

Joint 307(b) Showing

Radio License Holding II, LLC (“RLH”) , licensee of Station WYAY(FM), Gainesville, Georgia and Coffee County Broadcasters, Inc. (“CCB”), licensee of Station WOKA-FM, Douglas, Georgia, submit this statement in support of two contemporaneously filed contingent applications. The agreement between the parties is attached to both applications. The first application (the “WYAY Application”) proposes to change community of license from Gainesville to Sandy Springs, Georgia, as that community’s first local service. The second application (the “WOKA-FM Application”) proposes to change the station’s reference coordinates to eliminate a short spacing between the WYAY allotment site and the WOKA-FM transmitter site. This showing will address Question 18 in Section II (Section 307(b)) of both Applications pursuant to *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006) and *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, 26 FCC Rcd 2556 (2011), *recon. pending* (“Rural Radio”).

The WYAY Application

As demonstrated in the Technical Exhibit attached to the WYAY Application, Channel 294C can be allotted to Sandy Springs consistent with Section 73.207 of the Commission’s Rules. A 70 dBu signal can be provided to Sandy Springs from the proposed allotment and application sites. See Exhibit 29. Since allotment reference coordinates must be provided for the new community of license, these same coordinates are required to be used for the gain/loss study. From those coordinates, there will be a net gain in population within the proposed 60 dBu contour of 319,819 population within a 4,096 square kilometer area. There is no loss area. At

least 14 stations currently provide protected service to Gainesville including 5 stations licensed to that community.

RLH is not claiming a first local service preference for Sandy Springs¹ (pop. 93,853, 2010 US Census) due to the need to make a compelling showing to demonstrate independence despite the fact that Sandy Springs has been found previously to be independent of the Atlanta Urbanized Area.² The current city of license is the central city in the Gainesville, Georgia Urbanized Area (“UA”) and the current 70 dBu contour provides coverage to over 50% of the Atlanta UA. The proposed city of license, Sandy Springs, is located within the Atlanta UA and the proposed 70 dBu contour will cover more than 50% of the Gainesville UA. As such, this proposal is considered an intra-urbanized area and inter-urbanized area city of license change under the new *Rural Radio* policies.

In *Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) (“*New Community of License*”), the Commission stated that a station may change its community of license without subjecting the license to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission’s allotment priorities. These criteria are addressed here. First, the proposed use of Channel 294C at Sandy Springs is mutually exclusive with the current use of Channel 294C at Gainesville. See Technical Exhibit. Second,

¹ Sandy Springs was previously awarded a first local service preference over 3 other AM applications based on a finding of independence using the Tuck criteria. See *Letter to Frank McCoy, et al.*, Ref. No. 1800B3-TSN (MB June 25, 2002). However the permit eventually awarded to McCoy expired without being constructed eliminating the potential for first local service at Sandy Springs.

² *Letter to Frank McCoy, et al., supra.*

Gainesville will not be deprived of its only local service because there are five (5) other stations licensed to Gainesville. Third, the proposal will satisfy Priority 4 by providing additional service within the gain area based on the Commission's allotment policies. See Engineering Statement and *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). In addition, there will also be a gain area associated with the WOKA application.

The WOKA-FM Application

The WOKA-FM Application proposes to change its reference coordinates on Channel 294C1 at Douglas, Georgia to eliminate a short spacing with the proposed allotment coordinates for WYAY. No changes to the WOKA-FM facilities are proposed. From the new reference coordinates, a 70 dBu signal will be provided over Douglas. See Engineering Statement, Exhibit D. The resulting net gain in population will be 52,681 persons with no change in the coverage area for the Class C1 facility. As indicated in Exhibit E2, there is a loss area but that area is well served with at least 5 aural services throughout.³

Rural Radio Guidelines

In the case of *Gearhart, Madras, Manzanita and Seaside, Oregon* (“*Gearhart*”), DA 11-1209, rel. July 19, 2011, the Media Bureau took the opportunity to apply the new *Rural Radio* policies where both the existing and proposed communities of license are located within the same Urbanized Areas or, as appropriate, where the 70 dBu contour covers more than 50% of the same UA. In *Gearhart*, the Bureau stated the stricter standards should not be applied where a “first local service preference is not being used as a basis to enter the market.”⁴ Here, WYAY is

³ Generally, no loss area analysis is required for an application which does not propose to change city of license. However since this application is part of a contingent group of applications, this information is relevant to the overall preferential arrangement of allotments evaluation.

⁴ Citing *East Los Angeles, Long Beach and Frazier Park, California*, 10 FCC Rcd 3864, 2869 (MMB 1995); *Rural Radio* at para. 10.

not changing its community of license in order to enter the Atlanta UA because it already covers more than 50% of that UA and its signal coverage is not changing. The same explanation applies to the Gainesville UA. Pursuant to *Gearhart*, a public interest showing (Priority 4) is needed. The two applications will provide an overall gain in 60 dBu service to 372,500 persons in an increased area of 4096 sq. kilometers satisfying Priority 4.⁵

As indicated, Station WYAY already serves the Gainesville and Atlanta UAs and that service is not changing as a result of the city of license change. The purpose of this application is to allow WYAY to provide a first local service to Sandy Springs, a community of 93,853 population which is growing significantly. In fact, Sandy Springs is large enough to be listed as the central city of its own Urbanized Area. Thus, the size of Sandy Springs and its need for local service is an additional matter which can be considered under the priority 4 factor of other public interest matters. RLH believes this community deserves its own local service even if it is not entitled to a preference under the *Rural Radio* guidelines.

⁵ *Gearhart, supra.*