



Federal Communications Commission  
Washington, D.C. 20554

March 11, 2015

*In Reply Refer to:*  
1800B3-GL

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In re: Process Theatre, Inc.  
New LPFM, Sacramento, CA  
Facility ID No. 194417  
File No. BNPL-20131113APA

**Petition to Deny**

Dear Counsel and Mr. Parente:

We have before us: 1) the application ("Application") of Process Theatre, Inc. ("PTI"), for a new LPFM station in Sacramento, California ("LPFM Station"); and 2) the Petition to Deny filed by AMFM Texas LLC ("AMFM") against the Application ("Petition").<sup>1</sup> For the reasons set forth below, we deny the Petition and grant the Application.

**Background.** PTI filed the Application during the October 2013 LPFM filing window, proposing to serve Sacramento, California, on Channel 227. The Application included a second-adjacent channel waiver request with regard to Station KQJK(FM), Roseville, California ("KQJK"), which is licensed to AMFM.<sup>2</sup>

In the Petition, AMFM argues that the second-adjacent waiver request is deficient because, by using the Longley-Rice propagation algorithm, interference to KQJK is predicted.<sup>3</sup> AMFM claims that

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<sup>1</sup> The Petition was filed on February 6, 2014. PTI filed an Opposition on February 19, 2014. AMFM filed a Reply on March 4, 2014. Prometheus Radio Project ("PRP") filed a Motion for Leave to file Amicus Curiae out of time ("Motion for Leave"), and AMFM filed a response on May 15, 2014.

<sup>2</sup> Application at Attachment 11.

<sup>3</sup> Petition at 2-5. The Petition includes an Engineering Statement supporting these allegations. *Id.* at Engineering Statement.

this interference zone includes public streets, buildings, residences, public transportation stops, and multi-lane roads.<sup>4</sup>

In the Opposition, PTI states that AMFM cannot use different prediction methods – in this case, Longley-Rice – to expand the predicted interference zone of PTI’s second adjacent waiver request.<sup>5</sup> In the Reply, AMFM restates that use of the Longley Rice method of interference calculation is permitted by the Local Community Radio Act of 2010 (“LCRA”).<sup>6</sup> AMFM also reconfirmed its use of Longley-Rice calculations to show a predicted interference area to KQJK.<sup>7</sup>

**Discussion.** Pursuant to Section 309(d) of the Communications Act of 1934, as amended, petitions to deny must 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 the public interest. AMFM has not met this burden.

*Second Adjacent Waiver.* The use of the undesired-to-desired (“U/D”) method of interference calculation employing the FCC F(50,50) and F(50,10) contour curves has been in use for many years to resolve second-adjacent waiver requests for translator stations.<sup>8</sup> When the Commission integrated the necessary provisions of the LCRA into the rules, it permitted the use of this same U/D method while also allowing alternate prediction methods to demonstrate that a proposed LPFM operation will not result in interference.<sup>9</sup> Longley-Rice or other alternate calculation methods may be used in certain situations but have never been authorized for the purpose of reducing the signal strength of a FM in conjunction with a second-adjacent channel waiver request. AMFM fails to provide any documentation to the contrary. Therefore, we reject this argument as a basis for denying the Application.

We remind AMFM and PTI that Section 73.807(e)(2)(ii) of the Commission’s Rules provides that once the Commission has notified an LPFM licensee that was granted a second-adjacent channel waiver request pursuant to Section 73.807(e)(1) that its station is causing interference to the signal of a full-service FM station, the LPFM station “shall suspend operation immediately” and “shall not resume operation until such interference has been eliminated or it can demonstrate to the Commission that the interference was not due to emissions from the LPFM station.”<sup>10</sup> Accordingly, PTI must ensure that the LPFM Station does not cause interference to any listeners of KQJK.

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<sup>4</sup> *Id.*

<sup>5</sup> Opposition at 2-4.

<sup>6</sup> Reply at 2. *See also* Pub. L. No. 111-371, 124 Stat. 4072 (2011).

<sup>7</sup> Reply at 6. The Reply includes an Engineering Statement supporting these allegations. *Id.* at Engineering Statement in Support of Reply.

<sup>8</sup> *Living Way Ministries, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd 17054, 17056, ¶ 5 (2002), *recon. denied* 23 FCC Rcd 15070 (2008).

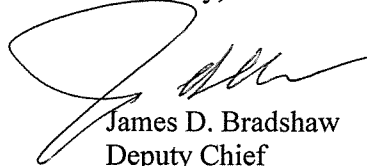
<sup>9</sup> *See Creation of a Low Power Radio Service*, Sixth Order on Reconsideration, 28 FCC Rcd 14489, 14498 (2013).

<sup>10</sup> 47 C.F.R. § 73.807(e)(2)(ii).

**Conclusion.** Accordingly, for the reasons set forth above, IT IS ORDERED THAT the Petition to Deny filed on February 6, 2014, by AMFM Texas, LLC, IS DENIED.

IT IS FURTHER ORDERED, that the application of Process Theatre, Inc. (BNPL-20131113APA) for a new LPFM station at Sacramento, California, IS GRANTED.

Sincerely,

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

James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau