

October 24, 2016

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FCC Mailroom

Marlene Dortch
Secretary to the Federal Communications Commission
Washington, DC 20054

Amy Meredith
Powell Meredith Communications Commission
5308 Knox dr
The Colony TX 75056
469 279 5531

Ms. Dortch

Please find a reconsideration on displacement application and or request to file for new channel in region of the displacement. Please find the petition plus three attachments.

Regards,

Amy Meredith
October 24, 2016

 10/24/16

Copy sent to K.K.
11-2-16

October 24, 2016

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William Lake
Media Bureau
Media Bureau Chief
Federal Communications Commission
Washington, DC 20554

OCT 31 2016

FCC Mallroom

Travis Leblanc
FCC Enforcement Bureau
Washington, DC 20554

Amy Meredith
Powell Meredith Communications
5308 Knox Dr
The colony, TX 75056
Amymeredithradiolane@gmail.com

Petition for Reconsideration of displacement application, KBFY LP Fortuna, AZ(file number-BDISTTL-20060802ANR- facility id- 16657 – Petition for Reconsideration dismissed as moot and Application for appeal upholding dismissal for moot - Request to find new available channel

Background- In August 2006 Powell Meredith Communications Company filed a displacement application for KBFY LP in Fortuna, AZ, due to interference we were causing to a full power TV displacement application out of California. The area of Fortuna AZ which is basically Yuma AZ is on the the CA-AZ- Mexico border and well within the Mexican border zone.

At this point I was using engineer Gary Keener as well as a FCC lawyer, the engineer contacted the LPTV dept and spoke with them about the fact that we could not find an allocation and were having problems clearing the Mexican border. We were given full permission by the LPTV division to move the station North to get out of the border zone, and we could not find a vacant channel in any other part of the country (not in the border zone) closer than Henderson, NV. At this point we called the LPTV dept back and got their full permission to move the station this far and we even submitted expensive engineering reports with channel searches to prove we tried other markets. This did not seem unusual because many other low power TV operators were doing the same, this was NOT an isolated incident by any stretch.

In January of 2007 we received a grant and went and purchased equipment and signed leases to start construction, then in July of 2007 we were notified via email and not by letter, that we were being thrown off the channel. Later on I was told that another low power broadcasters in Laughlin, NV had taken the space months later. Therefore this shows that at the time we filed the displacement this space was legal or another broadcaster could not have encroached upon it.

I filed petitions for reconsideration and also filed a congressional inquiry in to the matter where Michael Perko of the FCC, answered my local congressman with incorrect information that for one I had received a letter as to why it was dismissed and second that I never filed any petitions for reconsideration. Upon pointing out to Perko that I had filed petitions(in 2012), they were immediately denied and dismissed as moot and a letter finally was given in 2012. The letter now appeared in the

database for the first time in 2012 but was dated in 2007 and said that a new policy change was the reason for the rescission and it did not address the fact that the grant had been in force over 6 months. The letter also gave no case precedence for the removal of the grant as well. (see **FCC decision letter 2007 and 2012 and congressional letter 2012**)

Many many other low power TV's during the 2004-2006 period were allowed to move hundreds of miles from their original city of license, this included Venture Technologies, MS Communications, Charles Townsend and Malibu Broadcasting and not a single recession. By mid 2006, the Video division may have stopped them from moving more applications this far but they didn't rescind any that were already granted.

All I did was move one station, just one station, and it was revoked after 6 months. The law clearly states that a grant that is not causing interference shall not be rescinded after 2 months. I would like to see case law where this has happened before to any other broadcaster, that's because it has not and it is against the law. I am asking for the same privileges as other broadcasters to receive the rights granted by congress for rescission free after two months. I had bought expensive equipment and signed leases and had no other space to displace. Even though the commissioners claim I was given the same rights as any other LPTV owner this is not the case because there are no rescission after 2 months on the books.

Hossein Hashemzadeh of the LPTV division and two other engineers were well aware months before the grant of the move, that is would be miles North to get out of the border zone and would take another displacement and then another one to low power digital. At this point the Media Bureau could allow me to displace to another low power digital channel within this region, it doesn't even have to be exactly in Henderson, it could be within 20 to 30 miles away. I just need an area out of the border zone in which to move.

