

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

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March 26, 2012

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In re: WCZE(FM), Harbor Beach, MI  
Facility ID No.: 30944  
Jennifer & Edward Czelada  
BMPH-20041020ADM  
BLH-20050421ABP

Dear Sirs:

This is in reference to: (1) the above captioned minor change application, as originally filed on October 20, 2004, by Jennifer & Edward Czelada ("Czelada")<sup>1</sup>; (2) the license application (BLH-20059421ABP) filed April 21, 2005 to cover the construction permit; (3) the amendment to the application filed on September 18, 2006 ("amendment"); and (4) the Petition to Dismiss ("Petition") filed on October 6, 2006 on behalf of Thumb Broadcasting, Inc. ("Thumb"). For the reasons set forth below, the Petition and the amendment will be dismissed and both the minor change application, as originally filed, and the license application will be granted.

### **Background**

In the August 17, 2006 letter, Czelada was informed that the application, as originally filed, did not comply with the community coverage requirements of 47 C.F.R. § 73.315. In that letter, Czelada was given 30 days in which to amend the application. In response to the letter, Czelada filed an amendment on September 18, 2006 to increase the effective radiated power from 43 kilowatts to 47 kilowatts and decrease the antenna height above average terrain from 161 meters to 155 meters. That amendment also contained supplemental terrain showings to verify compliance with § 73.315.

In the Petition, Thumb states that the application, as amended, should be dismissed because the proposal would not cover the community of license with the 70 dBu contour as required by § 73.315. Thumb further states that the supplemental terrain showing submitted with the amendment is not appropriate because the showing does not meet the standards for acceptance.<sup>2</sup> Specifically, the Petition states that the delta h requirement of 20 meters or less or 100 meters or more was not met. The Petition also noted other defects with the amendment.

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<sup>1</sup> This application was originally granted on December 2, 2004. A Petition for Reconsideration was filed on January 6, 2005 on behalf of Thumb Broadcasting, Inc. By letter dated August 17, 2006, the petition for reconsideration was granted. Furthermore, by this letter, the grant of the application was rescinded and the application was returned to pending status.

<sup>2</sup> *Cumulus Licensing Corp.*, Letter, August 8, 2002.

## Discussion

We disagree with the Petition regarding the supplemental terrain showing. Specifically, a recent decision clarified this issue. Pursuant to *Skytower Communications – 94.3, LLC*,<sup>3</sup> applicants may show that the terrain departs widely by demonstrating that the 70 dBu contour as predicted by the supplemental method is at least 10% larger than the distance to the 70 dBu contour of the standard contour prediction method.<sup>4</sup> Furthermore, *Skytower* clarified that the 20 meter/100 meter delta h threshold for acceptability of supplemental coverage showings is neither in effect nor binding on applicants.

The September 18, 2006 amendment provided a supplemental terrain showing for both the application as originally filed and as amended to increase power. This supplemental showing uses the Longley-Rice coverage model, permitted by 47 C.F.R. § 73.313(e) and (f) as well as a Bullington Map to show that the proposal complies with the city grade coverage requirements of § 73.315. Based on these showings, and the *Skytower* clarification regarding the delta h requirement, we concluded that a supplemental coverage showing was warranted. Thus, we referred the application, as originally filed, to our Office of Engineering and Technology “OET” for further analysis. OET’s review of the supplemental coverage showing verifies that in the direction of the community of license, the 70 dBu contour, as predicted by the supplemental method, exceeds the 70 dBu contour as predicted by the standard prediction method by over 10%. Therefore, we conclude that the terrain along the propagation path from the WCZE transmitter site to the community of license of Harbor Beach, Michigan “departs widely.” Furthermore, OET verified that the application, as originally filed would provide 70 dBu contour coverage over all of Harbor Beach, Michigan. Therefore, Czelada has demonstrated compliance with the community coverage requirements of § 73.315.

## Conclusion

In light of the above, we find that the minor change application, as originally filed, is acceptable and grantable. Accordingly, because the technical changes are now unnecessary, the amendment filed September 18, 2006 IS HEREBY DISMISSED. In addition, the October 6, 2006 Petition to Dismiss against the September 18, 2006 amendment, filed on behalf of Thumb Broadcasting, Inc., IS HEREBY DISMISSED. Finally, Application BMPH-20041020ADM, as originally filed, and License Application BLH-20050421ABP ARE HEREBY GRANTED. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

*Arthur E. Doak*

For Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

cc: Mr. Edward P. De La Hunt

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<sup>3</sup> See *Skytower Communication – 94.3, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 25 FCC RCD 13204 (para. 27) (2010) (“*Skytower*”).

<sup>4</sup> The “10 percent or more” standard was included in the *Report and Order* issued by the Commission in its streamlining rulemaking proceeding, as were other guidelines concerning supplemental showings submitted pursuant to Section 73.313(e). See *Amendments of Parts 73 and 74 of the Commission’s Rules to Permit Certain Minor Changes in Broadcast Facilities without a Construction Permit*, Report and Order, 12 FCC Rcd 12371, 12401-03(1997)(citing, for FM stations, 47 C.F.R. §§73.333 and 73.313(e)) (TV citations omitted) (subsequent history omitted).