



Federal Communications Commission  
Washington, D.C. 20554

November 3, 2005

DA 05-2903  
In Reply Refer to:  
1800B3-MFW

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In re: **WCPT(AM), Crystal Lake, Illinois**  
**Facility ID No. 53504**  
Chicago Newsweb Corporation  
File No. BMJP-20041230ACB

**WNDZ(AM), Portage, Indiana**  
**Facility ID No. 73316**  
WNDZ, Inc.  
File No. BMJP-20041230ACC

Dear Mr. O'Connor:

This letter refers to the captioned applications filed by Chicago Newsweb Corporation ("CNC") and WNDZ, Inc.<sup>1</sup> for major modification, changing the community of license, of stations WCPT(AM), Crystal Lake, Illinois, and WNDZ(AM), Portage, Indiana, respectively. For the reasons set forth below, we dismiss the applications.

*Background.* CNC and WNDZ, Inc. timely filed their FCC Form 175 applications to change the community of license for WCPT(AM) and WNDZ(AM) during the filing window for AM Auction No. 84.<sup>2</sup> The applications were determined to be not mutually exclusive with any other proposal filed in the filing window, and the applicants were invited to file their complete FCC Form 301 applications by January 18, 2005.<sup>3</sup> CNC and WNDZ, Inc. timely filed their FCC Form 301 proposals on December 30, 2004. The applications propose only a change in community of license; they propose no change to either the WCPT(AM) or WNDZ(AM) technical facilities. The applicants were thereafter directed to submit an amendment addressing the implications of the proposed community change under Section 307(b) of the Communications Act of 1934, as amended, which directs the Commission to make a "fair, efficient, and

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<sup>1</sup> CNC and WDNZ, Inc. are commonly owned. See Ownership Report No. BOA-20050725ABT.

<sup>2</sup> See *Public Notice*, "AM New Station and Major Modification Auction Filing Window; Minor Modification Application Freeze," 18 FCC Rcd 23016 (MB/WTB 2003).

<sup>3</sup> See *Public Notice*, "AM Auction No. 84 Singleton Applications," 19 FCC Rcd 22569 (MB 2004).

equitable” distribution of radio service among communities in the United States.<sup>4</sup> The applicants timely filed their Section 307(b) amendments on July 7, 2005.

The CNC application proposes to remove WCPT(AM), the only station licensed to Crystal Lake, Illinois (2000 Census population 38,000) to the slightly smaller community of Addison, Illinois (2000 Census population 35,914) as that community’s first local broadcast transmission service. CNC’s 307(b) amendment indicates that Crystal Lake will continue to receive a principal community signal<sup>5</sup> from six stations.<sup>6</sup> The WNDZ, Inc. application proposes to remove WNDZ(AM), the only station licensed to Portage, Indiana (2000 Census population 33,496) to the slightly larger community of Calumet City, Illinois (2000 Census population 39,071), as that community’s first local broadcast transmission service. WNDZ, Inc.’s 307(b) amendment indicates that Portage will continue to receive a principal community signal from seven stations.<sup>7</sup>

*Discussion.* Our policies on allowing broadcast stations to change their communities of license are based on Section 307(b) and the goals of fair, efficient, and equitable distribution of radio service that underlie it. Our *FM Assignment Policies* delineate three core priorities: provision of first aural reception service to a community, provision of second aural reception service to a community, and provision of first local transmission service at a community.<sup>8</sup> The fourth priority is “other public interest matters,” which encompasses any other factors that the Commission may take into consideration.<sup>9</sup> Retention of the first local service in Crystal Lake and Portage, and the institution of first local service to Addison and Calumet City, implicate priority (3) – first local transmission service. However, notwithstanding that both the existing and proposed arrangement of stations trigger the same allotment priority, the Commission prohibits the removal of an existing station representing a community’s sole local transmission service.<sup>10</sup> This policy is subject, as are all Commission policies, to waiver under appropriate circumstances.<sup>11</sup> But the Commission has emphasized that “the fact that a proposal would create a new local service (at the

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<sup>4</sup> See *Public Notice*, “Section 307(b) Amendment Deadline Established for Certain AM Auction No. 84 Singleton Applications,” 20 FCC Rcd 10701 (MB 2005).

