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In re: Clear Channel Broadcasting Licenses, Inc.
WNLS(AM), Tallahassee, Florida
Facility Identification Number: 51592
BP-20031231ABV

Dear Counsel:

This letter is in reference to: (1) the above-captioned minor change application filed by Clear Channel Broadcasting Licenses, Inc. (Clear Channel) to modify the licensed facility of WNLS(AM) by increasing daytime power from 5.0 kW to 50.0 kW using a new daytime pattern; (2) the February 23, 2004, Informal Objection filed by Seminole Manor N.A.(Seminole); and (3) the July 26, 2004, Informal Objection filed by National High Magnetic Field Laboratory (NHMFL). A request for waiver of Section 73.24(g) of the Commission's Rules was included in the application.¹ A waiver is needed because the proposed daytime 1.0 V/m contour will cover 3.7% of the population within the 25 mV/m contour.² For the reasons set forth below, we will deny the waiver and dismiss the application as unacceptable for filing for the following reasons.

The February 23, 2004, Informal Objection filed by Seminole objects to the application

¹ Section 73.24(g) requires that the population within the 1 V/m contour of a broadcast station must not exceed 1% of the population within the 25 mV/m contour. The purpose of the rule is to encourage the location of transmitting antennas in the least congested areas to ensure that the strong signal intensity of a broadcast station will not cause interference to a disproportionate number of receivers being utilized to receive other broadcast signals, and to avoid cross-modulation. WHOO Radio, Inc., 8 RR 2d 83, fn 4 (1966).

² In the waiver request, CCBL contends that the 1V/m contour does not cause a blanketing problem to a majority of receivers, a field strength of 7 V/m has been shown to be necessary to cause blanketing interference, a population study shows no persons within the 7 V/m contour, the blanketing interference potential is minimal, and Clear Channel agrees to satisfy all reasonable complaints of blanketing interference.

on the basis of potential adverse effects to health, environmental, and economic aspects associated with high electromagnetic fields in residential areas. The July 26, 2004, Informal Objection filed by NHMFL states that the licensed 5.0 kW WNSL facility currently causes adverse effects to ongoing scientific research projects as supported by a detailed engineering showing, and that an increase to 50.0 kW daytime would worsen the existing interference situation, in violation of the Quiet Zone and blanketing interference concepts in Sections 1.924, 73.24g, and 73.88 of the Commission's rules.

Discussion

When an applicant seeks a 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 189, 192 (D.C. Cir. 1987) (quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664, 666 (D.C. Cir. 1986)). The engineering showing provided by NHMFL appears to support the claim that the scientific experimental facility is experiencing existing blanketing interference from WNSL. Although Section 73.88 requires the licensee to satisfy all reasonable complaints of blanketing interference within the 1.0 V/m contour, and our staff has no available theoretical models to estimate the effect of a proposed 50.0 kW facility on NHMFL's equipment, a large increase in radiation towards NHMFL would theoretically increase any existing blanketing interference effects. CCBL's justification for waiver stated that it would agree to satisfy all reasonable complaints of blanketing interference, but since CCBL has failed to respond to NHMFL's current claim of existing blanketing interference, we are unable to determine how CCBL would be able to resolve increased blanketing interference effects caused to NHMFL's scientific equipment. Accordingly, based upon the all provided information we have afforded the waiver request the "hard look" called for under the WAIT doctrine, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances set forth in these justifications are insufficient to establish that waiver of 73.24(g) is in the public interest.

Conclusion

Accordingly, under 47 CFR Section 0.283 of the Commission's Rules, CCBL's request for waiver of 47 CFR Section 73.24(g) is DENIED, the February 23, 2004, Informal Objection filed by Rinehart is DISMISSED AS MOOT, the July 26, 2004, Informal Objection filed by NHMFL is GRANTED, and application BP-20031231ABV is DISMISSED as unacceptable for filing.

Sincerely,



Son Nguyen
Supervisory Engineer
Audio Division
Media Bureau

cc: Clear Channel Broadcasting Licenses, Inc.
Seminole Manor N.A.
Matthew Folkert