



Federal Communications Commission
Washington, D.C. 20554

December 28, 2017

In Reply Refer to:
1800B3-DD/NS

Mr. Wilfredo G. Blanco-Pi
Ext San Augustin
1210 Calle 3
San Juan, Puerto Rico 00926-1837

Ms. Dominga Barreto Santiago
President, WWNA-AM
DBS Radio, Inc.
Post Office Box 846
Aguada, Puerto Rico 00602-0846

In re: **WVOZ-AM, Morovis, Puerto Rico**
Facility ID No. 72452
File No. BP-20170327AAF

Informal Objection

Dear Mr. Blanco-Pi and Ms. Barreto Santiago:

This letter refers to the captioned minor change application (Application) of Wilfredo G. Blanco-Pi ("Blanco-Pi"), licensee of AM Station WVOZ, Morovis, Puerto Rico. The Application proposes a city of license modification for AM Station WVOZ from Morovis, Puerto Rico, to Aguadilla, Puerto Rico. DBS, Inc. (DBS), licensee of AM Station WWNA, Aguadilla, Puerto Rico, filed an informal objection (Informal Objection) to the Application. For the reasons discussed below, we grant the Application and deny the Informal Objection.

Background. The Application was filed pursuant to Section 73.3571(j) of the Commission's Rules¹, which permits the modification of an AM station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.² Among other requirements, an application for such a minor modification must demonstrate that the proposed change of community constitutes a preferred arrangement of allotments in comparison to its current service.³ We make this determination using the FM allotment priorities set forth in *Revision of*

¹ 47 C.F.R. § 73.3571(j).

² See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (2006), recon pending.

³ See *Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License")*, Report and Order, 4 FCC Rcd 4870 (1989), recon. granted in part, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

*FM Assignment Policies and Procedures.*⁴

In support of the Application, Blanco-Pi states that the Application will result in a preferential arrangement of allotments under the FM allotment priorities because Station WVOZ is moving from one Urbanized Area to another,⁵ and should be evaluated under Priority (4), other public interest factors of the Commission's allotment priorities. Although the proposed relocation would result in a large net population loss, Blanco-Pi notes that, under *Rural Radio*,⁶ the Commission has de-emphasized strict population gains and losses in favor of evaluation of how a proposal would achieve a better distribution of radio services. He states that the Application would achieve that goal by providing an 11th local aural service to the Aguadilla-Isabela-San Sebastian UA,⁷ while removing a 39th local aural service from the San Juan UA.⁸

In its Informal Objection, DBS states that Morovis residents rely only on AM Station WVOZ for getting news, weather alerts, and local community news. DBS contends that Morovis located approximately 25 miles from San Juan, is considered a municipality of the central area of Puerto Rico, rather than part of the San Juan Metro Area. DBS represents that Morovis would lose its only local radio service, while Aguadilla would receive a sixth local station. Finally, DBS states that many Puerto Rico municipalities smaller than Morovis currently support a local radio station.

In reply, Blanco-Pi points out the DBS's motivation in filing the Informal Objection is to protect WWNA from further competition. Blanco-Pi states that WVOZ's move to Aguadilla would replace the service provided, until May 7, 2017, by his AM synchronous booster of AM Station WISO, Ponce, Puerto Rico, that rebroadcast to Aguadilla the programming of the AM Station WAPA, San Juan, Puerto Rico. Blanco-Pi disputes DBS's characterization of Morovis as remote from San Juan, noting that Morovis is a suburb of San Juan, and it is less than 30 minutes' driving time on the connecting expressway. He also states that residents of Morovis work, study, and shop in San Juan, due to the declining business environment in Morovis itself.

Discussion. Under Section 309 of the Communications Act of 1934, as amended,⁹ informal objections, like petitions to deny, must contain properly-supported, specific allegations of substantial and material fact that, if true, would establish that grant of the application would be *prima facie* inconsistent

⁴ The FM allotment priorities are (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to Priorities (2) and (3). See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988).

⁵ Morvois is located in the San Juan, Puerto Rico Urbanized Area (UA), while Aguadilla located in the Aguadilla-Isabela-San Sebastian Urbanized. Area.

⁶ See *Policies to Promote Rural Radio Service and to Streamline Allotment an Assignment Procedures*, Second Report and Order, First Order On Reconsideration, and Second Further Notice of Proposed Rule Making, 26 FCC Rcd 2556, 2577 ¶ 39 (2011)(“*Rural Radio*”).

⁷ There are currently 10 AM and FM facilities licensed to communities that are part of the Aguadilla-Isabela-San Sebastian Urbanized Area.

⁸ There are 38 AM and FM stations, in addition to WVOZ, licensed to communities that are part of the San Juan UA.

⁹ 47 U.S.C. § 309.

with the public interest.¹⁰ As discussed below, DBS has not raised a substantial and material question of fact that grant of the Application would be inconsistent with the public interest.

Section 307(b) Analysis. We next consider whether the Application complies with our Section 307(b) processing policies. In the *Rural Radio*,¹¹ the Commission established a rebuttable presumption that a proposed station located within an urbanized area, or that would or could serve 50 percent or more of an urbanized area, should be treated as serving the entire urbanized area for purposes of applying our Section 307(b) FM allotment priorities. In this regard, the community of Morovis is located within the San Juan UA; therefore, we will treat the Applications as serving the San Juan UA rather than the named community of license, and consider the proposal under Priority (4), other public interest matters.¹²

We disagree with DBS's claim that the Application does not result in a preferential arrangement of allotments because Morovis, although part of the San Juan UA, should be considered an independent community in need of its own local service, and that WVOZ should not be permitted to move its community of license from Morovis to Aguadilla. This attempt to rebut the urbanized area service presumption (UASP) is inconsistent with *Threshold Communications*, wherein the Commission clarified that the UASP, was only intended to apply to future service at a proposed new community of license.¹³ We conclude that the Application results in a preferential arrangement of allotments under Priority (4) because it is an UA to UA move,¹⁴ and the relocation of Station WVOZ at Aguadilla-Isabela-San Sebastian UA would provide a 11th aural reception is preferred over retention of 39th aural reception services to San Juan, Puerto Rico, UA. Under these circumstances, we find that the public interest would be better served by the proposed relocation, and we therefore will grant the Application.

Conclusion. Accordingly, IT IS ORDERED, That the application, File No. BP-20170327AAF, filed by Wifredo G. Blanco-Pi IS GRANTED; and

IT IS FURTHER ORDERED that the Informal Objection filed by DBS, Inc., licensee of AM Station WWNA, Aguadilla, Puerto Rico, IS DENIED.

Sincerely,



Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau

¹⁰ 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.), *reh'g denied* (D.C. Cir. Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (holding that informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹¹ *Rural Radio*, 26 FCC Rcd at 2572.

¹² See *Goleta, California*, Letter, 26 FCC Rcd 12496, 12498 (MB 2011) ("*Goleta*") (deciding post-*Rural Radio* that relocation of a station from one UA to another UA is analyzed under Priority (4)).

¹³ See *Threshold Communications Application for Construction Permit, Station KVNW(FM), Napavine, Washington*, Memorandum Opinion and Order, FCC 17-45 (rel. Apr. 20, 2017) (upholding Bureau's rejection of informal objector's attempt to rebut UASP for move-out community) (*Threshold Communications*), *recon pending*.

¹⁴ A staff engineering analysis determined that the loss area contains 264,330 persons. Both the gain and loss areas are considered well-served with five or more reception services.