



**Federal Communications Commission
Washington, D.C. 20554**

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Mr. Christopher Maxwell
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In re: **W219CX, Lakeside/Richmond, VA**
Facility ID No. 94033
Calvary Chapel of Twin Falls, Inc.
File No. BRFT-20110527ADB

Application for Renewal of License

Informal Objection

Dear Mr. Maxwell and Counsel:

This letter refers to: (1) the referenced application ("Renewal Application") of Calvary Chapel of Twin Falls, Inc. ("Licensee") to renew its license for Station W219CX, Lakeside/Richmond, Virginia; (2) the September 22, 2011, Informal Objection ("Objection") to that application filed by SYNERGY Radio Project; and (3) related responsive pleadings.¹ For the reasons set forth below, we deny the Objection and grant the Renewal Application.

Background. W219CX, a reserved band satellite-fed FM translator licensed to Lakeside/Richmond, Virginia, rebroadcasts the signal of Licensee's noncommercial educational station KAWZ(FM), Twin Falls, Idaho. Licensee timely filed the Renewal Application on May 27, 2012.

¹ Licensee filed an Opposition to Informal Objection ("Opposition") on October 6, 2011. SYNERGY filed a response to the Opposition ("Response") on November 11, 2011.

In its Objection, SYNERGY claims that W219CX's rebroadcast of programming originating in Idaho threatens broadcast localism by taking away spectrum that could be used for more local programming.² SYNERGY urges the Commission to deny the Renewal Application so that SYNERGY may use the frequency to provide more local programming.³ In its Opposition, Licensee notes that SYNERGY had not alleged any violations of the Commission's Rules ("Rules") that would warrant denial of the Renewal Application, and asserts that SYNERGY's policy arguments would be more appropriately addressed in a rulemaking proceeding.⁴

Discussion. Informal objections to license renewal applications must, pursuant to Section 309(e) of the Communications Act of 1934, as amended ("Act"), provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,⁵ which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.⁶ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁷

Section 74.1231(b) of the Rules expressly authorizes a translator operating in the reserved band (such as W219CX) to receive its co-owned primary station's signal by satellite.⁸ SYNERGY does not allege that Licensee has violated the Act or the Rules, but instead questions the policies underlying this Rule, arguing that W219CX's operation as what SYNERGY calls a “satellator” precludes “uses of the frequency that would serve the public interest far better.”⁹ Such arguments should be raised in a petition for rulemaking with the Commission, pursuant to Section 1.401 of the Rules.¹⁰ The institution of a notice

² Objection at 1.

³ *Id.*

⁴ Opposition at 2.

⁵ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n. 10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

⁶ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

⁷ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁸ 47 C.F.R. § 74.1231(b).

⁹ Objection at 2.

¹⁰ 47 C.F.R. § 1.401. See also *Community Television of Southern California v. Gottfried*, 459 U.S. 498, 511 (1984) (citation omitted) (“rulemaking is generally a ‘better, fairer and more effective’ method of implementing a new industry-wide policy than is the uneven application of conditions in isolated proceedings”).

and comment rulemaking under the Administrative Procedure Act,¹¹ if warranted, would allow the Commission to develop a complete record from which it could make an informed determination regarding SYNERGY's proposals.¹² To the extent that SYNERGY suggests that we should deny the Renewal Application to allow it to use that spectrum to provide local programming, we are expressly prohibited from considering whether another potential licensee would better serve the public interest, convenience, or necessity.¹³

Conclusion. We have examined the Objection and find that it does not raise a substantial and material question of fact calling for further inquiry or otherwise persuade us that to grant the Renewal Application would contravene the public interest, convenience, and necessity. Accordingly, we deny the Informal Objection. Moreover, we have evaluated the Renewal Application pursuant to Section 309(k) of the Act, and we find that the station has served the public interest, convenience, and necessity during the subject license term; there have been no serious violations of the Act or the Rules; and there have been no other violations which, taken together, constitute a pattern of abuse.

Accordingly, in light of the above discussion, and pursuant to Section 309(k) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules,¹⁴ the Informal Objection filed on September 22, 2011 by SYNERGY Radio Project IS DENIED, and the application (File No. BRFT-20110527ADB) of Calvary Chapel of Twin Falls, Inc., for renewal of its license for Station W219CX, Lakeside/Richmond, Virginia, IS GRANTED.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

¹¹ 5 U.S.C. § 553.

¹² Indeed, the Commission is currently considering the balance between the low-power FM and translator services, and the importance of providing local programming in an open rulemaking proceeding. *See, e.g., Creation of a Low Power Radio Service and Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, Fourth Report and Order and Third Order on Reconsideration, MM Docket 99-25, FCC 12-29 (rel. Mar. 19, 2012) (discussing competition for spectrum between LPFM and translator stations, ¶¶ 10-11), and *Creation of a Low Power Radio Service*, Fifth Report and Order, Further Notice of Proposed Rulemaking and Third Order on Reconsideration, MM Docket No. 99-25, FCC 12-28 (rel. Mar. 19, 2012) (inviting comment on a proposed comparative criterion favoring low power FM applicants who would broadcast local content, ¶ 63).

¹³ 47 U.S.C. § 309(k)(4).

¹⁴ 47 U.S.C. § 309(k); 47 C.F.R. §§ 0.61, 0.283.