



Federal Communications Commission
Washington, D.C. 20554
October 28, 2020

In Reply Refer To:
1800B3-KV

Radio Sharon Foundation
c/o Anthony T. Lepore, Esq.
Radiotvlaw Associates, LLC
4101 Albemarle St. NW
#324
Washington, DC 20016-2151

Radio Sharon Foundation
c/o Lee Peltzman, Esq.
Shainis & Peltzman, Chartered
1850 M Street NW
Suite 240
Washington, DC 20036

Red Wolf Broadcasting Corporation
c/o Scott Woodworth, Esq.
Edinger Associates, PLLC
1725 I St, NW
Suite 300
Washington, DC 20006

In re: W235CN, Providence, RI
Facility ID No. 41191
File No. BLFT-20171124AAA

Interference Complaint

Dear Counsel:

We have before us (1) an application for a license to cover (License Application)¹ the permitted facilities² for FM Translator Station W235CN, Providence, Rhode Island (Station or W235CN)³ filed on November 24, 2017, as amended on December 6, 2017, by Radio Sharon Foundation (Radio Sharon or

¹ File No. BLFT-20171124AAA.

² File No. BPFT-20160627ABL (Permit).

³ The Station operates as translator for Primary Station WSTL(AM), Providence, Rhode Island, licensed to Diaz Holdings, LLC.

Licensee);⁴ and (2) an “Informal Objection and Interference Complaint” (Complaint) filed on December 21, 2017, by Red Wolf Broadcasting Corporation (Red Wolf or Complaining Station),⁵ as supplemented,⁶ alleging harmful interference caused by W235CN. For the reasons discussed below, we dismiss the Complaint, as supplemented, and grant the License Application.

Background. On July 12, 2016, the Media Bureau (Bureau) granted Radio Sharon’s Permit application, filed on June 27, 2016, to relocate the Station to channel 235 at Providence, Rhode Island.⁷ On November 24, 2017, Radio Sharon filed the License Application to cover the Permit. On December 6, 2017, Radio Sharon amended the License Application to correct certain technical information and commenced Station operations on channel 235 pursuant to program test authority.⁸

On December 21, 2017, Red Wolf filed the Complaint alleging the Station was interfering with the reception of WJFF(FM).⁹ In support, Red Wolf attached eight listener complaints.¹⁰ On January 24, 2018, Red Wolf filed a “Supplement to Informal Objection and Interference Complaint” (First Complaint Supplement) that included an additional 16 listener complaints.¹¹

On February 7, 2018, the Bureau ordered Radio Sharon to resolve, within thirty days, the listeners’ interference allegations.¹²

Thereafter, the parties filed a series of filings in this interference proceeding:

- on March 5, 2018, Red Wolf filed a “Second Supplement to Informal Objection and Interference Complaint” (Second Complaint Supplement) that included an additional 20 listener complaints;¹³

⁴ The Station is licensed to operate as W300AC, Chatsworth, New Jersey. *See* File No. BLFT-19930806TD. Red Wolf, however, alleges interference under the Station’s permitted operations as W235CN.

⁵ Red Wolf is the licensee of Station WJFF(FM), Montauk, New York.

⁶ As detailed, *infra*, Red Wolf filed a series of supplements to the Complaint.

⁷ *See Broadcast Actions*, Public Notice, Report No. 48777 (rel. Jul. 15, 2016).

⁸ Radio Sharon amended the License Application “because of errors made in the initial filing. The original attachment technical exhibit has been deleted and replaced with a corrected engineering statement. The Station TPO has been recalculated and changed.” Exhibit 1, as amended, License Application.

⁹ On December 27, 2017, the Bureau rescinded the December 26, 2017, grant of the License Application. *See Broadcast Actions*, Public Notice, Report No. 29150 (rel. Jan 11, 2018).

¹⁰ Specifically, Red Wolf submitted complaints from the following listeners: John Botello, Jr. (Botello); David Mossberg (Mossberg); Ronan Lacey (Lacey); Russell DiNoto (DiNoto); Martin McKinney (McKinney); Miranda Chapman (Chapman); Marina Speck (Speck); and Charles DiLuglio (DiLuglio). Exhibit B, Complaint. Collectively, these listeners will be referred to as “Original Complainants.”

¹¹ Specifically, Red Wolf submitted complaints from the following listeners: Glenn Sulmasy (Sulmasy); John Ruggieri (Ruggieri); Mikayla Labbe (Labbe); Kimberly Ruggien-Lima (Ruggien-Lima); Jenna Rose Lima (Jenna Lima); Joseph Lima (Joseph Lima); Norman Forcier (Forcier); Craig Lustig (C. Lustig); Madison Lustig (M. Lustig); Juliana Lima (Juliana Lima); Thomas Carroll (Carroll); Joseph Christina (Christina); Ken Thomas (K. Thomas); Mike Hancin (Hancin); Pat Hallisey (Hallisey); and Richard Thomas, Jr. (R. Thomas). Exhibit A, First Complaint Supplement. Collectively, these listeners will be referred to as “First Supplement Complainants.” In addition, Red Wolf resubmitted the complaints from the Original Complainants. *Id.*

¹² *See Letter from James D. Bradshaw, Senior Deputy Chief, Audio Division, Media Bureau to Radio Sharon Foundation* (dated Feb. 7, 2018) (2018 Bureau Letter).

¹³ In the Second Complaint Supplement, Red Wolf erroneously stated that 21 additional listener complaints were attached; however, only the following 20 listener complaints were submitted: Lawrence Kolada (Kolada); John Baczek (Baczek); Bryan Schroeder (Schroeder); William Gingerella, Jr. (Gingerella); Wayne Etzel (Etzel); Kelly Henry (Henry); Jeff Evans (Evans); Lynda St. Amour (Amour); Jan Aiello (Aiello); Bobbie Nelson (Nelson);

- on March 9, 2018, Radio Sharon filed a letter opposing the Complaint (Opposition);
- on March 12, 2018, Red Wolf filed a “Request to Immediately Cease Operation” (First Request) that included an additional 9 listener complaints;¹⁴
- on April 17, 2018, Radio Sharon filed a supplement opposing the Complaint (First Opposition Supplement);
- on May 24, 2018, Red Wolf filed a “Further Request to Immediately Cease Operation” (Second Request) that included an additional 14 listener complaints;¹⁵
- on July 5, 2018, Radio Sharon filed a second supplement letter opposing the Complaint (Second Opposition Supplement);
- on August 31, 2018, Radio Sharon filed a third supplement opposing the Complaint (Third Opposition Supplement);
- on October 9, 2018, Red Wolf filed a “Third Request to Immediately Cease Operation” (Third Request) that included an additional 12 listener complaints;¹⁶
- on November 7, 2018, Radio Sharon filed a fourth supplement opposing the Complaint “Opposition” (Fourth Opposition Supplement); and
- on March 20, 2019, Radio Sharon filed a fifth supplement opposing the Complaint (Fifth Opposition Supplement).

In May 2019, the Commission adopted certain changes to the FCC’s rules (Rules) relating to the translator interference complaint resolution process (Translator Interference Rules).¹⁷ In the *Translator Interference Order*, the Commission stated that all then remaining unadjudicated complaints would be decided under the revised Translator Interference Rules once they became effective, and, if necessary, parties would be given an opportunity to submit supplemental materials to comply with the revised

Joanne Sykes (Sykes); Mel Greiner (Greiner); Peter L. Hammond (Hammond); Joe Cimalore (Cimalore); Keith Leeming (K. Leeming); Chris Leeming (C. Leeming); Gay Tatro (Tatro); Susan Rapp (Rapp); Richard Rocco (Rocco); and F. Gregory Hayes (Hayes). Collectively, these listeners will be referred to as “Second Supplement Complainants.”

¹⁴ Specifically, Red Wolf submitted complaints from the following listeners: Ann Hart (Hart); Christine Warner (C. Warner); Michael Warner (M. Warner); Wayne Booker (Booker); Todd Harbeck (Harbeck); Doug Dubitsky (Dubitsky); Kevin Loftes (Loftes); Michael DiCarlo (DiCarlo); and Jim Williamson (Williamson). Exhibit A, First Request. Collectively, these listeners will be referred to as “First Request Complainants.”

¹⁵ Specifically, Red Wolf submitted complaints from the following listeners: Elizabeth Darrow (Darrow); Robert Casey (R. Casey); Patricia Casey (P. Casey); Jon Dunnermuth (Dunnermuth); Patrick M. McCarthy; (McCarthy); MaryAnne Towne (Towne); Todd Dumas (Dumas); Norbert Collins (Collins); Robert Macek (Macek); Arthur Lee Daniel (Daniel); Jennifer Gudwin (Gudwin); Leonard Knapp (Knapp); Debra Stokes (Stokes); and David Smith (Smith). Exhibit A, Second Request. Collectively, these listeners will be referred to as “Second Request Complainants.”

¹⁶ Specifically, Red Wolf submitted complaints from the following listeners: Barbara E. Allen (Allen); Diane Randolph (Randolph); Sandra Bristol (Bristol); Allen F. Petri (Petri); Bruce Anderson (Anderson); Patricia D. Cook (Cook); Michael G. Betten, MD (Betten); Gordon Ulmer, III (Ulmer); Stephen Monson (Monson); Andrew Hoffman (Hoffman); Harold Wong (Wong); and Bill Dugan (Dugan). Exhibit A, Third Request. Collectively, these listeners will be referred to as “Third Request Complainants.”

