

From: RSTYPE@aol.com
Sent: Thursday, July 21, 2011 4:23 PM
To: Hossein Hashemzadeh
Cc: billklaus@wnir.com
Subject: Re: BDISDTA-20091201AJL - W35AX - Cleveland, OH

Hossein:

As outlined in the below e-mail exchange the end of last year, you had determined that it wouldn't be necessary to submit an amendment to the W35AX Channel 16 displacement application (BDISDTA-20091201AJL) since the application, as originally filed, included a waiver request which apparently hadn't been considered before the November, 2010 deficiency letter was issued. Today, you issued a letter (http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=26919) dismissing this application for failure to respond to the November letter, which supposedly wasn't necessary. What should we do?

Roy Stype
Carl E. Smith Consulting Engineers
330/659-4440

In a message dated 12/3/2010 1:44:42 PM Eastern Standard Time, Hossein.Hashemzadeh@fcc.gov writes:

No you do not have to file any response.

From: RSTYPE@aol.com [mailto:RSTYPE@aol.com]
Sent: Friday, December 03, 2010 1:38 PM
To: Hossein Hashemzadeh
Cc: billklaus@wnir.com
Subject: Re: BDISDTA-20091201AJL - W35AX - Cleveland, OH

Hossein:

Just following up since I haven't heard anything to make sure we don't need to file anything else by Monday to prevent this application from being dismissed. Thanks!

Roy Stype

In a message dated 11/19/2010 3:52:11 PM Eastern Standard Time, RSTYPE@aol.com writes:

Hossein:

The November 5 deficiency letter for the above referenced application (copy attached) indicates that the proposed W35AX facilities fail to comply with the protection requirements outlined in Section 74.709 of the FCC Rules to land mobile operations on Channel 15 in Cleveland and Channels 15 and 16 in Detroit and provides a 30 day period to submit a curative amendment to eliminate this deficiency. Our analysis indicates that these proposed facilities actually provide the protection required by Section 74.709 to Channel 15 in Detroit, but not to Channel 15 in Cleveland or Channel 16 in Detroit. This deficiency letter doesn't acknowledge the fact, however, that Exhibit 9 to this application includes a request for a waiver of the protection requirements to these land mobile channels because Canadian coordination issues have precluded their use for land mobile operations and, as a result, Channel 15 was

assigned for both pre-transition and post-transition use in Cleveland and Channel 16 was assigned for both pre-transition and post-transition use in Flint, effectively eliminating any possibility of either of these channels ever being viable for land mobile use. Since this deficiency letter fails to acknowledge this waiver request, it doesn't appear that it was given the consideration required by FCC policy prior to issuing this letter and this e-mail serves to request such a review.

Please let me know if this e-mail is adequate to satisfy the requirement to respond to this letter within 30 days or if it will also be necessary to submit a formal amendment to satisfy this requirement. Thanks and let me know if you have any questions or require any additional information.

Roy Stype
Carl E. Smith Consulting Engineers
330/659-4440