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*admitted in PA and DC only

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Jerry Miller (of counsel)

April 9, 2021

Secretary
Federal Communications Commission
Washington, DC 20554

ATTN: Media Bureau (1800B3-KV)

RE: Further Supplement to Pending Interference Investigation (1800B3-KV)

K243BN Laveen, Arizona
CDBS File No. BLFT-20171211AAV

Dear Madam Secretary:

The following is submitted on behalf of 1TV.com, Inc., licensee of station KIKO-FM Claypool, Arizona, in supplement to the above-captioned open matter concerning FM Translator K243BN causing destructive interference to the off-air reception of co-channel station KIKO-FM in violation of Section 74.1203 of the Commission's rules.

Impermissible interference caused by K243BN to the direct off-air reception of station KIKO-FM is a long standing issue before the Commission which started greater than three full years ago. As summarized below, on no fewer than three separate occasions during that extended period, each of which is a matter of record in the Commission's files, the Commission has found that K243BN has caused, is causing and in the future will continue to cause interference to the direct listener reception of the co-channel KIKO-FM broadcast signal. During that entire 3+ year period, the Commission has tacitly acquiesced in K243BN continuing that interference unabated. Most recently, and as discussed in greater detail below, the Commission has granted a CP application which the Commission acknowledges will not resolve that interference.

Section 74.1203 of the rules, provides in relevant part that an FM translator will not be permitted to continue to operate if it causes any actual interference to the direct reception by the public of the off-the-air signals of any full-service station. Further, if interference cannot be properly eliminated by the application of suitable techniques, operation of the offending FM translator or booster station shall be suspended and shall not be resumed until the interference has been eliminated. (emphasis supplied)

On March 19, 2018, KIKO-FM submitted listener complaints detailing actual K243BN interference to KIKO-FM operations with a request that the Commission order K243BN to suspend broadcast operation. The Media Bureau responded with a letter dated May 14, 2018, (1800B3-KV) advising K243BN of its obligation to eliminate the documented actual interference

that K243BN causes to KIKO-FM and to submit a report within 30 days detailing efforts to resolve each KIKO-FM listener interference complaint, including any complaints which may be filed in the future.

K243BN failed to respond to the Commission's May 2018 letter and continued to conduct broadcast operation at 250 watts E.R.P. with commensurate signal reception interference to KIKO-FM. K243BN did not suspend operation as required by Section 74.1203 of the rules and the Commission did not order K243BN to cease operation. Greater than one year later, in August 2019, the Commission dismissed the KIKO-FM interference complaint on procedural grounds after modifying its translator interference resolution rules to incorporate requirements which did not exist previously.¹

In June 2020, KIKO-FM approached station K243BN with listener interference complaints pursuant to the Commission's revised interference complaints resolution procedures. In July 2020, after K243BN took no substantive steps to work with KIKO-FM on the matter or to otherwise eliminate the interference, KIKO-FM submitted the complaints to the Commission, asking again that K243BN be ordered to suspend broadcast operation pursuant to Section 74.1203 of the rules for failure to resolve the verified actual interference complaints. In the meantime, K243BN took no action and continued its destructive interference to the KIKO-FM broadcast signal. As a result, KIKO-FM listeners had no relief from K243BN's continuing impermissible interference to the off-air reception of KIKO-FM.

By letter dated September 17, 2020, (1800B3-KV) the Commission affirmed that KIKO-FM satisfied the FM translator interference complaint procedures and ordered K243BN to file an interference resolution plan within 30 days and, within 60 days thereafter, file either proof of resolving the verified interference or proof of joint interference testing results.

On September 18, 2020, K243BN responded that, if directed to do so by the Commission, the station would reduce power or go silent.² K243BN offered no explanation why it would not suspend operation on its own accord as required by Section 74.1203 of the rules. Meanwhile, K243BN continued its licensed operation unabated with resulting destructive interference to the KIKO-FM broadcast signal. As a result, KIKO-FM listeners had no relief from K243BN's continuing impermissible interference to the off-air reception of KIKO-FM.

¹ See, Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference Report and Order, FCC 19-40, 34 FCC Rcd 3457 (2019). Complaint dismissed after KIKO-FM was unable to supplement the complaint within the time parameters offered by the Commission.

² It also filed a contemporaneous band-hopping CP application which was subsequently denied, LMS File No. 121878.

On November 2, 2020, K243BN filed a CP application proposing to reduce power to 50 watts ERP, LMS File No. 125254. KIKO-FM objected to that application on the basis that 50 watts E.R.P. would not resolve or remediate all interference to KIKO-FM as ordered by the Commission's September 17 letter or Section 73.1203 of the rules.³ K243BN then modified the application with a power reduction to 1 watt ERP and KIKO-FM renewed its opposition by demonstrating that the power reduction would not resolve all verified interference complaints. K243BN did not respond to the objection and continued its licensed 250 watt operation with unabated destructive interference to the KIKO-FM broadcast signal. As a result, KIKO-FM listeners had no relief from K243BN's continuing impermissible interference to the off-air reception of KIKO-FM.