<sup>5</sup> 5mV/m for AM stations and 3.16 mV/m (70 dB $\mu$ ) for FM stations.

<sup>6</sup> Chicago stations WSCR(AM), WGN(AM), WYLL(AM), and WBBM(AM), as well as WNVR(AM), Vernon Hill, Illinois, and WZSR(FM), Woodstock, Illinois.

<sup>7</sup> Chicago stations WLS(AM), WSCR(AM), and WMVP(AM), as well as WLTH(AM), Gary, Indiana, WIMS(AM), Michigan City, Indiana, WPWX(FM) Hammond, Indiana, and WLJE(FM), Valparaiso, Indiana.

<sup>8</sup> *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88, 91-93 (1982). Priorities (2) and (3) are co-equal. The FM allotment priorities are applied to Section 307(b) determinations for community change proposals for AM stations. *Allesandro Broadcasting Co.*, 56 R.R.2d 1568 (Rev. Bd. 1984).

<sup>9</sup> *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d at 93.

<sup>10</sup> *Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License* (“*New Community R & O*”), 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094, 7097(1990) (“*New Community MO&O*”).

<sup>11</sup> *Id.* On waiver standards generally, see *Northeast Cellular Telephone Co. v. F.C.C.*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”) (“[A] waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest,” citing *WAIT Radio v. F.C.C.*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969) (“*WAIT Radio*”).

expense of an existing service) is not sufficient, by itself, to warrant a waiver.”<sup>12</sup> Rather, such a proposal “is presumptively contrary to the public interest.”<sup>13</sup> In this regard, the Commission has stated that:

The public has a legitimate expectation that existing service will continue, and this expectation is a factor we must weigh independently against the service benefits that may result from reallocating of a channel from one community to another, regardless of whether the service removed constitutes a transmission service, a reception service, or both. Removal of service is warranted only if there are sufficient public interest factors to offset the expectation of continued service.<sup>14</sup>

In light of this policy, we cannot find, on the existing record in this case, that there are sufficient public interest factors to offset the expectation of continued local service to Crystal Lake and Portage. The Commission has previously stated that it will not accept continued reception service coverage by the station as a factor in favor of a licensee seeking to change its community of license.<sup>15</sup> Moreover, we have held that the fact that a licensee proposes to remove a station to a slightly larger community, as does WNDZ, Inc., here, does not justify the removal of a smaller community’s sole local broadcast service.

Accordingly, we cannot find that the public interest, convenience, and necessity will be served by the subject proposals. Therefore, the applications of Chicago Newsweb Corporation (File No. BMJP-20041230ACB) and WNDZ, Inc. (File No. BMJP-20041230ACC) for major modification to change the community of license of stations WCPT(AM), Crystal Lake, Illinois, and WNDZ(AM), Portage, Indiana, respectively, ARE DISMISSED.

Sincerely,

Peter H. Doyle, Chief  
Audio Division  
Media Bureau

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<sup>12</sup> *New Community MO&O*, 5 FCC Rcd at 7097.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* See also *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services, Notice of Proposed Rule Making*, 10 FCC Rcd 11169, 11183-84 (2005); and *Sparta and Buckhead, Georgia*, 15 FCC Rcd 3474 (MMB 2000) (“[u]nder very limited circumstances, the removal of a community’s sole local service could be justified if there are compelling public interest factors to offset the expectation of continued service”).

<sup>15</sup> See *New Community R & O*, 4 FCC Rcd at 4873. Accepting continued reception of the station at the previous community would require ensuring that the coverage was provided to the original community in perpetuity, lest the licensee avoid one of the terms of its promise that allowed the move. *Id.*