



Federal Communications Commission  
Washington, D.C. 20554

May 1, 2014

*In Reply Refer to:*  
1800B3-RFS

Barry P. Lunderville  
White Mountains Broadcasting, LLC  
P.O. Box 896  
Littleton, New Hampshire 03561

Re: New FM, Canaan, Vermont  
Facility ID No: 190383  
File No: BNPB-20120529AJJ

Dear Mr. Lunderville:

This letter refers to the long-form application (the "Application"), of White Mountains Broadcasting, LLC, ("White Mountains Broadcasting"), winning bidder in Auction 93 for FM Channel 231C3 at Canaan, Vermont, as amended on March 6, 2014. The Application proposes to change the community of license and downgrade the allotment from Channel 231C3 at Canaan, Vermont, to Channel 231A at Milan, New Hampshire. For the reasons discussed below, we direct White Mountains Broadcasting to amend the Application.

**Background.** The Application was filed pursuant to Section 73.3573(a)(1)(i)-(ii) of the Commission's Rules,<sup>1</sup> which permit a winning auction bidder to file a minor amendment to its proposal to specify a new community of license or a different class channel without affording other interested parties an opportunity to file a competing expression of interest. Any reallocation proposal must result in a preferential arrangement of allotments<sup>2</sup> under the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.<sup>3</sup>

The Application proposes to provide a first local service (Priority 3) to Milan, New Hampshire, which has a 2010 U.S. Census population of 1,337 persons. White Mountains Broadcasting states that Canaan, Vermont, which has a 2010 U.S. Census population of 1,078 persons, would not be deprived of its sole local service because no facilities have ever been constructed at Canaan. It further states that the proposed use of Channel 231A at Milan, New Hampshire is mutually exclusive with the current allotment of Channel 231C3 at Canaan, Vermont. White Mountains Broadcasting contends that Canaan is less than a mile from the Canadian Border, and the U.S. Canadian, FM radio overlap agreements would make it difficult and maybe impossible, to construct a station in Canaan, Vermont.

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<sup>1</sup> 47 C.F.R. § 73.3573(a)(1)(i)-(ii).

<sup>2</sup> 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).

<sup>3</sup> *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).

**Discussion.** We disagree with White Mountains Broadcasting's contention that a facility in Canaan, Vermont would violate the U.S.-Canadian Treaty.<sup>4</sup> In this regard, a preliminary study reveals that a facility could be authorized at the site specified in the original application for Channel 231C3 at Canaan, Vermont upon completion of the necessary environmental study pursuant to Section 1.1306 of the Commission's Rules.<sup>5</sup> White Mountains Broadcasting has not demonstrated that the allotment of Channel 231C3 at Canaan, Vermont is unsuitable for allotment purposes because there are no transmitter sites available that would comply with the U.S.-Canadian Treaty.

Furthermore, we find that the Application would not result in the public interest because the proposed facility modification would create an impermissible gray loss area.<sup>6</sup> Our independent engineering analysis determines that the proposed community of license change would result in a net loss of 6,142 persons.<sup>7</sup> In the loss area, the relocation will leave an unpopulated white area of 1.6 km<sup>2</sup>; 7 persons in a gray area of 20.5 km<sup>2</sup>; 763 persons in 315 km<sup>2</sup> with 2 services; 1,912 persons in 1,776 km<sup>2</sup> with 3 services; and 4,734 persons in 860 km<sup>2</sup> with 4 services. In the gain area, the relocation will provide a new reception service to 131 persons in 29 km<sup>2</sup> currently with 3 services; and 332 persons in 125 km<sup>2</sup> currently with 4 services.<sup>8</sup>

Generally, the removal of an unbuilt station, such as this new FM station, would not present the same parallel concerns with loss of service represented by the removal of an operational station because it is not a transmission service that the public has become reliant upon.<sup>9</sup> However, in *Rural Radio Second R&O*, the Commission set an absolute bar against removal of any facility modification that would create white and gray loss areas.<sup>10</sup> Moreover, the Commission strongly disfavors any change that would result in the net loss of third, fourth or fifth reception service to more than 15 percent of the population in the station's current protected contour.<sup>11</sup> Based on the foregoing, we conclude that the Application does not result in the public interest.

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<sup>4</sup> Canadian concurrence was previously received for Channel 231B1 at Canaan, Vermont. No further concurrence is needed for Channel 231C3 at Canaan since the allotment is a downgrade.

<sup>5</sup> 47 C.F.R. § 1.1306.

<sup>6</sup> A "gray" area is an area in which there is only one fulltime aural reception service. See, *Cheyenne, Wyoming, and Gering, Nebraska*, Report and Order, 15 FCC Rcd 7528, 7530 n.8 (MMB 2000).

<sup>7</sup> The staff engineering analysis reveals that the loss area contains 21,372 persons and the gain area contains 15,230 persons.

<sup>8</sup> The gain and loss population calculations are based upon the new criteria set forth in the *Second Order on Reconsideration*. See *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Policies*, Second Order on Reconsideration, 27 FCC Rcd 12829, 12836 ¶¶ 14-17 (2012).

<sup>9</sup> See *Chatom and Grove Hill, Alabama*, Report and Order, 12 FCC Rcd 7664 (MMB 1997).

<sup>10</sup> 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) ("*Rural Radio Second R&O*"); see also *Evan D. Carb*, Letter, 28 FCC Rcd 5667 (MB 2013)(rejecting a city of license modification for a New FM station because it created an impermissible gray loss area stating that the Commission's imposition of an absolute bar on the creation of "white" or "gray" loss areas in change of community cases makes the size of the loss area immaterial and supersedes prior decisions to the contrary).

<sup>11</sup> *Rural Radio Second R&O* at 2577 ¶¶ 39.

**Conclusion.** Accordingly, for the reasons discussed above, we direct White Mountains Broadcasting, LLC to amend the Application within 30 days from the date of this letter.

Sincerely,



Nazifa Sawez  
Assistant Chief  
Audio Division  
Media Bureau