Since my petitions were tabled for **9 years**, I missed the opportunity to be able to displace and file for a low power digital. If the video division had allowed me to stay at that position I could have displaced to a new channel and then filed to a new position on the dial. This would be in the best interest of the public to serve a greater population or not to serve anyone.

In the Letter Hashemzadeh suggests that I re file in the 2010 window and to the best of my knowledge, that never happened. There was a window that opened in 2009 but the major markets were NOT included in that filing, therefore the Henderson, NV- Las Vegas, NV area was not available.

I feel that I have faced enough adversity and enough mistakes from the media division, and I plan on writing congress about these because a change for the better is good for everyone and that is what America is all about. America isn't about the large broadcasters and well connected to keep getting ahead and stepping on the smaller ones along the way. America is supposed to be about opportunity and fairness the ability to voice your opinion when you feel something is not right.

I do feel it would be in the best interest of the public to allow me to file for a displacement digital channel in or around the Henderson, NV area or another area outside the border zone.

Submitted by Amy Meredith, Powell Meredith Communications Co. October 24, 2016

Signed.....



Federal Communications Commission
Washington, D.C. 20554

Received & Inspected

July 17, 2007

OCT 31 2016

Powell Meredith Communications Company
110 Green Meadows
Abilene, Texas 79605

FCC Mailroom

Re: KBFY-LP, Fortuna, AZ
File No. BDISTTL-20060802ANR
Facility ID No. 16657

Dear Licensee:

This is with regard to the above-captioned application filed on behalf of Powell Meredith Communications Company ("PMCC"), licensee of KBFY-LP, Channel 41, Fortuna, Arizona, for a displacement facility to operate on Channel 53, Henderson, Nevada. That application was granted on January 19, 2007. However, for the reasons stated below, that grant was made in error and will be rescinded.

In the subject application, PMCC proposed to relocate the station more than 375 kilometers from its currently authorized facility at Fortuna, Arizona, to Henderson, Nevada and operate on Channel 53. Section 73.3572(a)(4)(ii) of the Commission's Rules provides, in part, that an existing station displaced by DTV operations may file "a displacement relief application for a change in output channel, together with any technical modifications that are necessary to avoid interference or continue the station's protected service area."¹ PMCC states that it selected the proposed Henderson operation because a previous displacement application, proposing relocation to Yuma, Arizona, to operate on Channel 41 did not receive clearance from Mexican authorities. PMCC further asserts that the proposed site in Henderson, Nevada, was selected because it is the closest community it can find to authorized service area, but beyond the border zone requiring prior Mexican approval. In this regard, PMCC states that "it is virtually impossible to propose a broadcast operation which will receive Mexican approval with sufficient power to serve Yuma or another community of comparable size."²

Although our preliminary review of this application indicated that a facility could technically operate as proposed at Henderson, it is now apparent that such a move does not comply with the Commission's minor-change and displacement application rules because it shows no 74 dBu overlap with the station's currently authorized facility. PMCC contention that it must simply relocate the station beyond the reach of Mexican jurisdiction does not justify deviating from our established displacement rules and policies in this case. Nor can we accept

¹ 47 C.F.R. § 73.3572 (a)(4)(ii).

² Application, Exhibits 1 & 2.

PMCC's claim that an applicant seeking to take advantage of displacement relief does not require any attempt to comply with the plain language of Section 73.3572 with regard to displacement proposals serving the same service area. Other than PMCC's wish to avoid the necessity of Mexican approval, there is nothing in the application that justifies treating what is essentially a major change proposal as a request for displacement relief, or that no other alternatives are available before waiving our rules to accommodate this proposal.

Accordingly, for these reasons, the grant of the application (BDISTTL-20060802ANR) for displacement relief for Station KBFY-LP, Fortuna, Arizona IS HEREBY RESCINDED.