K243BN has violated and abused the Commission's rules for an inexcusable period of time by utterly failing to cease the verified interference described in the Commission's September 2020 letter. K243BN did not require a Commission order to suspend broadcast operation, as such action is authorized and required by Section 74.1203 of the rules. As a result, affected KIKO-FM listeners have had no relief from K243BN's continuing impermissible interference to the off-air reception of KIKO-FM.

During the entire 3-year period, March 2018 to present, K243BN has persisted to conduct broadcast operations at 250 watts E.R.P. causing daily and unabated impermissible signal reception interference to KIKO-FM. K243BN has figuratively thumbed its nose with tacit impunity at Section 73.1203 of the Commission's rules and a Commission directive to resolve subject KIKO-FM listener interference complaints.

Despite K243BN having ignored the requirements of the Commission's rules and the implicit gravamen of the Commission's September 2020 letter to remediate all verified interference within 90 days, the Commission has not ordered K243BN to cease operation. Meanwhile, KIKO-FM listeners remain subject to K243BN's continuing impermissible interference to the off-air reception of KIKO-FM.

On March 29, 2021, the Commission found that at 1 watt E.R.P., K243BN would resolve some, but not all, of the verified KIKO-FM listener interference complaints.⁴ The Commission granted the CP application with no explanation how partially remediating all interference complaints satisfies the Commission's rules, the public interest, and the unambiguous September 2020 mandate to resolve all interference complaints. This application grant implies that partial compliance with Commission directives and Section 74.1203 of the rules is 'good enough.'

³ This objection recalculated a subset of interference complaints filed with the Commission in July 2020, and stated that even at reduced power, K243BN would not resolve all extant interference complaints.

⁴ FCC staff verified that at least two complaining KIKO-FM listeners would continue to receive interference from K243BN.

Federal Communications Commission

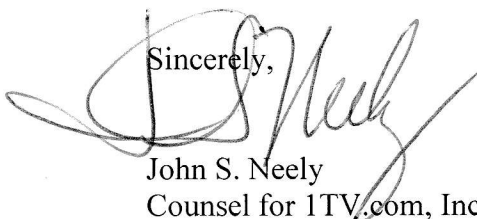
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By email dated March 31, 2021, the Bureau reminded K243BN that it remains subject to the terms of the September 2020 letter requiring prompt resolution of all verified KIKO-FM interference complaints (emphasis supplied). K243BN responded by email (copy attached) that it requires at least 30 days to effect authorized construction. Meanwhile, K243BN continues its impermissible interference and KIKO-FM listeners continue to have no relief from K243BN's ongoing interference to the off-air reception of KIKO-FM.

Based on the foregoing, it is plain that, to date and in violation of Commission rules and directives, K243BN interference to KIKO-FM has continued unabated at full licensed power for 3+ years. Therefore, KIKO-FM renews its request that the Commission enforce Section 74.1203 of the rules and order K243BN to suspend broadcast operation immediately and until such time as K243BN is able to demonstrate that it has resolved all interference to the off-air reception of station KIKO-FM.

Sincerely,

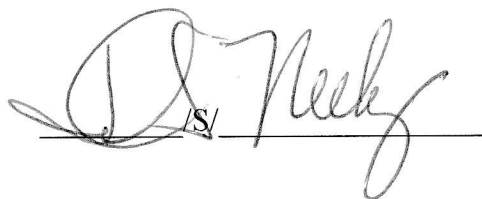


John S. Neely
Counsel for 1TV.com, Inc.

CC: Kim Varner (FCC by email)
James Bradshaw (FCC by email)

I certify that on 4-9-21 a copy of the foregoing document was placed in the United States mail, first class postage prepaid, addressed to the following:

Vic Michael
Mountain Community Translators, LLC.
1418 Bradley Avenue
Cheyenne, WY 82001



Re: K243BN Interference Complaint

Yahoo/Inbox



Victor Michael <vicmichael1@gmail.com>

To: James Bradshaw

Cc: John Neely, Larry Hannif-Ali, Kim Varner



Wed, Mar 31 at 12:35 PM

Jim,

I am currently making arrangements to acquire the needed antenna and other equipment. I can have the CP built out no later April 30th, 2021, or 30 days from today. I am planning a trip to Arizona to arrive on the 27th. Shouldn't take but a day or two to complete the antenna installation.

Let me know if this will be acceptable.

Thanks,

Vic Michael
Mountain Community Translators, LLC

On Wed, Mar 31, 2021 at 8:14 AM James Bradshaw <James.Bradshaw@fcc.gov> wrote:

Mr. Michael,

As you know, the letter we sent on September 17, 2020, required prompt resolution of the ongoing interference complaints. Based on your commitment to expeditiously construct the modified facilities of K243BN and the need to resolve the complaints, we need to know when you expect to complete construction of the facilities in Construction Permit #125254. Your answer will determine whether or not we take additional action pursuant to our September 17, 2020 letter. Please provide me with your expected completion date for construction and operation of Construction Permit #125254 at your earliest convenience.

Sincerely,

Jim Bradshaw

Audio Division