



Federal Communications Commission
Washington, D.C. 20554

March 31, 2023

In Reply Refer to:
1800B-IB

Centro Cristiano de Vida Eterna
c/o Dan J. Alpert, Esq.
The Law Office of Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201
(via email to: DJA@COMMLAW.TV)

Central Texas College
c/o Ernest Sanchez, Esq.
The Sanchez Law Firm, P.C.
1629 K Street, NW
Washington, DC 20006
(via email to: ernestsanchez2348@gmail.com)

In re: **CENTRO CRISTIANO DE VIDA ETERNA**
K217GJ, Austin, TX
Facility ID 89662
File Nos. 0000140754, 0000154368
Petition for Reconsideration
Informal Objection

Dear Licensee and Petitioner:

The Media Bureau, Audio Division (Bureau) has before it two filings¹ in which Central Texas College (College) objects to applications of Centro Cristiano de Vida Eterna (Centro), licensee of FM translator K217GJ, Austin, Texas (Translator). The first seeks reconsideration of the Bureau's May 2021 grant of a license permitting the Translator to operate with 250 watts.² The second is a resubmission of the same Petition, with amendments, as an Informal Objection to Centro's pending July 2021 application to license the Translator with additional modifications, including a reduction in power to 5 watts.³ College alleges that the Translator is causing interference to reception of College's full service Noncommercial Education (NCE) FM station KNCT-FM, Killeen, Texas, which operates on the same channel.⁴ As discussed below, we dismiss the Petition as moot to the extent that it seeks reconsideration of the May License because Centro is no longer operating that 250-watt facility. We also procedurally dismiss the Petition as an interference complaint and informal objection against the July Application

¹ Central Texas College, Petition for Reconsideration and Rescission of License, Pleading File No. 0000150500 (filed June 18, 2021), amended (Aug. 25, 2021) (Petition) resubmitted as Informal Objection by Pleading File No. 0000162569 (filed Oct. 2, 2021) (Objection).

² See License Application File No. 0000140754 (filed March 22, 2021, granted May 26, 2021) (May License).

³ See License Application File No. 0000154368 (filed July 28, 2021) (July Application).

⁴ KNCT-FM is a Class C1 noncommercial educational FM station licensed since 1981.

which seeks to license Centro's currently operating 5-watt facility because the pleading is missing required elements. We note, however, that our action does not preclude College from filing a new complaint with the required information.⁵

Background. FM translators are secondary, low power facilities authorized to retransmit the signals of primary full power radio stations. As secondary services, translators may not cause interference to the transmission or reception of a primary, full service station.⁶ In 2019, the Commission revised its rules (Rules) to codify the necessary elements for interference complaints against FM translator stations, including the station's compilation and submission of listener complaints meeting certain requirements.⁷

Centro acquired the Translator in 2019⁸ and has since modified the station's location and technical parameters several times. Commission records reflect that the Translator went silent on May 3, 2019, and was silent without authority from June 3, 2019 through August 8, 2019.⁹ Centro requested special temporary authority (STA) for the Translator to remain silent on August 8, 2019, and the Bureau granted the STA on August 20, 2019, authorizing the Translator to remain off air for six months.¹⁰ On September 30, 2020, Centro received a construction permit to change sites, increase power from 75 watts to 250 watts, and change the primary station retransmitted.¹¹ In October 2020, Centro began to operate the 250-watt facility with program test authority. At about the same time, College began to receive interference complaints from listeners. College states that it contacted Centro, and that Centro temporarily removed the Translator from the air.¹² The Bureau has no record of an STA request from Centro to be silent during that time. Centro applied for, and on December 3, 2020 received, a permit to move the Translator to a different location and to operate with a reduced Effective Radiated Power (ERP) of 5 watts.¹³ Centro nevertheless also applied for and, on May 26, 2021 received, the May License for the 250-watt facility, which was uncontested at that time.

College first notified the Bureau of the alleged interference on June 18, 2021, by filing the Petition. College stated that Centro was no longer responsive to College's complaints and urged the

⁵ 47 CFR § 74.1203(c), (d) (interference complaints against translators can be filed at any time).

⁶ *Id.* § 74.1203(a)(1)-(3).

⁷ *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, MM Docket 18-119, Report and Order, 34 FCC Rcd 3457, 3466-67, paras. 16-17 (2019), *recon. denied, Order on Reconsideration*, 35 FCC Rcd 11561 (2020) (*Translator Interference*).

⁸ The Translator was built and operating at the time under call sign K218CO, San Marcos, TX. It subsequently relocated to Kyle, TX and Austin, TX. Since Centro's acquisition, the Translator has rebroadcast the signals of KAZI(FM), Austin, TX and KCZO, Carrizo Springs, TX.

⁹ *See* Application File No. BLSTA-20190808ABH (rec. Aug. 8, 2019). Centro should have requested Special Temporary Authority (STA) to remain silent no later than June 3, 2019, *i.e.*, by its 30th day of silence. *See* 47 CFR § 74.1263(c) (Commission approval must be obtained for an FM translator to be silent for 30 days or longer). Because Centro did not request STA until August 8, 2019, the period of silence between June 3, 2019 and August 8, 2019 was without authority.

¹⁰ *See* Application File No. BLSTA-20190808ABH (rec. Aug. 8, 2019).

¹¹ *See* Permit Application File No. 0000121400 (granted Sept. 30, 2020).

¹² College states that once Centro removed the Translator from the air, the interference complaints ceased. Petition, Engineering Statement at 2. However, College reports that the Translator returned to the air in May 2021, interference complaints resumed at that time, and Centro was no longer cooperative. *Id.*

¹³ *See* Permit Application File No. 0000125900 (granted Dec. 3, 2020) (December Permit).

Bureau to rescind the May License. The Petition also alleged various defects in construction of the 250-watt facility.¹⁴ However, on July 28, 2021, Centro filed an application for a license to cover the reduced power 5-watt Translator facility, and thus the prior 250-watt operation was no longer at issue.¹⁵ College amended the Petition on August 25, 2021 to provide new exhibits to its engineering statement, alleging that the Translator continued to cause interference despite the reduced power. On October 2, 2021, College resubmitted the Petition, as amended, as an Informal Objection to the pending July Application.¹⁶

Discussion. The Commission will not allow an authorized FM translator station to continue operating if the facility causes actual interference to the transmission of any authorized broadcast station or to the direct reception by the public of the off-the-air signals of any full-service station or previously authorized secondary station.¹⁷ Since Centro is no longer operating the 250-watt facility authorized in the May License, we will dismiss College’s Petition against that operation as moot.¹⁸ We do, however, admonish Centro for two periods of silence without authority from June 3, 2019 through August 8, 2019 prior to the licensing of that facility and again from approximately October 2020 to May 2021 following College’s notification that the 250-watt facility was causing interference. We expect that if Centro needs to remove the station from the air in the future (even if silence is appropriate due to a need to resolve an interference issue), it will follow the requirements in section 74.1263 of the Rules.¹⁹

We also dismiss College’s Objection to the July Application. The Communications Act of 1934, as amended, directs the Commission to grant license applications if it finds that all the terms of the application and permit have been fully met, and that there are no new circumstances that would make such grant contrary to the public interest.²⁰ College did not timely object to the underlying modification application or allege that Centro failed to construct the 5-watt facility in accordance with the terms of the resulting permit. Although College now alleges interference, which is a public interest matter, the Commission’s Rules anticipate addressing such issues through established procedures for interference remediation rather than through the licensing process.²¹ Accordingly, we will consider College’s Objection as an interference complaint.

¹⁴ Petition at 3, Engineering Statement at 2. Specifically, College alleged that the Translator’s antenna differed from that authorized, that the station oriented the antenna in the wrong direction, and that Centro incorrectly certified that it had constructed in accordance with its permit.

¹⁵ See July Application.

¹⁶ See Objection. The Bureau has no record of any response to the Petition as originally filed or as amended in the Objection.

¹⁷ 47 CFR § 74.1203.

¹⁸ That Petition also would not have met the standards for reconsideration because College was not a party to the license proceeding and did not explain why it could not have raised these matters prior to license grant. See 47 CFR § 1.106(b)(1).

¹⁹ *Id.* § 74.1263.

²⁰ 47 U.S.C. § 319(c) (grant of license if “all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest.”).

²¹ See 47 CFR § 74.1203. The remediation process requires the complaining station to submit the interference complaints to the translator operator and gives the translator 90 days to remedy the interference. See *Translator Interference*, 34 FCC Rcd at 3468, 3575, paras. 21, 35. We generally do not order the translator off the air or

In establishing standards for complaints of translator interference, the Commission sought to standardize the requirements for each listener complaint included in an interference claim package, thereby avoiding contention and delay in the resolution process.²² Stations must present each listener complaint as a statement that is signed and dated by the listener.²³ They also must submit: (1) the minimum number (as set out in Table 1 to section 74.1203(a)(3)) of valid listener complaints containing required elements;²⁴ (2) a map plotting the specific location of the alleged interference in relation to the complaining station's 45 dBu contour; (3) a statement that the complaining station is operating within its licensed parameters; (4) a statement that the complaining station licensee has used commercially reasonable efforts to inform the relevant translator licensee of the claimed interference and attempted private resolution; and (5) data demonstrating that, at each listener location, the undesired to desired signal strength exceeds (for co-channel stations like those in the instant case) -20 dB, calculated using the methodology set out in § 74.1204(b).²⁵ Upon receipt of an interference claim package, Commission staff will review its contents. If compliant with our requirements, the staff will direct the complainant station to serve the translator operator with a non-redacted copy of the relevant listener complaints so that the translator operator can independently verify—and if necessary challenge—the basic information contained in each complaint.²⁶

Although College's interference claim package contains many of the required elements,²⁷ it lacks basic requirements central to ensuring the validity of listener complaints. As noted previously, the Rules define a listener complaint as a statement that is signed and dated by the listener.²⁸ College's submission does not pass this initial threshold because it contains no signed and dated correspondence from listeners. Instead, College provides a consolidated spreadsheet in which it has entered, within various fields, summary information pertaining to each listener. For example, the unsigned/undated spreadsheet attempts to establish *inter alia* that complainants are regular listeners unaffiliated with the station by

require it to reduce power unless the translator is unable to resolve the issue within that remediation deadline. *Id.* at 3575, para. 35.