¹⁷ See *Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference*, Report and Order, 34 FCC Rcd 3457 (2019) (*Translator Interference Order*) *recon denied*, Order on Reconsideration, FCC 20-141, (2020) (*Translator Interference Reconsideration Order*).

Rules.¹⁸ On August 13, 2019, the revised Translator Interference Rules became effective.¹⁹

On September 30, 2019, the Bureau notified Red Wolf that certain additional information was needed to continue processing the Complaint under the revised Translator Interference Rules.²⁰ The Bureau afforded Red Wolf 30 days to file the requested information.²¹

On November 11, 2019,²² Red Wolf responded to the *Complaint Deficiency Letter*, stating that, per Table 1 of 47 C.F.R. § 74.1203 of the Rules,²³ it is required to submit a minimum of six valid listener complaints.²⁴ In support of the Complaint, Red Wolf has submitted eight updated listener interference complaints²⁵ which purportedly comply with the revised Translator Interference Rules, along with technical showings.²⁶ Red Wolf further states that “it will reach out to Radio Sharon and use commercially reasonable efforts to attempt to resolve this interference matter.”²⁷

On April 30, 2020, Radio Sharon filed a reply arguing that Red Wolf’s Deficiency Response failed to comply with the revised Translator Interference Rules.²⁸ Radio Sharon declares that the Updated

¹⁸ *Id.* at 3482, para 49.

¹⁹ See *Media Bureau Announces August 13, 2019, Effective Date of Amended Rules for FM Translator Interference*, Public Notice, 34 FCC Rcd 7004 (MB 2019).

²⁰ See *Letter from James Bradshaw, Senior Deputy Chief, Audio Division, Media Bureau to Red Wolf Broadcasting Corporation* (dated Sep. 30, 2019) (*Complaint Deficiency Letter*). The Bureau found that the Complaint lacked: detailed information on the Complaining Station’s protected contour and the population located therein; the minimum number of listener complaints as determined by the population located within the Complaining Station’s protected contour; signed and dated statements with the listener’s full name, address, and phone number; clear, concise, and accurate descriptions of the locations where interference is alleged; statements that the listener listens over-the-air to the desired station at least twice a month and has no legal, financial, employment, or familial affiliation or relationship with desired station; a map plotting the specific locations of the alleged interference in relation to the Complaining Station’s 45 dBu contour; a statement that the Complaining Station is operating within its licensed parameters; a statement that the Complaining Station has used commercially reasonable methods to inform the translator of the claimed interference and attempted private resolution; and undesired/desired data demonstrating that at each listener location the ratio of undesired to desired signal strength exceeds -20 dB for co-channel situations, -6 dB for first-adjacent channel situations or 40 dB for second- or third-adjacent channel situations, calculated using the Commission’s standard contour prediction methodology. *Id.*

²¹ On November 4, 2019, Commission staff granted Red Wolf’s unopposed request for extension until November 8, 2019, to respond to the *Complaint Deficiency Letter*. See *Email from Kim Varner, Attorney-Advisor, to Scott Woodworth, et.al.* (dated Nov. 4, 2019).

²² See *Interference Complaint Letter* (dated Nov. 8, 2019) (First Deficiency Response) and *Interference Complaint Letter* (dated Nov. 11, 2019) (Second Deficiency Response). Collectively, the First Deficiency Response and the Second Deficiency Response will be referred to as the “Deficiency Response.”

²³ 47 CFR § 74.1203.

²⁴ Red Wolf states that the population, as calculated using the 2010 U.S. Census, within WJFF(FM)’s 60 dbu contour is 24,825 persons. See Attachment 2 at 2, Second Deficiency Response.

²⁵ Specifically, Red Wolf submitted updated complaints from the following listener complainants: Gingerella; C. Warner; M. Warner; Stokes; Gudwin; Bristol; Macek; and Dumas. Collectively, these updated listener complaints will be referred to as the Updated Listener Complainants. Attachment A, First Deficiency Response, and Attachment A, Second Deficiency Response.

²⁶ See Attachment 2, “Technical Exhibit,” Second Deficiency Response.

²⁷ First Deficiency Response at 1, and Second Deficiency Response at 1.

²⁸ See “Radio Sharon Foundation Response to red Wolf Broadcasting Corp., Nov. 11, 2019, Letter Supplement to Interference Complaint” (dated Apr. 30, 2020) (Deficiency Response Opposition).

