

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 12th Street, S.W.**  
**WASHINGTON DC 20554**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
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July 23, 2019

Gary M Cocola  
225 Crossroads Blvd  
Suite 183  
Carmel, CA 93923

In re: K259CF, South Fresno, CA  
BPFT-20181003AJZ  
Facility ID # 144742

Dear Applicant:

This refers to the above-captioned application for K259CF, South Fresno, California. Based on the below, we will dismiss the application BPFT-20181003AJZ.

An engineering study has revealed the application is a major change application pursuant to 47 C.F.R. § 74.1233(a)(1). Specifically, the Section states that “a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels”. K259CF is authorized to operate on channel 259. This modification application proposes channel 272 by requesting a waiver of Section 74.1233(a)(1) based on interference caused from first-adjacent KCIV(FM), Mount Bullion, California.

We have allowed FM translators to waive Section 74.1233(a)(1) only when “displacement” occurs. Displacement occurs when a full service commences operation and there is interference predicted or caused by an existing translator. The current license for KCIV(FM) was granted in 2003. The current license for K259CF was granted in 2018 and initially licensed in 2016. Since KCIV(FM) has not modified its facilities since 2003 and the current license filed in 2018 is now causing interference to the existing KCIV(FM), Section 74.1233(a)(1) will not be waived.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded Gary M Cocola’s waiver request the “hard look” called for under *WAIT Radio v. FCC*, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233.

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BPFT-20181003AJZ IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "James D. Bradshaw", with a large, stylized flourish at the end.

James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau