



Federal Communications Commission
Washington, D.C. 20554

March 26, 2024

In Reply Refer To:
1800B3-KV

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In re: K295DA, Dallas, TX
MARC Radio Dallas, LLC
Facility ID No. 200346
Application File No. 0000165560

Informal Objection

Dear Counsel:

The Media Bureau (Bureau) has before it an application for a license to cover the permitted facilities for FM Translator K295DA to operate on channel 295 at Dallas, Texas (Translator or K295DA), filed on November 3, 2021, (License Application).¹ Also before us is an Informal Objection (Objection) to the License Application, filed on November 12, 2021, by Iglesia Cristiana Ebenezer, Inc. (Iglesia), licensee of the noncommercial educational (NCE) FM Translator Station K295BF, Royse City, Texas (K295BF).² The Objection alleges that grant of the License Application will cause FM Translator

¹ Application File No. 0000165560 (filed Nov. 3, 2021), filed by then-permittee MBC of Texas-KGGR, Inc. (MBC). As discussed below, MBC sold the K295DA permit to MARC Radio Dallas, LLC, in April 2022.

² See Objection of Iglesia, Pleading File No. 0000168405 (rec'd Nov. 12, 2021) and Errata to the Objection of Iglesia, Pleading File No. 0000168531 (rec'd Nov. 13, 2021). Also filed against the License Application is a Motion

K295DA to interfere with the direct reception by the public of the off-the-air signal of K295BF. For the reasons stated below, we dismiss the Objection and grant the License Application.

Background. On December 4, 2017, MBC filed an application for a construction permit for a new FM translator station on channel 295 at Dallas, Texas.³ On January 5, 2018, Iglesia filed an informal objection arguing that grant of the application would cause harmful interference to the direction reception of the public of the off-the-air signal of K295BF.⁴ On March 9, 2018, the Bureau dismissed the application, pursuant to section 74.1204(f) of the Commission's rules (Rules),⁵ because the proposed facilities were predicted to cause harmful interference to listeners of K295BF.⁶ Thereafter, MBC concurrently petitioned for reconsideration of the dismissal and sought to amend the application *nunc pro tunc* to propose facilities on channel 293, at Dallas, Texas.⁷ On November 13, 2018, the Bureau reinstated MBC's application as amended and issued the Permit to construct a new FM translator station on channel 293.⁸ MBC, however, did not construct the permitted facilities on channel 293.

On August 8, 2019, MBC filed an application for a minor modification of the Permit, proposing the same facilities on channel 295 as the previously dismissed Permit application.⁹ The Modified Permit application was unopposed while pending. On August 29, 2019, the Bureau granted the uncontested application and issued the Modified Permit.¹⁰ On November 2, 2021, MBC filed the License Application

for Extension of Time (Motion) to file an Interference Complaint by LKCM Radio Licenses, L.P. (LKCM), licensee of Station KRVF(FM), Kerens, Texas, Pleading File No. 0000177338 (rec'd Dec. 15, 2021), and a Supplement to the Motion (Supplement) of LKCM, Pleading File No. 0000177338 (rec'd Feb. 4, 2022). In the Motion, LKCM requested that the Bureau delay processing the License Application because LKCM needed time to file an interference complaint. To date LKCM has not filed an interference complaint against K295DA. For the reasons discussed below, we dismiss the Motion and Supplement.

³ Application File No. BNPFT-20171204AAB (filed Dec. 4, 2017) (Permit). *See Broadcast Applications*, Public Notice, Report No. 29127, at 28 (MB Dec. 7, 2017). The Permit application proposed to rebroadcast the commonly owned primary station KGGR(AM), Dallas, Texas, on Antenna Structure Registration (ASR) Number 1221248, at 32 degrees, 46', 43.5" North Latitude, and 96 degrees, 43', 52" West Longitude, with an Antenna Height Above Average Terrain (HAAT) of 96 meters at 250 watts.

⁴ *See* Objection of Iglesia (filed Jan. 5, 2018); *Broadcast Applications*, Public Notice, Report No. 29149, at 9 (MB Jan. 10, 2018).

⁵ 47 CFR § 74.1204(f). The Commission subsequently revised its rules and procedures for FM translator interference complaints and resolution of such complaints. *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, Report and Order, 34 FCC Rcd 3457, at 3468, 3575, paras. 21, 35 (2019) (*Translator Interference Order*), recon denied, Order on Reconsideration, 35 FCC 11561 (2020). The *Translator Interference Order* became effective on August 13, 2019. *Effective Date of Amended Rules for FM Translator Interference*, MB Docket No. 18-119, Public Notice, 34 FCC Rcd 7004 (2019).

⁶ *See* Letter from James D. Bradshaw, Deputy Chief, Audio Division, Media Bureau, to MBC, Application File No. BNPFT-20171204AAB (MB Mar. 9, 2018) (*Dismissal Letter*).

⁷ *See* Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, to MBC *et al.*, Application File No. BNPFT-20171204AAB (MB Nov. 13, 2018) (*Reinstatement Letter*).

⁸ *Id.* at 3-4.