Listener Complainants are “inadequate in numerous respects under the new FCC rules.”²⁹ First, Radio Sharon notes that two Updated Listener Complainants, C. Warner and M. Warner, appear to be related, reside at the same address, report the same interference locations, and therefore should be treated as one complainant.³⁰ Next, Radio Sharon contends that “[e]xcept for four complainants who referenced home addresses, none of the complaints submitted sufficient detail to locate the reported interference.”³¹ Lastly, Radio Sharon alleges that Red Wolf’s filed “these specious complaints against Radio Sharon based on continuing competitive interests given that Red Wolf competes with Radio Sharon in the Providence radio market by way of another Red Wolf station.”³²

Discussion. Based on our review of the Complaint, as supplemented by the Deficiency Response, we find that Red Wolf has not submitted a valid and complete interference claim package. In particular, we find that Red Wolf failed to submit a required minimum of six rule-compliant listener complaints as required by Table 1 of section 74.1203 of the Rules.³³ With respect to the Updated Listener Complainants, only four listener complaints, those submitted by Gingerella, Stokes, Bristol, and C. Warner, comply with the revised Translator Interference Rules and count towards Red Wolf’s required minimum of six valid listener complaints.³⁴ As for the remaining Updated Listener Complainants, we find that three listeners, Gudwin, Macek and Dumas, failed to state “a clear, concise, and accurate description of the location where the interference is alleged to occur”³⁵ as required by section 74.1201(k)(2)³⁶ of the Rules. Here, listeners Gudwin, Macek, and Dumas reported only general areas of interference and their complaints are, therefore, unacceptable.³⁷ Regarding listener M. Warner, because he reported only the same interference locations as C. Warner,³⁸ his complaint, although valid, cannot be counted towards the minimum number of six valid listener complaints required by Table 1 of section 74.1203(a)(3) of the Rules.³⁹

We further find that Red Wolf failed to provide other required information identified by the

²⁹ *Id.* at 2.

³⁰ *Id.*

³¹ Attachment A at 2, *Id.*

³² *Id.* at 3 (footnote omitted).

³³ As noted, *supra* note 20, the Bureau found that the listener complaints submitted by Red Wolf prior to the *Complaint Deficiency Letter* were not in compliance with the Rules.

³⁴ See Attachment A, First Deficiency Response, and Attachment A, Second Deficiency Response.

³⁵ *Translator Interference Order*, 34 FCC Rcd at 3467, para. 17 (footnote omitted). In the *Translator Interference Order*, the Commission noted that “[a]ppropriate descriptions include map coordinates, street addresses, street intersections, or other descriptions such as ‘along Route XX near mile marker XX’ or ‘between Exits 1 and 2 on Route XX.’ Unacceptable descriptions would include ‘on my way to work’ or ‘downtown,’ as they do not inform . . . [if] within its 45 dBu contour or . . . provide sufficient information to resolve the complaint.” *Id.* at note 65.

³⁶ 47 CFR § 74.1201(k)(2).

³⁷ See Attachment A, First Deficiency Response, and Attachment A, Second Deficiency Response.

³⁸ *Id.*

³⁹ In the *Translator Interference Order*, the Commission stated that listener interference complaints must come from “multiple, unique, locations” and that “multiple complaints from a single building . . . will not count beyond the first complaint toward the six complaint minimum. 34 FCC Rcd at 3465-66, para 15. In the *Translator Interference Reconsideration Order*, the Commission clarified that “multiple valid complaints from the same building, although not applicable towards complaint minimums beyond the first complaint, must nonetheless be remediated if all threshold requirements are otherwise met.” FCC 20-145, at 7, para 13.

Bureau in the *Complaint Deficiency Letter*.⁴⁰ In particular, Red Wolf failed to state that it had used commercially reasonable efforts to resolve the interference,⁴¹ but rather stated only that it “will reach out to Radio Sharon and use commercially reasonable efforts to resolve this interference matter.”⁴² Nor did Red Wolf state that WJJF(FM) is operating within licensed parameters as cited in the *Complaint Deficiency Letter*.⁴³

Conclusion. For the reasons discussed above, we conclude that Red Wolf has failed to submit a valid and complete interference claim package and, therefore, we will dismiss the Complaint, as supplemented by the Deficiency Response. In addition, we have reviewed the License Application, and we find that it complies with all pertinent statutory and regulatory requirements. We further find that granting the License Application will serve the public interest, convenience, and necessity.

Accordingly, IT IS ORDERED that the “Informal Objection and Interference Complaint” filed on December 21, 2017, as supplemented, by Red Wolf Broadcasting Corporation IS DISMISSED.

IT IS FURTHER ORDERED that the application for a license to cover (File No. BLFT-20171124AAA) for FM translator station W235CN, Providence, Rhode Island, filed on November 24, 2017, by Radio Sharon Foundation IS GRANTED.

Sincerely,

James D. Bradshaw
Senior Deputy Chief, Audio Division
Media Bureau

⁴⁰ See *supra* note 20.

⁴¹ 47 CFR § 74.1203(a)(3)(iv).

⁴² First Deficiency Response at 1, and Second Deficiency Response at 1.

⁴³ See *supra* note 20; 47 CFR § 74.1203(a)(3)(iii).