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Lakewood Communications, LLC
334 Hicks Road
Pulaski, TN 38478

In re: WTNX(FM), Pulaski, TN
Facility ID No.: 27422
Lakewood Communications, LLC
BPH-20150702AAL

Dear Applicant:

This letter refers to: (1) the above-captioned minor change application, as amended November 24, 2015, to modify the community of license from Lawrenceburg, TN to Pulaski, TN and to change effective radiated power, transmitter location, height above average terrain, and antenna radiation center height; and (2) the August 25, 2015 letter from the Audio Division indicating that the originally proposed assignment site failed to comply with 47 C.F.R. § 73.3573(g)(4). For the reasons stated below, the application, as amended, is dismissed.

An engineering review of the amended application reveals that the proposal remains in violation of 47 C.F.R. § 73.3573(g)(4). Specifically, the application again fails to specify a suitable assignment site that fully complies with 47 C.F.R. § 73.207. The assignment site is short-spaced by 15 kilometers to the co-channel Class C3 licensed facility (BLH-20080428AAO) of WNFN(FM), Millersville, TN. The required spacing pursuant to § 73.207 is 142 kilometers while the actual spacing proposed in the application is 127 kilometers.¹ This constitutes an acceptance defect.

¹ The amendment cites the Report and Order in *Killeen and Cedar Park, Texas* (MM Docket No. 98-176) and the Report and Order in *Albemarle and Indian Trail, North Carolina* (MM Docket No. 99-240) that it believes justifies this proposed short-spacing. Specifically, WTNX believes that both *Killeen* and *Albemarle* allow for a change in community if the pre-existing short-spacings are not exacerbated and if no new short-spacings. Since the amended assignment site proposes an increase in separation with WNFN from the already short-spaced WTNX licensed site, WTNX believes it meets the spirit and intent of these precedents. We disagree. These allocation proceedings involved pre-1964 grandfathered short-spaced stations that either did not propose a site change (*Killeen*) or modified its site but eliminated two pre-1964 grandfathered short-spacings (*Albemarle*). The KTMX application is not pre-1964 grandfathered short-spaced and unlike *Killeen*, is changing sites, and unlike *Albemarle*, is not eliminating other grandfathered short-spacings. Therefore, we conclude that WTNX has failed to cite sufficient precedent that justifies the short-spacing proposed in the amended application.

The August 25, 2015 Division letter to WTNX stated that pursuant to 47 C.F.R. Section 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. Section 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 corrective amendment." See Appendix B in the Report and Order in MM Docket No. 91-347. The August 25, 2015 letter provided WTNX its 30 day period to submit a corrective amendment pursuant to 47 C.F.R. § 73.3522(a)(6). Therefore, application BPH-20150702AAL, being unacceptable for filing after the one opportunity for corrective amendment, will be dismissed.

In light of the above, application BPH-20150702AAL is unacceptable for filing and is HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Larry Perry, Esq. (via email)
Laura M. Mizrahi, Engr. (via email)