



FEDERAL COMMUNICATIONS COMMISSION  
Media Bureau  
Audio Division  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

February 10, 2012

DA 12-185  
*In Reply Refer to:*  
1800B3-MFW/JDB/RG  
Released: February 10, 2012

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Radio Power, Inc.  
Suite 222  
955 South Virginia Street  
Reno, NV 89502

Re: W250BN, West Allis, WI  
Facility ID No. 155293  
File Nos. BPFT-20100211AAT, BLFT-  
20100524AFC, BPFT-20100601AEI,  
BLFT-20100915ABU, BPFT-  
20100922ACE, BLFT-20110103ACO,  
BPFT-20110113AAP, BLFT-  
20110407AAT, BPFT-20110408ACJ,  
BLFT-20111020AHM, and BPFT-  
20111021ADL

Dear Licensee:

The Media Bureau is investigating potential statutory and rule violations and related instances of potential misrepresentation and/or lack of candor on the part of Radio Power, Inc. (the "Licensee"). Specifically, it is alleged that the Licensee abused Commission processes by effectuating a major change in the facilities of Station W250BN, now licensed to West Allis, Wisconsin, by a succession of serial minor change applications. We direct the Licensee, pursuant to Sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended,<sup>1</sup> to provide responses to the following inquiries, within thirty (30) calendar days from the date of this letter. The Licensee may supplement its responses with additional relevant information pursuant to Sections 1.17 and 1.88 of the Commission's Rules (the "Rules").<sup>2</sup>

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<sup>1</sup> 47 U.S.C. §§ 154(i), 154(j), 308(b), and 403.

<sup>2</sup> 47 C.F.R. §§ 1.17, 1.88.

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Instructions

If the Licensee requests that any information or Documents, as defined herein, responsive to this letter be treated in a confidential manner, the Licensee shall submit, along with all responsive information and Documents, a statement in accordance with Section 0.459 of the Rules.<sup>3</sup> Requests for confidential treatment must comply with the requirements of Section 0.459 of the Rules, including the standards of specificity mandated by Section 0.459(b). Accordingly, “blanket” requests for confidentiality of a large set of documents are unacceptable. Pursuant to Section 0.459(c) of the Rules, the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

If the Licensee withholds any information or Documents under claim of privilege, the Licensee shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item, the numbered inquiry to which each item responds and the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Each requested Document, as defined herein, shall be submitted in its entirety, even if only a portion of that Document is responsive to an inquiry made herein, unless the Document is a recording or transcript, in which case it should be provided only for the period of time of the broadcast specified in the pertinent inquiry herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be submitted.

If a Document responsive to any inquiry made herein existed but is no longer available, or if the Licensee is unable for any reason to produce a Document responsive to any inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

With respect only to Documents responsive to the specific inquiries made herein and any other Documents relevant to those inquiries, the Licensee is directed to retain the originals of those Documents for twelve (12) months from the date of this letter unless the Licensee is directed or informed by the Media Bureau in writing to retain such Documents for some shorter or longer period of time.

The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all Documents and information that are responsive to the inquiries made herein but not initially produced at the time, date and place specified herein. In this regard, the Licensee must supplement its responses (a) if the Licensee learns that, in some material respect, the Documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive Documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless the Licensee is directed or informed by the

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<sup>3</sup> 47 C.F.R. § 0.459.

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Media Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period of time.

For each Document or statement submitted in response to the inquiries below, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the Document was retrieved. If any Document is not dated, state the date on which it was prepared. If any Document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Licensee must identify with reasonable specificity all Documents provided in response to these inquiries.

Unless otherwise indicated, the period of time covered by these inquiries is January 1, 2010, to the present.

### Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Broadcast," when used as noun, shall mean any images or audible sounds or language transmitted or disseminated over a station during the course of a television broadcast.

"Broadcast," when used as a verb, shall mean the transmission or dissemination of radio communications intended to be received by the public. The verb "broadcast" may be used interchangeably with the verb "air."

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any broadcast, radio or television program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form).

"Facility" or "Facilities," when capitalized, shall refer to Station operation authorized by granted minor modification construction permit and license applications, as follows:

- "Facility 1" shall mean the Station operation authorized by the grant of BPFT-20100211AAT and BLFT-20100524AFC

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- “Facility 2” shall mean the Station operation authorized by the grant of BPFT-20100601AEI and BLFT-20100915ABU
- “Facility 3” shall mean the Station operation authorized by the grant of BPFT-20100922ACE and BLFT-20110103ACO
- “Facility 4” shall mean the Station operation authorized by the grant of BPFT-20110113AAP and BLFT-20110407AAT
- “Facility 5” shall mean the Station operation authorized by the grant of BPFT-20110408ACJ and BLFT-20111020AHM

“Licensee” shall mean Radio Power, Inc. and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

“Station” shall mean Station W250BN, Facility ID No. 155293.

