

**FEDERAL COMMUNICATIONS COMMISSION**

**445 12<sup>th</sup> STREET SW  
WASHINGTON DC 20554**

**JUL 25 2012**

**MEDIA BUREAU  
AUDIO DIVISION  
APPLICATION STATUS: (202) 418-2730  
HOME PAGE: [www.fcc.gov/mb/audio](http://www.fcc.gov/mb/audio)**

**PROCESSING ENGINEER: Tung Bui  
TELEPHONE: (202) 418-2778  
FACSIMILE: (202) 418-1410  
MAIL STOP: 1800B3  
INTERNET ADDRESS: [tung.bui@fcc.gov](mailto:tung.bui@fcc.gov)**

Roy E. Henderson  
13999 S. West Bayshore Drive  
P.O. Box 709  
Traverse City, MI 49685

In re: KLTR(FM), Hempstead, TX  
Facility ID No. 40775  
Roy E. Henderson  
BPH-20120529ADI

KTWL(FM), Todd Mission, TX  
Facility ID No. 21204  
Roy E. Henderson  
BPH-20120529ADK

Dear Applicant:

This letter refers to: (1) the above-captioned contingent minor change application, as amended on May 30, 2012, to modify the community of license from Brenham, TX to Hempstead, TX and also proposes to change antenna location, effective radiated power, class, and antenna height; (2) the above-captioned contingent minor change application, as last amended on June 5, 2012, to modify the community of license from Hempstead, TX to Todd Mission, TX and also proposes to change antenna location, effective radiated power, and antenna height; and (3) Roy E. Henderson's contingently filed Counterproposal to allot Channel 267A in Midway, TX.<sup>1</sup>

An engineering study of the KLTR proposal reveals that the facility specified in the application fails to meet the minimum spacing requirement of 47 C.F.R. § 73.207. Specifically, the facility is short-spaced by 8 kilometers to the co-channel Class C3 licensed facility (BLH-20111031AAB) of KJAZ(FM), Point Comfort, TX. The required spacing pursuant to 47 C.F.R. § 73.207 is 177 kilometers while the actual spacing proposed in the application is 169 kilometers. KLTR recognizes this short-spacing and states that KLTR is co-owned with KJAZ and upon the grant of this application, KJAZ will file a minor change application to protect KLTR under 47 C.F.R. § 73.215. However, KLTR is currently licensed under the contour provisions of § 73.215. Although KLTR proposes to move farther away from KJAZ's license, it nevertheless fails to comply with § 73.207 and therefore, must request processing pursuant to § 73.215.<sup>2</sup> This constitutes an acceptance defect. Accordingly, KLTR must amend the application to protect KJAZ's licensed facility.

---

<sup>1</sup> See MB Docket No. 12-92, dated April 24, 2012.

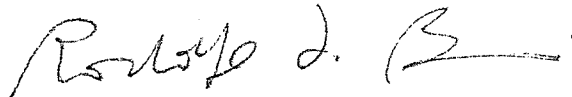
<sup>2</sup> We have studied KLTR's application under the provisions of 47 C.F.R. § 73.215, and found that if the ERP was decreased to 39 kilowatts, it meets both the contour overlap requirements of § 73.215(a) and the minimum spacing requirement of § 73.215(e) to KJAZ's licensed facility. Thus, with a reduced ERP, the application would be grantable under § 73.215.

A legal review of the applications reveal that the KLTR and KTWL proposals are in violation of Section 73.3573(g)(3) of the Commission's Rules. Specially, KLTR and KTWL did not comply with the local public notice provisions of Sections 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f). The applications must be amended to include the certifications.

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 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Rodolfo F. Bonacci". The signature is written in a cursive style with a horizontal line extending to the right.

Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

cc: John Trent, Esq.  
George S. Crissy, Engr.