

Exhibit 30

By this application, Cox Radio, Inc. (“Cox”), licensee of WALR-FM, a Class C0 station, requests authority to continue operating with its existing facilities to implement a change in community of license from Greenville, Georgia to Palmetto, Georgia. Cox does not propose any physical changes to WALR-FM’s facilities. As such, this application will not increase interference between any stations or exacerbate any existing short spacings.

BACKGROUND

WALR-FM has been licensed as a Class C0 station with its existing facilities since April 18, 2005.¹ Cox obtained Class C0 status by submitting a one-step construction permit application for WALR-FM on October 11, 2002.² The allotment coordinates in the one-step application, as required by FCC rules, were fully spaced to all other existing facilities. Over the last eight years, however, certain FM licensees have filed construction permit applications seeking contour protection toward WALR-FM’s Class C0 facilities rendering those then-fully spaced allotment coordinates no longer fully spaced to all facilities.³

In 2006, Cox filed a second “one-step” construction permit application for WALR-FM (the “2006 Construction Permit Application”).⁴ Although styled as a “one-step” upgrade from Channel 281C1 to Channel 281C0, the 2006 Construction Permit Application did not propose any physical changes for WALR-FM. Rather, Cox filed the 2006 Construction Permit Application because the Commission’s decision in *LaGrange* downgraded WALR-FM to

¹ See FCC File No. BLH-20040722ADN.

² See FCC File No. BPH-20021011ABM.

³ See, e.g., *WCLE-FM Construction Permit Application*, FCC File No. BMPH-20031107AEP; *WZTR(FM) Construction Permit Application*, FCC File No. BMPH-20031107AEO.

⁴ See FCC File No. BPH-20061031ABY.

Channel 281C1 in connection with a change in community of license from LaGrange to Greenville, Georgia.⁵ The Commission granted the 2006 Construction Permit Application on February 27, 2007, and Cox promptly filed a covering license application, which the Commission granted on March 20, 2007.⁶

Two years later, on November 24, 2009, Cox filed another construction permit application for WALR-FM. The application, which was filed as a set of contingent applications with two other licensees, proposed to downgrade WALR-FM to a Class C1 station and change its community of license to Palmetto, Georgia.⁷ The Commission granted the contingent applications on April 29, 2010, and, shortly after grant, Cox began working with the local zoning authorities. Unfortunately, despite months of effort, the Fayette County Planning and Zoning Department rejected Cox's proposal. Cox presented several alternatives to mitigate the zoning board's concerns, but each alternative was met with stiff resistance. Moreover, at roughly the same time, Cox discovered that the FAA also was likely to oppose the relocation of WALR-FM to the authorized tower site.⁸ Ultimately, Cox concluded that, despite its best efforts, obtaining the necessary authority to construct WALR-FM as authorized in its construction permit was not possible. As a result, WALR-FM's construction permit expired on April 29, 2013.

Despite the expiration of its construction permit, Cox recognizes that it remains obligated to file a construction permit application proposing to serve Palmetto, Georgia. Accordingly, Cox

⁵ *LaGrange, Greenville, and Waverly Hall, GA*, 20 FCC Rcd 20007 (MB 2005).

⁶ *See* FCC File No. BLH-20070314ABH.

⁷ Specifically, Cox requested authority to operate on Channel 281C1 at Palmetto, Georgia. *See* FCC File No. BPH-20091124ABA. The former licensee of WVFJ-FM filed an application to serve as a "backfill" for WALR-FM at Greenville, Georgia. *See* FCC File No. BPH-20091124ACR. And, the licensee of WSRM(FM) filed a related minor change application. *See* FCC File No. BPH-20091124AAV.

⁸ Cox's FAA consultant advised Cox that the FAA would likely issue a determination of hazard due to predicted electromagnetic interference to certain air traffic control systems.

files the instant application specifying Palmetto as WALR-FM's community of license. This application does not propose any other changes, and, upon grant, Cox will promptly file a covering license application.

I. WALR-FM's EXISTING CLASS C0 FACILITIES ARE PROTECTED UNDER LONGSTANDING COMMISSION POLICY.

Under longstanding Commission policy, if an applicant proposes to downgrade a station's class of service, the station does not lose interference protection until the downgraded facilities are constructed and licensed. The Commission announced this policy almost twenty-five years ago when it first authorized FM downgrades by minor change application:

[A]fter grant of a construction permit to modify the facilities of an existing FM authorization to a lower class, we will continue to protect the authorized facilities until the modified facilities are licensed. The construction permit for the modified facilities will also be protected as currently done in cases where a site change is granted. *Upon licensing, we will amend the Table accordingly.*⁹