Inquiries: Documents and Information to be Provided

1. State whether, at the time the Licensee filed the FCC Form 349 for each of the following Facilities, the Licensee had “a reasonable assurance that the specified site” would be available for its intended use (FCC Form 349, Instruction L). If the answer is “no” for any Facility or application, provide an explanation for submitting the application(s) absent the requisite reasonable assurance.
  - (a) Facility 1
  - (b) Facility 2
  - (c) Facility 3
  - (d) Facility 4
  - (e) Facility 5
  - (f) Application No. BPFT-20111021ADL.
2. Provide a copy of all Documents relating to the securing of reasonable assurance of site availability for each of the Facilities and applications specified in Inquiry 1, including copies of all leases, records relating to the preparation and filing of the pertinent minor modification applications and any amendment(s) to those applications, telephone records, invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the reasonable assurance of site availability.
  - (a) For each Facility, provide the name and contact information of the owner (or owner’s agent) with whom the Licensee reached agreement on the use of the specified site.
3. State the precise length of time during which the Licensee broadcast with each of the following Facilities. For each Facility, state the date and time on which operation commenced and ceased.
  - (a) Facility 1
  - (b) Facility 2

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- (c) Facility 3
  - (d) Facility 4
  - (e) Facility 5
4. Provide a copy of all Documents relating to the Station's operation for each of the Facilities specified in Inquiry 3, including copies of all leases, personnel records, engineering records, program logs, invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's period(s) of operation.
  5. State the primary station that was rebroadcast by the Station and provide evidence of the primary station's consent to such rebroadcast for each of the following Facilities.
    - (a) Facility 1
    - (b) Facility 2
    - (c) Facility 3
    - (d) Facility 4
    - (e) Facility 5
  6. State the precise length of time during which the Station was silent for any period of more than 30 days for each of the following Facilities. For each instance in which the Station was silent for more than 30 days, provide: (1) the reason(s) for such silent period; and (2) an explanation for any failure to notify the Commission of the Station's silence.
    - (a) Facility 1
    - (b) Facility 2
    - (c) Facility 3
    - (d) Facility 4
    - (e) Facility 5
  7. State the community which Licensee ultimately intends to serve and the primary station it intends to rebroadcast with the Station.
  8. Provide a copy of all Documents relating to the relocation of the Station from its original community of license (Beloit, Wisconsin) to the community specified in the response to Inquiry 7 or any community other than Beloit, Wisconsin, including any correspondence, memoranda, engineering studies, or other documentation..
  9. Provide a copy of all Documents not previously requested that provide the basis for or otherwise support the responses to Inquiries 1-8, above.

The response should be organized and appropriately numbered to reflect the specific inquiry for which each responsive item is prepared. Additionally, we direct the Licensee to support its response with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer with personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the information and/or recordings requested by this letter which are in the Licensee's possession, custody, control or knowledge have been produced. If multiple Licensee employees contribute to

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the response, in addition to such general affidavit or declaration of the authorized officer of the Licensee noted above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual, rather than his or her own knowledge, provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with Section 1.16 of the Rules,<sup>4</sup> and be substantially in the form set forth therein. To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.<sup>5</sup> Failure to respond appropriately to this Media Bureau letter of inquiry may constitute a violation of the Communications Act and the Commission's Rules.<sup>6</sup>

The Licensee shall direct its response, if by messenger, hand delivery, or U.S. Mail, to Tom Hutton, Audio Division, Media Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 2-A262, Washington, D.C. 20554; and to James Bradshaw, Audio Division, Media Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 2-A264, Washington, D.C. 20554, and Robert Gates, Audio Division, Media Bureau, Federal Communications Commission, Room 2-A104, Washington, DC 20554.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: (Via Certified Mail, Return Receipt Requested)  
David G. O'Neil, Esq.  
Rini & Coran, P.C.  
Suite 600  
1140 19<sup>th</sup> Street, N.W.  
Washington, DC 20036

Lauren A. Colby, Esq.  
10 East Fourth Street  
P.O. Box 113  
Frederick, MD 21701

Enclosure (Exhibit A)

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<sup>4</sup> 47 C.F.R. § 1.16.

<sup>5</sup> See 18 U.S.C. § 1001; *see also* 47 C.F.R. § 1.17.

<sup>6</sup> See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n. 36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (Enf. Bur. 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003).