

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.
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SEP 28 2012

MEDIA BUREAU

AUDIO DIVISION

APPLICATION STATUS: (202) 418-2730

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Broadsouth Communications, Inc.
505 Lauderdale Street
PO Box 1055
Selma, AL 36702 - 1055

In re: WDXX(FM), Selma, Alabama
Facility ID No. 27455
Broadsouth Communications, Inc.
BPH-20120727AHA
Informal Objection

Dear Applicant:

This letter refers to: (1) the above-captioned minor change application filed by Broadsouth Communications, Inc. ("Broadsouth") to increase power and height, and (2) the August 1, 2012 Informal Objection styled as a "Request for Denial of Application" filed by Alatron Corporation Inc. ("Alatron"), licensee of radio station WAOQ(FM), Goshen, AL. For the reasons discussed below, we deny the objection and grant the application.

Informal Objection. On August 1, 2012, Alatron filed an Informal Objection claiming that Broadsouth's application fails to protect WAOQ's licensed facilities (BLH-19990603KF) in Brantley, AL. Therefore, Alatron believes that Broadsouth's application will cause harmful interference to WAOQ's licensed facility. Thus, Alatron requests that the Broadsouth application be dismissed.

Discussion. We disagree. In 1999, the Commission clarified the protection rights of stations which modify their communities of license. It stated that "[a]fter the allotment rule making has become final, the affected station has at best an 'implied Special Temporary Authority' ("STA") to remain on its old frequency until it is ready for operation on its new frequency."¹ STAs are not within the scope of assignments and allotments which receive protection under the FM non-reserved band technical rules.² That is, stations operating with STAs – express or implied – are entitled to no protection from operating stations, construction permits, pending applications or

¹ 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd. 17525, 17540 n.55 (1999) (subsequent history omitted) (the "Streamlining Order").

² See 47 C.F.R. §§ 73.207, 73.213 and 73.215.

subsequently filed applications. Thus, the Audio Division has noted that a station operating with an implied STA "would be subject to established cut-off and application conflicts processing policies with regard to any facility application or rulemaking proposal filed on or after the effective date of the order."³ Therefore, WAOQ's licensed facility in Brantley, AL is not entitled to protection from any subsequently filed application. However, any subsequent application that fails to protect WAOQ's licensed facility in Brantley, AL will be conditioned on WAOQ instituting service in Goshen, AL with the facilities authorized in BPH-20081216BKG. This eliminates the potential for interference to WAOQ's licensed facility. Thus, Alatron's Informal Objection will be dismissed.

Conclusion. Accordingly, IT IS ORDERED, the Informal Objection filed by Alatron Corporation Inc. IS HEREBY DENIED and Application BPH-20120727AHA filed by BroadSouth Communications, Inc. IS HEREBY GRANTED with the following condition:

PROGRAM TESTS FOR WDX(FM) (FACILITY ID# 27455)
WILL NOT COMMENCE ON CHANNEL 261C2 AT SELMA, AL
WITH THE FACILITIES SPECIFIED HEREIN UNTIL PROGRAM
TESTS FOR WAOQ(FM) (FACILITY ID# 825) COMMENCE ON
CHANNEL 262A AT GOSHEN, AL WITH THE FACILITIES
SPECIFIED IN BPH-20081216BKG AND A LICENSE WILL NOT
BE GRANTED FOR WDX(FM) ON CHANNEL 261C2 AT
SELMA, AL WITH THE FACILITIES SPECIFIED HEREIN UNTIL
A LICENSE IS GRANTED FOR WAOQ(FM) ON CHANNEL 262A
AT GOSHEN, AL WITH THE FACILITIES SPECIFIED IN BPH-
20081216BKG.

The authorization is enclosed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci".

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Scott C. Cinnamon, Esq.
Christopher W. Johnson

³ *Gunnison, Crawford, and Olathe, Breckenridge, Eagle, Fort Morgan, Greenwood Village, Loveland and Strasburg, CO, and Laramie, WY*, Memorandum Opinion and Order, 20 FCC Rcd 5908, 5913 (MB 2005).