the W252BE renewal grant.¹² We will address the issue of whether the W252BE license has expired when we act on those petitions. We further note that our action herein dismissing the Complaint and Supplements is taken without prejudice to our action in the other proceedings where we will address the issue of whether the W252BE license has expired.

⁵ See *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, Report and Order, 34 FCC Rcd 3457 (2019) (*Translator Interference Order*), *recon denied*, Order on Reconsideration, 35 FCC 11561 (2020) (*Translator Interference Reconsideration Order*).

⁶ The revised Rules became effective on August 13, 2019. See *Media Bureau Announces August 13, 2019, Effective Date of Amended Rules for FM Translator Interference*, MB Docket No. 18-119, Public Notice, 34 FCC Rcd 7004 (MB 2019).

⁷ See *Letter from James D. Bradshaw, Senior Deputy Chief, Audio Division, Media Bureau to Marble City Media, LLC*, Application File Nos. BLFT-20140411AAT, BMLFT-20140520ALM, BPFT-20170511AAL, and BLFT-20181016ABE (dated Oct. 17, 2019) (*Bureau Letter*).

⁸ In the *Translator Interference Order*, when the Commission adopted certain changes to the translator interference Rules the Commission stated that parties involved in then-pending unadjudicated complaint proceedings would be given an opportunity to submit supplemental material to address the changes. See *Translator Interference*, Report and Order, 34 FCC Rcd at 3482, para 49.

⁹ *Bureau Letter* at 3.

¹⁰ 2019 Supplement at 1.

¹¹ *Id.* at 3. Specifically, Marble City alleged that "W252BE had not operated in accordance with its license since November 16, 2016, when its last Commission authorization to operate at variance from its licensed parameters had expired." *Id.* at 2 (footnote omitted).

¹² See *Petition for Reconsideration of Grant of Renewal of License*, Pleading File No. 0000112328 (rec'd Apr. 16, 2020); *Petition to Deny Application for Assignment of License*, Application File No. BALFT-20200608AAG (rec'd Jul. 10, 2020).

Accordingly, IT IS ORDERED that Marble City Media, LLC's Complaint, filed on February 10, 2017, and the Supplements, filed in 2017 – 2019, ARE DISMISSED.

Sincerely,

James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau

cc: Shelby Broadcast Associates, LLC