

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, SW
WASHINGTON, DC 20554

DEC 29 2008

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

ENGINEER: GARY A. LOEHRS
TELEPHONE: (202) 418-0289
FACSIMILE: (202) 418-1410/1411
MAIL STOP: 1800B3
INTERNET ADDRESS: Gary.Loehrs@fcc.gov

Provident Broadcasting Company, Inc.
P.O. Box 7217
5015 South Florida #409
Lakeland, FL 33807-7217

Re: WVFJ-FM; Manchester, GA
Facility ID No. 53679
Provident Broadcasting Company, Inc.
File No. BPH-20051031ABT

Dear Applicant:

This refers to: (1) the above captioned application by Provident Broadcasting Company, Inc. ("Provident") for a minor change to a licensed facility; (2) the December 27, 2005, Informal Objection filed by Coosa Broadcasting Corporation, Inc. ("Coosa"), licensee of Station WSRM-FM, Coosa, GA; and (3) related pleadings. For the reasons stated below, we will deny Coosa's Informal Objection and grant Provident's application.

Informal Objection

On December 27, 2005, Coosa filed an informal objection stating that Provident's application violates the minimum distance separation requirements of Section 73.207 of the Commission's Rules.¹ Specifically, Coosa claims that Provident's proposal is short-spaced to WZGC's Channel 225C1 licensed facility (BLH-19801021AB). In addition, Coosa claims that although WZGC had a license (BLH-20051031AAX)² pending to cover the properly spaced construction permit (BPH-20050321APU), the applications were not filed contingently. Therefore, Coosa believes that Provident's application is unacceptable. Furthermore, Coosa asserts that the FAA has determined that the structure proposed in its original application is a hazard to air navigation. Accordingly, Coosa requests that the application be dismissed.

Discussion

The Commission addressed Coosa's concerns in *WKVE, Semora, North Carolina*.³ Specifically, in that case, the Commission rejected the argument that an application, contingent on the grant of a pending license application, should be dismissed as an impermissible contingent application.

¹ 47 CFR Section 73.207.

² License BLH-20051031AAX was granted on January 5, 2006.

³ See *WKVE, Semora, North Carolina*, 18 FCC Rcd 23411 (2003).

Provident's application, being short-spaced to WZGC's licensed facility, was unacceptable for filing on the date it was filed. However, that in itself would not be a basis for dismissal. Had the staff reviewed the application at that time, it would have issued a deficiency letter to Provident providing a 30 day deadline to amend the application. Only Provident's failure to amend in this timeframe would have resulted in the dismissal of the application. Nevertheless, before the staff could review Provident's application and establish a deadline for amendment, the staff granted WZGC's license application. This eliminated the requirement to protect the formerly licensed WZGC facilities, and thus, cured the original acceptability defect. Our broadcast licensing procedures do not require the dismissal of applications that were unacceptable at the time of filing but which came into compliance with our technical rules prior to the deadline for corrective amendments. We will not take adverse action on Provident's application based solely on its acceptability as filed, when subsequent events prior to staff review resulted in a fully acceptable application. Furthermore, Provident also responded to the FAA's concerns by amending its proposal to specify a new site that was subsequently approved by the FAA and registered (Antenna Structure Registration No. 1259746).

In light of the above, Coosa's Informal Objection IS HEREBY DENIED, and Provident's application IS HEREBY GRANTED. These actions are taken pursuant to Section 0.283 of the Commission's Rules.⁴

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Lauren A. Colby, Esq.
A. Wray Fitch III, Esq.
Coosa Broadcasting Corporation

⁴ 47 CFR Section 0.283.