

**FEDERAL COMMUNICATIONS COMMISSION**  
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**WASHINGTON DC 20554**

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Red Zebra Broadcasting License, LLC  
8121 Georgia Avenue, Suite 1050  
Silver Spring, MD 20910

Re: WWXT(FM), Prince Frederick, Maryland  
Facility ID No.: 43277  
Red Zebra Broadcasting License, LLC  
BPH-20090416ACJ

Dear Applicant:

This letter refers to the above-captioned minor change application of Red Zebra Broadcasting Licensee, Inc. ("Red Zebra"), licensee of FM Station WWXT, Channel 224A, Prince Frederick, Maryland. The application proposes the reallocation of FM Station WWXT, Channel 224A from Prince Frederick, to Dunkirk, Maryland, and the modification of its license accordingly.

**Background.** This application was filed pursuant to Section 73.3573(g) of the Commission's rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. Any reallocation proposal must result in a preferential arrangement of allotments.<sup>1</sup> We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.<sup>2</sup> This application would provide a first local service to Dunkirk under Priority (3).

**Discussion.** The Commission strongly disfavors the removal of a community's sole local service. In *Community of License*, the Commission stated that removing the sole local service from a community presumptively disserves the public interest and that such a removal would be warranted only in "rare circumstances."<sup>3</sup> The Commission reasoned that the public has a legitimate expectation that existing service will continue, and this expectation is a factor, which must be weighed independently against the service benefits that may result from reallocating of a channel from one community to another, regardless of whether the service removed constitutes a transmission service, a reception service, or both.<sup>4</sup>

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<sup>1</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989) ("Community of License"), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990) ("Community of License Reconsideration Order").

<sup>2</sup> *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

<sup>3</sup> *Community of License*, 5 FCC Rcd at 7096.

<sup>4</sup> *Community of License Reconsideration Order*, 5 FCC Rcd at 7097 ¶ 19.

Station WWXT is the only primary station licensed to Prince Frederick. Red Zebra argues, however, that low power FM ("LPFM") Station WMJS-LP is licensed to the community and would continue to provide service to Prince Frederick following the proposed relocation of WWXT to Dunkirk. Thus, in these circumstances, it concludes that the policy against the removal of a community's sole local service should not apply.

We disagree. The Commission adopted *Community of License* approximately ten years before it authorized the new LPFM service. Accordingly, the Orders in this proceeding do not specifically discuss whether LPFM stations should be included in our Section 307(b) analysis. It is well settled that AM and FM primary stations are included because these stations are joint components of a single aural service.<sup>5</sup> Both commercial and noncommercial educational ("NCE") stations are included.<sup>6</sup> FM translators, which operate on a secondary basis, are not included in our Section 307(b) analysis.<sup>7</sup> LPFM are secondary stations because they are subject to displacement from subsequently authorized primary stations.<sup>8</sup> Accordingly, WMJS-LP is not relevant to our consideration of the proposed reallocation. We find that the removal of Prince Frederick's sole local service in order to provide a first local service to the larger community of Dunkirk would not qualify as a "rare circumstance" sufficient to justify a departure from our general prohibition against such moves.

Furthermore, an engineering review revealed that the proposal violates 47 C.F.R. Section 73.3573(g)(4). Specifically, non-reserved band applications must demonstrate the existence of a suitable assignment site that fully complies with §§ 73.207 and §§ 73.315. In Section III-B, Item 4, the Proposed Assignment Coordinates was checked as "Not Applicable". In order to request a channel, class, and community of license change, a proposed assignment site must be specified in Item 4. Accordingly, Section III-B, Item 4 of the application must be amended to specify a suitable assignment site.

Pursuant to 47 C.F.R. § 73.3522, ". . . an applicant whose application is found to meet the minimum filing requirements but nevertheless is not complete and acceptable shall have the opportunity in the 30-day period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, 47 C.F.R. § 73.3564 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. This letter constitutes your opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3522.

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<sup>5</sup> *Id.* at 7097 ¶ 20.

<sup>6</sup> *Valley Broadcasters, Inc.*, Memorandum Opinion and Order, 5 FCC Rcd 2785, 2788 (1990).

<sup>7</sup> *E.g., Willows and Dunnigan, California*, Memorandum Opinion and Order, 15 FCC Rcd 23852, 23856-57 (MMB 2000).

<sup>8</sup> 47 C.F.R. § 73.809.

Further action on the Application will be withheld for a period of thirty days from the date of this letter to provide Red Zebra an opportunity to respond. Failure to correct all tender and acceptance defects within thirty days from the date of this letter will result in dismissal of the Application with no further opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3564. Please note that any amendment must be submitted electronically and signed in the same manner as the original Application.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodolfo F. Bonacci". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

cc: Jack N. Goodman, Esq.  
Edward P. De La Hunt, Engr.