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In Reply Refer To:

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In Re: WLRR(FM), Milledgeville, Georgia
File No: BPH-20140129AGY
Facility Identification Number: 53476

**Minor Change Application
Informal Objection**

Gentlemen:

This letter refers to the minor change application (the “Application”) of Starstation Radio LLC (“Starstation”), licensee of Station WLRR(FM) (“WLRR”), Channel 264A, Milledgeville, Georgia, and the Informal Objection (the “Objection”) filed by Radio License Holding SRC LLC, (formerly Susquehanna Radio Corp.) (“SRC”), licensee of Station WNNX(FM), College Park, Georgia. The Application proposes a city of license modification for WLRR from Milledgeville to Buckhead, Georgia, as a second local service. For the reasons discussed below, we grant the Objection in part and direct Starstation to amend the Application regarding the Section 307(b) showings.¹

Background. The Application was filed pursuant to Section 73.3573(g) of the Commission’s Rules,² which sets forth the requirements for modification of an FM Station license to specify a new community of license without providing an opportunity for competing expressions of interest. Among other requirements, an application for such a minor modification must demonstrate that the proposed change of community constitutes a preferential arrangement of allotments in comparison with its current service.³ We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.⁴

¹ 47 U.S.C. § 307(b) (“Section 307(b)”).

² 47 C.F.R. § 73.3573(g).

³ See *Modification of FM and TV Authorizations to Specify a New Community of License (“Community of License”)*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990) (“*Community of License Reconsideration Order*”).

⁴ *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982) The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3) (“*FM Allotment Priorities*”).

In support of the Application, ⁵ Starstation states that its proposal would provide a first commercial service and a second local service to Buckhead, Georgia (population 171) and claims that these benefits would be preferred to the retention of a fourth local service to Milledgeville⁶, Georgia (population 19,401).⁷ Starstation also states that the move would not create white or gray areas, but it would create a loss of service to 57,500 persons, a gain of service to 41,715 persons, with a common area of service to 3,336 persons. In addition, Starstation asserts that both the loss and gain areas are well served with at least three reception services.

In its Objection, SRC contends that the proposed change of community of license offers no comparative public interest benefits. SRC notes that the proposed move would provide a second local service to a very small community of 171 persons, whereas Milledgeville, a much larger community of 17,715 persons, would be left with only three local services. SRC further states that there would be a net loss of 15,785 persons served, 24 persons would lose a fourth reception service, and more people would lose an existing fifth aural service (421) than would gain a fifth service (40) from the move.

In Response,⁸ Starstation argues that SRC is a major corporation seeking to keep WLRR out of the way of potential future expansion by Station WNXX(FM). SRC replies that Starstation's speculation regarding SRC's purported motivation is irrelevant to the merits of this case.⁹ In addition, SRC notes the lack of support from any official or resident of Buckhead, and observes that noncommercial educational Station WPMA(FM) likely already provides Buckhead with the local services that WLRR would provide (local news, weather, and emergency announcements).

Discussion. Under Section 309(d) of the Communications Act of 1934, as amended,¹⁰ informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience and necessity.¹¹

Section 307(b) analysis. We consider the proposal under Priority (4) of the *FM Allotment Priorities* because the proposal would provide a second local transmission service to the community of Buckhead. In this instance, we must compare the existing allotment to the proposed allotment. Under Priority (4), we take into account the number of aural reception services received in the proposed service area, the number of local transmission services, the relative size of the proposed communities and their growth rate. Additionally, in order to satisfy the requirements of Priority (4), a proposal may set forth

⁵ Application, Exhibit A.

⁶ In addition to WLRR(FM), Milledgeville is also the community of license for the following stations: WMVG-AM; WKZR(FM), Channel 272A; and WRGC-FM, Channel 202C3, a non-commercial channel.

⁷ Buckhead is also serviced by WPMA(FM), Channel 274C3, a non-commercial station.

⁸ Response to Informal Objection ("Response"), Starstation Radio LLC (July 14, 2014).

⁹ See "Reply to 'Response to Informal Objection,'" Radio License Holding, SRC LLC (July 30, 2014).

¹⁰ 47 U.S.C. § 309(d) (the "*Act*").

¹¹ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *reh'g denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

“the size of the populations gaining and losing service under the proposal, ... the numbers of services those populations will receive if the application is granted, and an explanation as to how the proposal advances the revised Section 307(b) priorities.”¹² Based on our independent engineering analysis, applying the methodology specified by the Commission for measuring “reception service”¹³ we find that the proposal would create an unpopulated gray area of 1.1 square kilometers, and 13 persons would be left with two reception services, 499 persons would be left with three services, and 441 persons would be left with four services. By comparison, in the gain area, 38 persons would receive a fourth reception service, and 64 persons would receive a fifth service. Moreover, grant of the Application would produce a net loss of service to 15,706 persons.¹⁴

We agree with SRC’s claim that the Application would not result in a preferential arrangement of allotments under Priority (4). We find that the service improvements resulting from the proposed change of community proposal are substantially outweighed by the service losses.

Conclusion. Accordingly, for the reasons discussed above, we grant the Objection in part and direct Starstation Radio, LLC to amend the Application within thirty (30) days of this letter. Failure to correct all tender and acceptance defects within thirty (30) days from the date of this letter will result in the dismissal of the application with no further opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3564. Radio License Holding SRC LLC may submit a response to the amendment within fifteen (15) days.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹² See *Policies to Promote Rural Radio Service and to Streamline Allotment an Assignment Procedures*, Second Report and Order, First Order On Reconsideration, and Second Further Notice of Proposed Rule Making, 26 FCC Rcd 2556, 2577 ¶ 39 (2011).

¹³ See *Policies to Promote Rural Radio Service and to Streamline Allotment an Assignment Procedures*, Second Order on Reconsideration, 27 FCC Rcd 12829, 12836-40 (2012), ¶¶ 14-17.

¹⁴ In the loss area, 60,381 persons would lose a service, and in the gain area, 44,675 persons would gain a service.