



Federal Communications Commission
Washington, D.C. 20554

February 20, 2015

In Reply Refer to:
1800B3-EAB

Ms. Maria Candelaria
P.O. Box 6797
Albuquerque, NM 87197

Mr. Richard J. Hayes, Esq.
Law Office of Richard J. Hayes
27 Water's Edge Drive
Lincolnton, ME 04849

In re: **FM Translator Station K290AY**
Ruidoso, New Mexico
Facility ID No. 156941
File Nos. BALFT-20140421ACT,
BLFT-20140520ADZ, BPFT-
20140807AAP

**Applications for Assignment of
License, for License to Cover, and
for Modification of License
Informal Objections**

Dear Ms. Candelaria and Counsel:

We have before us: (1) the referenced application ("Assignment Application") for approval of the proposed assignment of license for FM Translator Station K290AY, Ruidoso, New Mexico ("Station"), from Bernie M. Woods ("Woods") to Walton Stations-New Mexico, Inc. ("Walton"), filed by Woods on April 21, 2014; (2) the referenced application ("License Application") for a covering license filed by Woods on May 20, 2014; (3) the referenced application ("Modification Application") to make a minor change to the Station facilities filed by Woods on August 7, 2014; (4) the informal objection ("Objection") to the Assignment and License Applications filed by Ms. Maria Candelaria ("Candelaria") on May 27, 2014;¹ and (5) the petition to deny ("Petition") the Modification Application filed by Candelaria on August 8, 2014. For the reasons set forth below, we deny the Objection, treat the Petition as an informal objection and deny it, and grant the Applications.

Background. In the License Application, Woods seeks to license the Station's operation from the transmitter site of station K234YAAQ, Ruidoso, New Mexico. The Modification Application proposes to relocate the Station from the K234YAAQ site, to the site of station KWES-FM, Ruidoso, New Mexico² as

¹ On this date, Candelaria filed two separate, but identical, informal objections to the Assignment and License Applications, respectively. We will treat them as a single objection to both applications.

² Modification Application at 5, 7. Woods indicates in that Application that the Station will be a rule-compliant fill-in translator for primary station KBUY(AM), Ruidoso, New Mexico, which is owned by Walton. *Id.* at Exhibit 12. See also Assignment Application, Section III, Item 10. The License Application covers a prior minor change, BPFT-20140421ACW.

part of the proposed assignment from Woods to Walton.³ In the Objection, Candelaria claims that Woods donated the Station to her in 2007,⁴ and supports her allegation with an enclosed copy of the donation agreement letter signed by both parties.⁵ In the Petition, Candelaria also speculates that an unnamed third party filed the Applications under Woods's name, and protests the modification on the grounds that Woods is not the rightful owner of the Station.⁶ Woods did not file an opposition to any of Candelaria's pleadings.

Discussion. Under Section 73.3584 of the Commission's Rules ("Rules"), petitions to deny may not be filed with regard to applications that do not require local public notice.⁷ Because such notice is not required for minor change applications,⁸ we will consider the Petition as an informal objection pursuant to Section 73.3587 of the Rules.⁹

Informal objections, like petitions to deny, must allege properly supported facts that, if true, would establish a substantial and material question of fact that grant of the applications would be *prima facie* inconsistent with the public interest.¹⁰ Candelaria has not met this burden.

With respect to Candelaria's claim that Woods previously donated the Station to her, the Commission has consistently held that contractual disputes are beyond its regulatory purview, and must be resolved in local courts of competent jurisdiction.¹¹ Furthermore, Candelaria offers no support for her implied suggestion that the Applications were fraudulently filed, and such a bare assertion does not raise a substantial and material question of fact that grant of the Applications would be inconsistent with the public interest.¹² Accordingly, we deny the Objections.

³ Modification Application at Exhibit 12.

⁴ Objection at 1.

⁵ See *id.* at 2.

⁶ Petition at 2.

⁷ See 47 C.F.R. § 73.3584(a) ("[A] party in interest may file with the Commission a Petition to Deny any application . . . for which local notice pursuant to §73.3580 is required . . .").

⁸ See 47 C.F.R. § 73.3580(a)(1).

⁹ 47 C.F.R. § 73.3587. See *KWTR(FM)*, Letter, 21 FCC Rcd 1417, 1418 (MB 2006) (treating a petition to deny a minor modification as an informal objection).

¹⁰ 47 U.S.C. § 309(e). 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), *reh'g denied* (D.C. Cir. Sept. 10, 1993).

¹¹ See, e.g., *John F. Runner, Receiver (KBIF)*, Memorandum Opinion and Order, 36 RR 2d 773, 776 ¶ 11 (1976) ("[The contractual allegations] will not be decided by this Commission, and are best left to courts of competent jurisdiction . . ."); *Transcontinent Television Corp.*, Memorandum Opinion and Order, 44 FCC 2451, 2461 (1961) ("[T]he Commission is not the appropriate forum for the adjudication of rights in a private controversy . . . the local civil court is the appropriate forum for such matters."); *WXBH-LP*, Letter, 24 FCC Rcd 14617, 14620 n.25 (MB 2009) (rejecting contractual allegation raised against minor modification application on the grounds that "[t]he Commission generally does not interfere with private contractual disputes 'that should be solved by negotiation between the parties or in the courts.'" (citation omitted)).

¹² See *Texas Educational Broadcasting Co-operative, Inc.*, Memorandum and Opinion Order, 22 FCC Rcd 13038, 13040 (2007) (speculative and unsupported allegations of impropriety do not raise a substantial and material question of fact).

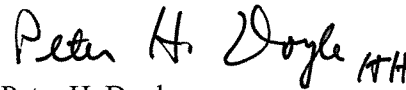
Additionally, we have evaluated the Applications pursuant to Section 309(a) of the Communications Act of 1934, as amended ("Act"),¹³ and find that: (1) they comply with all pertinent statutory and regulatory requirements; (2) Woods and Walton are qualified to assign and acquire the Station, respectively; and (3) grant of the Applications will further the public interest, convenience, and necessity.¹⁴

Conclusion/Actions. Accordingly, IT IS ORDERED, that the Informal Objections filed by Ms. Maria Candelaria on May 27, 2014, ARE DENIED.

IT IS FURTHER ORDERED that the Petition to Deny filed by Ms. Maria Candelaria on August 8, 2014, treated as an Informal Objection, IS DENIED.

IT IS FURTHER ORDERED, that the applications of Bernie M. Woods for Assignment of License (File No. BALFT-20140421ACT), for License to Cover (File No. BLFT-20140520ADZ), and for Modification of License (File No. BPFT-20140807AAP) for FM Translator Station K290AY, Ruidoso, New Mexico, ARE GRANTED.

Sincerely,

The image shows a handwritten signature in black ink that reads "Peter H. Doyle" followed by the initials "HH".

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Mr. Bernie M. Woods
Walton Stations-New Mexico, Inc.

¹³ 47 U.S.C. § 309(a).

¹⁴ See, e.g., *Intermart Broadcasting Twin Falls, Inc.*, Letter, 23 FCC Rcd 11910, 11912 (MB 2008) (citing *Kidd Communications*, 20 FCC Rcd 13723, 13724–25 (MB 2005)) (grant of license application finds only that the applicant is qualified under, and the proposal does not violate, the Act or Rules, and is not intended to prejudice any relief to which a party may be entitled under civil suit).