



**Federal Communications Commission  
Washington, D.C. 20554**

December 22, 2017

*In Reply Refer to:*  
1800B3-CEG

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In re: **KWVV-FM, Homer, Alaska**  
Facility ID No. 52145  
File No. BPH-20141219AAA

**Informal Objection**

Dear Counsel:

We have before us an informal objection (Informal Objection) filed on January 5, 2015, by Kenai Broadcasting LLC (Kenai) to the above-referenced application (Modification Application) for a minor modification to the licensed facilities of station KWVV-FM, Homer, Alaska (KWVV-FM), filed by Peninsula Communications, Inc. (Peninsula) on December 19, 2014. On January 15, 2015, Peninsula filed an opposition to the Informal Objection (Opposition). For the reasons stated below, we deny the Informal Objection and grant the Modification Application.

**Pleadings.** Kenai's primary objection to the Modification Application is that, at the time of filing, Peninsula owned several "other area" translator stations (stations whose 60 dBu signal contour extends beyond that of the primary station) rebroadcasting KWVV-FM in violation of Section 74.1232(d) of the Rules, which prohibits the common ownership of primary stations and "other area" translator stations.<sup>1</sup> This argument was fully addressed and disposed of by the Audio Division, Media Bureau (Bureau) in letter decisions released on September 30, 2016 (*Renewal Decision*),<sup>2</sup> and September 5, 2017 (*Assignment Decision*).<sup>3</sup> In accordance with the *Renewal* and *Assignment Decisions*, on October 18, 2017, Peninsula consummated the assignment of K285EF, Kenai, Alaska; K283AB, Soldotna, Alaska; and K285AA, Kodiak, Alaska, (KWVV-FM Translators) to third parties.<sup>4</sup> Therefore, Kenai's Section 74.1232(d) argument is moot and will not be further considered herein.

<sup>1</sup> 47 CFR § 74.1232(d) (Section 74.1232(d) ("An authorization for an FM translator whose coverage contour extends beyond the protected contour of the commercial primary station will not be granted to the licensee or permittee of a commercial FM radio broadcast station. Similarly, such authorization will not be granted to any person or entity having any interest whatsoever, or any connection with a primary FM station.")).

<sup>2</sup> *Jeffrey D. Southmayd*, Letter, 31 FCC Rcd 10912 (MB 2016).

<sup>3</sup> *Jeffrey D. Southmayd*, Letter, 32 FCC Rcd 6786 (MB 2017).

<sup>4</sup> See File Nos. BALFT-20161129AFB; BALFT-20161129AFG; and BALFT-20161129AFD (lead File No. BALFT-20161129AEZ). Peninsula certifies that the KWVV-FM Translators are the only translators currently rebroadcasting KWVV-FM without a signal delivery waiver. See Modification Application, Exh. 1.

Kenai remaining contention is that the 6 dB reduction in power proposed in the Modification Application would likely impair KWVV-FM's ability to provide an adequate direct over-the-air rebroadcast signal to its translator stations under Section 74.1231(b), which requires "other area" translator stations to receive their input signals directly over-the-air.<sup>5</sup> In support of this argument, Kenai points to the physical distance between KWVV-FM and its translators, as well as the presence of nearby stations on adjacent channels, concluding that it is "doubtful" that the translators at issue can receive KWVV-FM over-the-air.<sup>6</sup> In response to this concern, on November 30, 2017, Peninsula amended the Modification Application to certify that: (1) the KWVV-FM Translators are the only "other area" translators currently rebroadcasting KWVV-FM; and (2) each KWVV-FM Translator receives a direct over-the-air signal from KWVV-FM.<sup>7</sup>

**Discussion.** An informal objection may be filed at any time prior to action the subject application<sup>8</sup> and must, pursuant to Section 309(e) of the Communications Act, provide properly supported allegations of fact which, if true, would establish a substantial and material question of fact regarding whether grant of the application in question would be consistent with the public interest, convenience and necessity.<sup>9</sup> We find that Kenai has not met this burden.

Kenai's allegation that it is "doubtful" that the KWVV-FM translators can receive an over-the-air primary signal is only weakly supported by the data on the record, and in any case we find that it is adequately rebutted by Peninsula's certification, which includes a technical description of the equipment and methods used by K285EG, K283AB, and K285AA to receive an over-the-air primary signal. Therefore, we deny the Informal Objection and grant the Modification Application.

**Conclusion/Actions.** For the reasons set forth above, IT IS ORDERED that the Informal Objection filed by Kenai Broadcasting LLC on January 5, 2015, IS DENIED and the Modification Application filed by Peninsula Broadcasting, Inc. on December 19, 2014, File No. BPH-20141219AAA, IS GRANTED.

Sincerely,



Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

<sup>5</sup> Informal Objection at 2, Exh. 3; 47 CFR § 74.1231(b) (Section 74.1231(b) or signal delivery rule) ("An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is received directly through space, converted, and suitably amplified ... [h]owever, an FM translator providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast.").

<sup>6</sup> Informal Objection, Exh. 3.

<sup>7</sup> Modification Application, Exh. 1. Peninsula's Opposition arguments are purely procedural and were addressed in the *Renewal Decision*. See *Renewal Decision*, 31 FCC Rcd at 10924 (finding that: (1) standing is not required for an informal objection; (2) Kenai had standing to object to the Modification Application; and (3) the Informal Objection was not a petition for declaratory ruling).

<sup>8</sup> 47 CFR § 73.3587.

<sup>9</sup> See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986).