

**FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, SW
WASHINGTON, DC 20554**

**MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS:** (202) 418-2730
HOME PAGE: www.fcc.gov/media/radio/audio-division

PROCESSING ENGINEER: Arthur E. Doak
TELEPHONE: (202) 418-2715
Mail Stop: 1800B3-AED
INTERNET ADDRESS: arthur.doak@fcc.gov

October 31, 2018

Mr. Charles M. Anderson
1519 Euclid Avenue
Bowling Green, KY 42103

In re: WKLX(FM), Brownsville, KY
Charles M. Anderson
Facility ID No.: 10515
BPH-20170908AAF

Dear Mr. Anderson:

This letter refers to: (1) the above-captioned minor change application, as last amended on September 27, 2018; (2) the Informal Objection filed October 10, 2017 on behalf of Capstar TX, LLC; and (3) related pleadings. For the reasons stated below, the application is dismissed.

By letter dated August 28, 2018, the staff stated that the application was unacceptable for filing because it violated 47 C.F.R. Section 73.215. Specifically, the proposed interfering contour (100 dBu) overlapped the protected contour (60 dBu) of Station WUBT(FM), Russellville, Kentucky in violation of Section 73.215. The September 27, 2018 amendment changed the effective radiated power (ERP) and the antenna height. However, the application as amended still violates Section 73.215. Specifically, the proposed interfering contour (100 dBu) still causes prohibited overlap to the protected contour (60 dBu) of WUBT by approximately 1 kilometer between the azimuths from 22°T to 27°T. This constitutes an acceptance defect.¹

The August 28, 2018 Commission letter 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

¹ In the application, as amended, you continue to argue that, pursuant to 47 C.F.R. Section 73.313(c)(2), the vertical elevation pattern may be used to calculate the ERP used to predict the 100 dBu contour distance. You contend that this reduction in ERP is allowed because the 100 dBu contour is not in the "plane" of the maximum main lobe. However, as stated in our August 28, 2018 letter, when calculating the distances to the contours this reduction in ERP is incorrect and the maximum ERP must be used. Please note, because the ERP used in your study is incorrect, we have not yet reviewed your supplemental terrain data.

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 28, 2018 letter provided WKLY(FM) its 30 day period to submit a corrective amendment pursuant to 47 C.F.R. Section 73.3522(a)(6).

Accordingly, Application File No. BPH-20170908AAF, being unacceptable for filing after the one opportunity for corrective amendment, IS HEREBY DISMISSED. Furthermore, the Informal Objection filed October 10, 2017 on behalf of Capstar TX, LLC IS HEREBY DISMISSED as moot. These actions are taken pursuant to 47 C.F.R. Section 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci". The signature is stylized and includes a long horizontal stroke at the end.

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Repp Law Firm