The full Commission reaffirmed this policy in 1999 in its *Streamlining Order*:

We take this opportunity to correct the erroneous statement in the *Notice* that when a one-step FM construction permit is granted, the formerly-authorized facilities are no longer protected from subsequently filed applications. Piedmont Broadcasting Corporation correctly notes that when a one-step application is granted to downgrade an existing FM authorization to a lower class, the Commission will continue to protect the authorize facilities until the modified facilities are licensed.¹⁰

In other words, under allotment policy, one-step downgrades are unique. For most allotment changes, an FM station loses interference protection for its old facilities immediately upon grant of a construction permit application. Stations that downgrade, however, retain

⁹ *Revision of Section 73.3573(a)(a) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd. 2413, 2414-15, ¶14 (1989) (emphasis added; emphasis from original deleted).

¹⁰ *1998 Biennial Regulatory Review – Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, 14 FCC Rcd. 5272, 5282 n.45 (1999) (internal citations omitted) (the “*Streamlining Order*”).

interference protection until the downgrade is licensed. For this reason, whenever the Bureau has invoked the concept of “implied STA,” it has done so only in the context of non-downgrade allotment changes.¹¹

The grant of the 2006 Construction Permit Application was consistent with this longstanding policy. In *LaGrange*, the Commission changed WALR-FM’s community of license to Greenville, Georgia and downgraded the station from its then-existing Channel 281C0 to Channel 281C1. When Cox filed the 2006 Construction Permit Application, no fully spaced allotment site existed for Channel 281C0 at Greenville. Nevertheless, the Commission granted the 2006 Construction Permit Application (1) because WALR-FM retained interference protection on Channel 281C0 despite the downgrade in *LaGrange* and (2) because Cox demonstrated that WALR-FM could serve its new community of license with those same Class C0 facilities.

Under the Commission’s downgrade policy, Cox need not demonstrate fully spaced

¹¹ *Letter to Anthony J. Lapore*, 27 FCC Rcd. 13214 (MB 2012) (same class channel substitution from Channel 253B to Channel 256B); *Letter to Brian M. Madden, Esq. and Lewis J. Paper, Esq.*, 25 FCC Rcd. 4765 (2010) (same channel community of license change from Channel 228C3 at Greenville, Texas to Channel 228C3 at Cooper, Texas); *Southern Stone Broadcasting, Inc.*, 25 FCC Rcd. 3902 (MB 2010) (change of community of license and upgrade in class from Channel 249C3 at Eatonton, Georgia to Channel 247C2 at Lexington, Georgia); *Corona de Tucson, Sierra Vista, Tanque Verde and Vail, AZ, and Animas, Lordsburg and Virden, NM*, Memorandum Opinion and Order, 23 FCC Rcd. 4792, 4796 (MB 2008) (channel change and upgrade from Channel 269A to Channel 267C3); *Cumberland, KY, et al.*, 23 FCC Rcd. 86 (2008) (same class channel substitution from Channel 273A at Marion, Virginia to Channel 263A at Marion, Virginia); *Dundee and Odessa, NY*, 22 FCC Rcd. 13734 (MB 2007) (same class channel substitution from Channel 238A to Channel 240A); *Gunnison, Crawford, and Olathe, Breckenridge, Eagle, Fort Morgan, Greenwood Village, Loveland and Strasburg, CO, and Laramie, WY*, Memorandum Opinion and Order, 20 FCC Rcd. 5908, 5913 (MB 2005) (change of reference coordinates); *Dos Palos, Chualar, and Big Sur, CA*, 19 FCC Rcd. 1826 (MB 2004) (same class community of license change from Channel 240A at Livingston, California to Channel 240A at Dos Palos, California). *See also Susquehanna Radio Corporation, WRWM(FM)*, Lawrence, IN, File No. BLH-20101203ABV (rel. May 13, 2011) (unpublished) (same class channel substitution from Channel 230A to Channel 229 A).

facilities with respect to WVFJ-FM's construction permit application (BPH-20091124ACR). As in *LaGrange*, even though WALR-FM was downgraded to Channel 281C1, Cox did not lose interference protection. Rather, WALR-FM retains the right to serve Palmetto with its existing, pre-downgrade facilities on Channel 281C0, and WVFJ-FM must protect those Class C0 facilities.¹²

Finally, WALR-FM is not required to protect WVFJ-FM because WVFJ-FM's construction permit expired on April 29, 2013. Although the licensee of WVFJ-FM requested that the Commission toll the expiration date of its permit, WALR-FM's now-expired construction permit application served as the basis for WVFJ-FM's tolling request. It makes little sense for the Commission to continue to toll the expiration date of WVFJ-FM's construction permit when the condition precedent that served as the basis for the request (*i.e.*, that Cox has not constructed WALR-FM) will not and cannot occur.