Sincerely,

Hossein Hashemzadeh
Associate Chief, Video Division
Media Bureau

cc: Lee Peltzman, Esquire



Federal Communications Commission
Washington, D.C. 20554

September 18, 2012

Received & Inspected

OCT 31 2016

FCC Mailroom

Powell Meredith Communications Company
c/o Amy Meredith, President
110 Green Meadows
Abilene, TX 79605

Re: KBFY-LP, Fortuna, AZ
File No. BDISTTL-20060802ANR
Facility ID No. 16657

Dear Licensee:

On May 26, 2010, you sought Commission review of the dismissal of the above-referenced application, which seeks displacement of low power television (LPTV) station KBFY-LP, Fortuna, Arizona, to Channel 53 in Henderson, Nevada. The Commission required all existing LPTV stations in the 700 MHz band (Channels 52-69) to cease operations as of December 31, 2011,¹ and those channels are not available for new facilities, such as you have proposed. Accordingly, your request is DISMISSED as moot. You may file a new application for displacement that complies with the Commission's Rules.²

Sincerely,

Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

¹ Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, *Second Report and Order*, 26 FCC Rcd 10732, 10743-48 (2011).

² 47 C.F.R. § 73.3572(a)(4)(ii).



Federal Communications Commission
Washington, D.C. 20554

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OCT 31 2010

FCC Mailroom

June 15, 2012

In Reply Refer To:
CN-1200602

The Honorable Michael C. Burgess, M.D.
U.S. House of Representatives
1660 South Stemmons Freeway
Unit 230
Lewisville, Texas 75067

Dear Congressman Burgess:

Thank you for your letter on behalf of your constituent Ms. Amy Meredith, President of Powell Meredith Communications Company (PMCC), regarding the Commission's rules and policies implementing Section 307(b) of the Communications Act. In particular, Ms. Meredith discusses several broadcast matters involving PMCC which she believes demonstrate the adverse consequences that the Commission's 307(b) policies have for minority and women applicants. I appreciate the opportunity to respond.

Section 307(b) of the Communications Act directs the Commission to distribute broadcast service among states and communities in a manner that is "fair, efficient, and equitable." Thus, any analysis under Section 307(b) involves a comparison of communities, rather than applicants, and the Commission's corresponding rules and policies are neutral with respect to an applicant's gender, race or ethnicity. The current Section 307(b) analysis used for new AM service, FM allotments and proposals to relocate existing radio stations considers the following priorities: (1) first fulltime aural service (the proposed station would be the first predicted to serve the community), (2) second fulltime aural service, (3) first local transmission service (the proposed station would be the first to be licensed to the community), and (4) other public interest matters. The priorities in the 307(b) analysis of broadcast television proceedings are similar and serve the same general purpose. Where mutually exclusive broadcast applicants (*i.e.*, grant of more than one proposal would result in impermissible interference) propose to serve different communities, Section 307(b) principles are applied to determine whether one community needs service more than another. If so, Commission staff will grant the application that will provide new service to the preferred community. If not, the competing applications are resolved by auction.

For your information and review, Section 307(b) of the Communications Act, as well as the Commission's implementing rules (47 C.F.R. §§73.24(a) and 73.3573(g)(1)) are available on the Government Printing Office's website via the links provided below.

- Section 307(b): <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title47/html/USCODE-2009-title47-chap5.htm>
- 47 C.F.R. §§ 73.24 and 73.3573(g)(1): http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=3947cd4809480530addf4ec45ac6a91f&tpl=/ecfrbrowse/Title47/47cfr73_main_02.tpl

Federal law generally does not permit the Commission to modify its current regulations or establish new regulations unless interested parties have been provided with notice and an opportunity to comment on the proposed changes. Pursuant to Commission regulations, "any interested person" may file a petition for rulemaking requesting that the Commission modify existing regulations or establish new regulations. As Ms. Meredith acknowledges, the Commission recently reviewed its 307(b) policies in a rulemaking proceeding to examine the effect of its allotment and assignment procedure on the establishment of radio service in small and rural communities. In the context of this proceeding, the Commission modified the 307(b) analysis by adding a rebuttable presumption that a proposal to serve a community within an urbanized area would actually provide service to the urbanized area. The presumption applies to FM allotment and proposed change of community applications pending as of March 3, 2011, as well as to new AM applications filed after March 3, 2011. In the *Report and Order* adopting this presumption, the Commission explained that the modification may result in fewer dispositive licensing decisions based on 307(b) analysis and more licensing through auctions.