⁹ Application File No. BMPFT-20190808AAY (filed Aug. 8, 2019) (Modified Permit). *See Broadcast Applications*, Public Notice, Report No. 29549, at 11 (MB Aug. 13, 2019). In particular, the Modified Permit Application proposed facilities on ASR Number 1221248, at 32 degrees, 46' 43.5" North Latitude, and 96 degrees, 43' 52" West Longitude, with a HAAT of 96 meters at 250 watts.

¹⁰ *See Broadcast Actions*, Public Notice, Report No. 49561, at 8 (MB Aug. 29, 2019).

covering the Modified Permit.¹¹

On November 12, 2021, Iglesia filed the Objection arguing that the License Application should be denied because the application seeks to license facilities that have been previously found to be predicted to cause interference to listeners of K295BF.¹² Iglesia further stated that "updated interference complaints will be filed under separate cover."¹³ To date, Iglesia has not filed an updated interference complaint.

On April 13, 2022, MBC assigned the Modified Permit for the Translator to the current permittee, MARC Radio Dallas, LLC (MARC).¹⁴ Neither MBC or MARC responded to the Objection.

Discussion. Section 319 of the Communications Act of 1934, as amended, (Act), directs the Commission to grant license applications if it finds that all 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.¹⁵ It is well settled that absent extraordinary circumstances, the Commission will issue a covering license to the holder of a construction permit if it appears that construction has been in accordance with the permit.¹⁶ Specifically, the Commission traditionally is reluctant to designate license applications for hearing, and in most cases, considers the grant of a license application to follow almost automatically from the issuance of the construction permit and completion of construction.¹⁷ Thus, under section 319(c) of the Act, the License Application is entitled to a high degree of protection and a presumption that the public interest determination during the underlying construction permit proceeding continues in effect unless extraordinary circumstances have arisen that would make grant of the License Application against the public interest.

We find that Iglesia has not demonstrated good cause to deviate from the stringent section 319(c) mandate. In particular, Iglesia has not alleged that the Translator was not constructed in accordance with the terms of the Modified Permit nor has Iglesia demonstrated that operation of the Translator would be contrary to the public interest. We further find that Iglesia's Objection to the License Application is in fact an untimely objection to the now final grant of the Modified Permit. Iglesia did not file an objection to the grant of the Modified Permit while the minor modification application was pending, but rather Iglesia filed what is essentially an objection to the permitted facilities more than two years after the grant of the Modified Permit. Accordingly, we dismiss the Objection. For the same reasons, we also dismiss

¹¹ See *Broadcast Applications*, Public Notice, Report No. PN--1-211105-01, at 11 (MB Nov. 5, 2021).

¹² Objection at 2.

¹³ *Id.* at 2.

¹⁴ See Notice of Consummation, Application File No. 0000189512 (rec'd Apr. 19, 2022) and *Broadcast Actions*, Public Notice, Report No. PN-2-220401-01, at 8 (MB Apr. 1, 2022). At that time, MBC also assigned the primary station KGGR(AM) to MARC. Prior to the assignment to MARC, the Modified Permit and KGGR were transferred pursuant to a granted involuntary transfer of control application due to the death of MBC's sole voting trustee. See Notice of Consummation, Application File No. 0000167357 (rec'd Nov. 10, 2021) and *Broadcast Actions*, Public Notice, Report No. PN-2-211110-01-01, at 2 (MB Nov. 10, 2021).

¹⁵ 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.").

¹⁶ See, e.g., *Radio Instad Minnesota, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd, 8961, 8962, para. 5 (1996).

¹⁷ See, e.g., *Meyer Broadcasting Company*, Opinion and Order, 65 FCC 2d, 438, 441, para. 9 (1977).

the Motion and Supplement filed by LKCM.¹⁸

Notwithstanding our dismissal of the Objection, we emphasize that MARC will still be subject to the provisions of section 74.1203 of the Commission's rules relating to actual interference. Any *bona fide* interference complaints received due to MARC's operation of the Translator may, if not *immediately* resolved, result in prompt suspension of operating authority. Any such complaint must meet the requirements set forth in the *Translator Interference Order* and sections 74.1201(k) and 74.1203(a)(3) of the Rules.¹⁹

Ordering Clauses. Accordingly, IT IS ORDERED that the Informal Objection filed by Iglesia Cristiana Ebenezer, Inc. on November 12, 2021 (Pleading File No. 0000168405) IS DISMISSED.

IT IS FURTHER ORDERED that the Motion for Extension of Time to file an Interference Complaint (Pleading File No. 0000177338) and the Supplement to the Motion (Pleading File No. 0000177338), both filed by LKCM Radio Licenses, L.P., on December 15, 2021, and February 4, 2022, respectively, ARE DISMISSED.

IT IS FURTHER ORDERED that the application of MARC Radio Dallas, LLC for a licensee to cover the modified construction permit of FM translator K295DA, Dallas, Texas (File No. 0000165560) IS GRANTED.

Sincerely,

James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau

¹⁸ See *supra* note 2.

¹⁹ 47 CFR §§ 74.1201(k) and 74.1203(a); *Translator Interference Order supra* note 5.