II. GRANT OF THE INSTANT APPLICATION IS CONSISTENT WITH COMMISSION ALLOTMENT POLICY.

The Commission's allotment policy also does not require that Cox demonstrate fully-spaced allotment coordinates with respect to WCLE-FM or WZTR(FM). Under well-settled allotment policy, the Commission will permit a short-spaced allotment if (1) no technical change is proposed, (2) no new short spacing would be created, and (3) no existing short spacing is exacerbated.¹³ The instant application does not propose any technical changes to WALR-FM's facilities. As such, it will not create any new short spacings, and it will not exacerbate the short

¹² The WVFJ-FM construction permit contains a condition prohibiting WVFJ-FM from commencing operations with its modified facilities until WALR-FM commences operations with the facilities specified in WALR-FM's now-expired construction permit.

¹³ See, *e.g.*, Killeen and Cedar Park, Texas, *Report & Order*, 15 FCC Rcd 1945, ¶ 11 (MMB 2000); Oceanside and Encinitas, California, *Report & Order*, 14 FCC Rcd 15,302, ¶ 6 (MMB 1999); Newnan and Peachtree City, Georgia, *Report & Order*, 7 FCC Rcd 6307, ¶ 5 (MMB 1992).

spacing between WALR-FM and WCLE-FM, WZTR(FM), or any other station. Accordingly, the instant application falls within the Commission's precedent.

The Commission developed this exception to its short-spacing rules in a series of "two-step" allotment proceedings. In *Newnan, Georgia*, the Commission permitted a grandfathered short-spaced station to change its community of license without demonstrating a fully spaced allotment site.¹⁴ This served the public interest because the petitioner did not propose any change to the station's technical facilities, and as such, the potential for interference would not increase.¹⁵ The Commission expanded its *Newnan, Georgia* policy in *Killeen, Texas* when it approved a short-spaced allotment where, as here, the Commission authorized the short spacing under its contour protection rules.¹⁶ The Commission reasoned that the test first enunciated in *Newnan, Georgia* applies equally whether the short-spacing arises due to grandfathering or contour protection.¹⁷ As a result, in *Killeen, Texas* the Commission again approved a short-spaced allotment because the petitioner did not propose any technical changes.¹⁸

The instant application for WALR-FM presents the Commission with the identical circumstances as *Killeen, Texas*. First, as in *Killeen, Texas*, Cox does not propose any technical changes. Second, the short spacings for WCLE-FM and WZTR(FM) arose because those stations filed construction permit applications seeking contour protection with respect to WALR-FM. Cox did not create either of the existing short spacings with WCLE-FM or WZTR(FM); rather, both stations encroached on WALR-FM. Consequently, under *Killeen, Texas*, Cox need

¹⁴ *Newnan, Georgia*, 7 FCC Rcd at ¶ 5.

¹⁵ *See id.*

¹⁶ *See Killeen, Texas*, 15 FCC Rcd at ¶ 11.

¹⁷ *See id.*

¹⁸ *See id.*

not demonstrate fully spaced allotment coordinates with respect to either WCLE-FM or WZTR(FM) and Cox may maintain its existing short-spaced allotment.

III. GRANT OF THE INSTANT APPLICATION IS CONSISTENT WITH THE COMMISSION'S GRANT OF THE 2006 CONSTRUCTION PERMIT APPLICATION

The instant application for WALR-FM presents the same circumstances as the 2006 Construction Permit Application. In 2006, Cox requested authority for a one-step upgrade to maintain WALR-FM's existing facilities on Channel 281C0 after the Commission granted a community of license change that downgraded WALR-FM to Channel 281C1. Here, Cox again is filing a one-step upgrade. As in 2006, Cox does not propose any physical changes. Rather, as in 2006, Cox merely seeks to implement a change of community of license, but using WALR-FM's existing facilities rather than the downgraded facilities that the Commission allotted to the new community. In 2006, even though *LaGrange* downgraded WALR-FM to a Class C1 station, WALR-FM retained interference protection and was able to file a construction permit application to serve its new community of license with its existing Class C0 facilities. By this application, Cox again requests authority to serve a new community of license with its same Class C0 facilities.

IV. CONCLUSION

For more than eight years, WALR-FM has operated as a Class C0 station with the same facilities. This application merely requests that the Commission grant authority for WALR-FM to continue to operate with those same facilities but with Palmetto, Georgia as WALR-FM's community of license. This application does not create any new short spacings nor will it exacerbate any existing short spacings. As such, grant is fully consistent with Commission allotment policy.