The Commission's auction procedures provide licensing opportunities for new and small entities, such as PMCC, through the availability of new entrant bidding credits that reduce the winning bid on a construction permit. For example, pursuant to the Commission's rules, participants with no attributable broadcast interests may be eligible for a 35% bidding credit. Participants with no more than three attributable broadcast interests may be eligible for a 25% bidding credit, provided that the interests are not in the same geographic area as the proposed new station. According to Commission records, in 2002, PMCC participated in AM Auction 32, using a 25% bidding credit, and was awarded a construction permit for a facility to serve Las Vegas, Nevada. PMCC filed an application for a new facility, but failed to timely amend the application to demonstrate compliance with the Commission's revised ownership rules. Consequently, the Commission's Media Bureau dismissed the application.

The cases discussed in Ms. Meredith's correspondence concerning AM service in Draper, Utah, Spanish Fork, Utah, Moapa Valley, Nevada and Santa Fe, New Mexico are "restricted" proceedings under the Commission's *ex parte* rules. As a result, Commission staff generally is not permitted to comment on or discuss the merits of the proceedings absent notice to and participation by all parties. Accordingly, written communications to Commission personnel regarding the merits of the cases are required to be served on all participating parties and all

parties must have an opportunity to be present if an oral presentation on the merits is made to Commission staff.

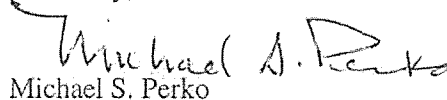
The remaining two cases that Ms. Meredith discusses are no longer pending. In the first, the Audio Division dismissed PMCC's proposal to change KHNY(AM)'s community of license from Big Horn, Wyoming to Huntley, Montana. The Division found that the originally proposed first transmission service in Big Horn was preferable to the proposed second transmission service in the comparably sized community of Huntley, pursuant to 307(b) policy. Following this determination, PMCC did not construct the station and the station's license was cancelled in June 2010. The license cancellation is a final action.

The second case concerns PMCC's proposal to relocate the low-power television (LPTV) station, KBFY-LP, Fortuna, Arizona. PMCC filed an application to move KBFY-LP because it was being "displaced" by full-service television operation. The Media Bureau's Video Division staff initially granted the displacement application but later found it necessary to rescind the grant. Specifically, the rescission was issued because Commission rules permit displaced LPTV stations to relocate transmitter sites by no more than 48 kilometers and PMCC had proposed a move of approximately 375 kilometers. PMCC filed a petition for reconsideration, which was denied by the Video Division on May 24, 2010, and Commission records indicate that Ms. Meredith did not file an Application for Review.

Finally, Ms. Meredith indicates that, in some cases, she has not received notifications of Commission decisions in proceedings to which she is a party and that she is not always able to obtain documents in the "correspondence" section of the Media Bureau's Consolidated Database (CDBS). The "correspondence" section of CDBS is not intended to serve as notice to parties of Commission actions. It is Commission practice to transmit copies of notices and decisions to all parties in a case via U.S. Mail. To ensure proper delivery, parties are required to keep their official mailing address current in each application proceeding.

I hope that this information is helpful. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Michael S. Perko". The signature is written in a cursive, flowing style.

Michael S. Perko
Chief, Office of Communications and Industry Information
Media Bureau

October 24, 2016

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FCC Mallroom

Marlene Dortch
Secretary to the Federal Communications Commission
Washington, DC 20054

Amy Meredith
Powell Meredith Communications Commission
5308 Knox dr
The Colony TX 75056
469 279 5531

Ms. Dortch

Please find a reconsideration on displacement application and or request to file for new channel in region of the displacement. Please find the petition plus three attachments.

Regards,

 10/24/16
Amy Meredith
October 24, 2016