²² *Id.* at 3466, para. 16.

²³ 47 CFR § 74.1201(k).

²⁴ *Id.* A listener complaint is defined as a statement that is signed and dated by the listener and must contain: (1) the complainant's full name, address, and phone number; (2) a clear, concise, and accurate description of the location where interference is alleged or predicted to occur; (3) a statement that the complainant listens over-the-air to the desired station at least twice a month; and (4) a statement that the complainant has no legal, financial, employment, or familial affiliation or relationship with the desired station. *Id.* The Complainant's signature can be electronic. *Translator Interference*, 34 FCC Rcd at 3466-67, para. 17. The Commission adopted a presumption of validity for submissions containing all of these elements in order to reduce disputes over listener bona fides and streamline processing of translator interference cases. *Id.* at 3468, para. 21.

²⁵ 47 CFR §§ 74.1203(a)(3).

²⁶ *Translator Interference*, 34 FCC Rcd at 3468, para. 21.

²⁷ For example, College states that its own station is operating with facilities that have been licensed since 1981, that it informed Centro's President of the interference allegedly caused by the Translator, but that Centro responded that there was "nothing further to discuss" and then became unreachable. Objection, Engineering Statement at 2. College also provides the requisite number of complaints. Based on College's statement that there are 1,207,184 people inside the KNCT-FM 60 dBu protected contour, it would be required to support its interference allegations with a minimum of 15 valid listener complaints. *See* 47 CFR § 74.1203, Table 1 (15 complaints required from stations with service areas between 999,000 and 1,499,999 people). College met this numerical standard but, as discussed further below, did not submit complaints in the prescribed format and, thus, failed to submit a valid interference claim package.

²⁸ 47 CFR § 74.1201(k).

providing columns labeled “Minimum Twice a Month?” and “Affiliation w/ KNCT?” in which College has respectively entered “yes” and “no” for each listener.²⁹ This type of summary does not meet the Commission’s procedural requirements and would not sufficiently enable the translator operator to verify the validity of complaints because the summary is a generic chart prepared by the complainant in the manner most favorable to its own needs rather than individual submissions by affected listeners. Even if such summaries were to contain all types of information specified, it is important to have access to the primary documents to be able to make an independent assessment as to their validity. Accordingly, we dismiss the Objection as procedurally flawed when considered as an Informal Objection against the July Application and as an interference complaint. If, however, College continues to receive interference we would encourage it to file a rule-compliant interference claim package, which we would consider at that time.

Ordering Clauses. Accordingly, IT IS ORDERED that the Petition of Central Texas College for reconsideration of the May 2021 grant of an application of Centro Cristiano de Vida Eterna to licensee of FM translator K217GJ, Austin, Texas (File No. 0000140754) IS DISMISSED AS MOOT.

IT IS FURTHER ORDERED that the Petition of Central Texas College as amended, when considered as an Informal Objection to the July 2021 application of Centro Cristiano de Vida Eterna for a licensee covering further modification of FM translator K217GJ, Austin, Texas (File No. 0000154368) IS DISMISSED as procedurally improper and, when considered as an interference complaint, IS DISMISSED WITHOUT PREJUDICE to refiling with such information as needed to satisfy the requirements of 47 CFR §§ 74.1201 and 74.1203.

IT IS FURTHER ORDERED that Centro Cristiano de Vida Eterna IS ADMONISHED for violating 47 CFR § 74.1263(c) by failing to seek authority for FM translator K217GJ, Austin, Texas to be silent for the periods between June 3, 2019 and August 8, 2019 and from approximately October 2020 to May 2021.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

²⁹ Exhibit A to the Petition and Objection is a spreadsheet that includes each listener’s name, home address, phone number, email address if available, and an indication that each complainant listens to KCNT-FM at least twice a month and is not affiliated with that station. Because this information was originally provided with respect to the moot May License, College has updated the spreadsheet to include the proposed facilities in the July Application. Exhibit C to the amended Petition identifies the same 20 complainants and states that they continue to experience interference at the locations alleged previously despite the reduction in power. In Exhibit D, College provides two revised maps, plotting the location of the alleged interference from the 5-watt facility under consideration in the July Application, and showing that these locations are within the KNCT-FM 45 dBu contour.