

FEDERAL COMMUNICATIONS COMMISSION
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MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
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Milwaukee Turners, Inc.
1034 N. 4th Street
Milwaukee, WI 53203

Re: NEW-LP; Glendale, WI
Facility ID No. 196258
Milwaukee Turners, Inc. ("MTI")
BNPL-20131114BAY
Petition to Deny

Dear Applicant:

The staff has under consideration: (1) the above-captioned application for a Low Power FM ("LPFM") facility to serve Glendale, WI and the January 8, 2014 Petition to Deny filed by Milwaukee Board of School Directors ("MBD"). For the reasons set forth herein, we deny the Petition to Deny and grant the application.

Petition to Deny

On January 8, 2014 MBD filed a Petition to Deny stating that the Commission should dismiss or deny the Application for failing to meet the minimum spacing requirements to second adjacent channel WYMS(FM), Milwaukee, WI, which provides a radio reading service via its subcarrier signal.

Discussion

MBD argues that MTI should not be permitted to use the provisions of the second-adjacent channel waiver process to protect a station that provides a radio reading service. We disagree. The Local Community Radio Act ("LCRA") required the Commission to eliminate the third-adjacent channel separation requirement for LPFM stations. The LCRA provided an exception to this requirement, indicating that LPFM stations must protect third-adjacent channel stations that provide a radio reading service on their subcarrier. Furthermore, per the provisions of LCRA, the Commission also permitted LPFM stations to request waiver of the second-adjacent channel separation requirements with respect to "any authorized radio service."¹ Unlike other provisions of the LCRA, there were no exceptions or other restrictions imposed on LPFM stations submitting second-adjacent channel waivers. The Commission codified these requirements in a notice and comment proceeding.² No one has appealed the adoption of any of these related rule changes.

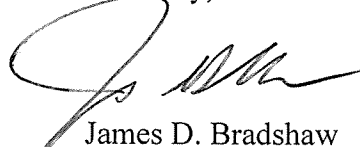
¹ See *Creation of a Low Power Radio Service*, Sixth Order on Reconsideration, 28 FCC Rcd 14489, 14498 (2013).

² See 47 C.F.R. Sections 73.807(a)(2) and (e)(1); see also *Creation of a Low Power Radio Service*, Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration, 27 FCC Rcd 3315, 3322, (2012); see also *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15402, 15428-15430, (2012).

The current interference requirements for second-adjacent channel stations provide the necessary protections to main channel and subcarrier transmissions. MTI has submitted an adequate second adjacent waiver showing in its application. The method used by MTI to show that it will protect WYMS has been used by thousands of FM translators to provide interference protection to FM stations for over 20 years. Unlike LPFM stations that have a maximum effective radiated power of 100 watts, translator stations can be authorized with a maximum effective radiated power of up to 250 watts. During that time, there has not been a single instance of a reported case of interference by a translator station to any radio reading service on a second-adjacent channel. Therefore, we will deny MBD's Petition to Deny. We note that, if MTI constructs its facility and causes interference to WYMS, it would be required to resolve the interference or cease operation, per Commission rules.³

In light of the above, the January 8, 2014 Petition to Deny filed by Milwaukee Board of School Directors IS HEREBY DENIED. Furthermore, the application BNPL-20131114BAY IS HEREBY GRANTED. These actions are taken pursuant to 47 C.F.R. Section 0.283.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bradshaw', is written over the typed name.

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Marissa G. Repp

³ See 47 C.F.R. Section 73.807(e)(2).