



Federal Communications Commission
Washington, D.C. 20554

December 20, 2016

Weigel Broadcasting Co.
26 North Halsted Street
Chicago, IL 60661

Nelson TV, Inc.
One Broadcast Center
Plano, IL 60545

Re: WAUR-LD
Ottawa, Illinois
Pleading File No. 0000014025
Application File No: 0000013459
Facility ID No. 187839

Dear Licensees:

This is with respect to the Petition for Reconsideration (“Petition”) filed by Weigel Broadcasting Co. (“Weigel”) seeking reconsideration of the Video Division’s decision to grant the above-referenced application of Nelson TV, Inc. (“Nelson”), licensee of WAUR-LD (“Station”), formerly WSPY-LD, for a minor modification of a licensed low power television (“LPTV”) station.¹ For the reasons provided below, the Petition filed by Weigel is denied.

Background. On April 12, 2012, DTV America Corporation, the predecessor to the current licensee Nelson, was granted a new construction permit (“CP”) during a filing window for new digital LPTV stations in rural areas to operate on digital channel 32.² The licensee subsequently filed a modification that was dismissed by the Video Division as deficient.³ A further modification was filed and granted November 27, 2013, and later licensed on July 27, 2016.⁴ On August 12, 2016, the Video Division granted Nelson’s above-referenced minor modification application filed on August 4, 2016, that proposed to move its LPTV transmitter site.⁵

On September 16, 2016, Weigel filed the Petition requesting that the Commission rescind its grant of Nelson’s above-referenced minor modification application. Weigel states that “WAUR’s proposed facility will cause new interference to more than 39,000 viewers of WMEU”,⁶ a Class A

¹ Also before us is Nelson’s Opposition filed September 29, 2016 (“Opposition”).

² See File No. BNPDTL-20100721DRF.

³ See File No. BMPDTL-20130618AAH.

⁴ See File Nos. BMPDTL-20131112CBH and 0000013326.

⁵ See File No. 0000013459

⁶ Petition at 2.

television station licensed by Weigel that serves Chicago, Illinois. Weigel claims that the proposed interference “is a clear detriment to the public interest when caused by an application that violates the intent of the conditions under which WAUR was authorized”.⁷ Additionally, Weigel asserts that WAUR-LD obtained its original construction permit in a rural filing window that required the Station’s proposed transmitter site to be located more than 121 kilometers from the reference coordinates of the top 100 Nielsen DMAs.⁸ Weigel adds that “DTV America attempted to modify the permit in order to move WAUR to a site located 81 kilometers from Chicago which was correctly dismissed by the Video Division.”⁹ Furthermore, Weigel maintains the instant application “violates both the Letter and the spirit of the condition WAUR accepted on its original construction permit.”¹⁰ Weigel urges the Video Division to enforce the conditions under which WAUR-LD was authorized and rescind its application.

In his Opposition, Nelson states that its “application for a minor change in facilities, including a change in transmitter site, fully complied with all relevant Commission rules and was properly granted.”¹¹ In addition, Nelson states that “Weigel’s petition fails to raise any matter of significance, fails to demonstrate grounds for reconsideration, and must be denied.”¹² Nelson requests that we deny Weigel’s Petition for the following reasons: (1) Weigel fails to demonstrate any rule violation by the instant application;¹³ (2) the Commission’s adoption of its interference rule, §74.793, determined that a certain degree of interference to an existing Class A station would not be a significant detriment to the public interest and would be allowed;¹⁴ (3) Weigel concedes this point saying “...interference of this magnitude would be permissible under the rules...;”¹⁵ and (4) WAUR-LD’s application does not violate the prohibition against moving to within 121 kilometers of the top 100 markets as the condition applied only to future modifications of the CP and not to subsequent minor changes of the licensed station. Nelson agrees that the Commission’s action was correct and should be affirmed.

Discussion. We conclude that Weigel has failed to demonstrate why Nelson’s minor modification application of a licensed facility should not be granted. By rule, the proposed interference from WAUR-LD’s modified facility is permissible as it does not cause a loss of service of 0.5 percent or more to WMEU’s predicated service population.¹⁶ Weigel acknowledges that interference would be permissible

⁷ *Id.*

⁸ *Commencement of Rural, First-Come, First-Served Digital Licensing for Low Power Television and TV Translators Beginning August 25, 2009*, Public Notice, 24 FCC Rcd 8911, 8915 (“Digital LPTV Licensing PN”).

⁹ Letter from Hossein Hashemzadeh, Deputy Chief, Video Division, Media Bureau, to DTV America Corporation, Re. File No. BMPDTL-20130618AAH (Aug. 12, 2013) (“Letter”).

¹⁰ *Petition* at 4.

¹¹ *Opposition* at 1.

¹² *Id.*

¹³ *Id.* at 2.

¹⁴ *Id.* at 3.

¹⁵ *Petition* at 2.

¹⁶ *See* 47 C.F.R. §74.793(g).

under the rules as indicated in the Petition. Furthermore, the condition that any future modification will not result in a relocation within 121 kilometers of the top 100 markets¹⁷ applied only to future modifications of the CP. Once built and licensed, the Station's only restriction for a future minor modification is that a proposed change in transmitter site is limited to 30 miles from the reference coordinates of the existing station's community of license.¹⁸ In addition, LPTV stations can file any modification application as a "minor change" as long as there is contour overlap between the proposal and the station's existing facilities.¹⁹ The fact that the Video Division dismissed the earlier attempt to modify the CP validates our existing policy. We agree with Nelson that WAUR-LD's instant application violated no rule or policy and therefore we find no basis for granting reconsideration of our decision to allow the Station's modification.

Based upon the foregoing, we conclude that Weigel has failed to present any facts or arguments that warrant a decision to rescind Nelson's minor modification application for WAUR-LD, Ottawa, Illinois. Accordingly, the Petition for Reconsideration filed by Weigel Broadcasting Co., **IS HEREBY DENIED.**

Sincerely,

A handwritten signature in black ink, appearing to read "Hossein Hashemzadeh", written in a cursive style.

Hossein Hashemzadeh
Deputy Chief, Video Division
Media Bureau

cc: Jerrold Miller
cc: Michael Beder

¹⁷ See *Digital LPTV Licensing PN*.

¹⁸ See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television*, MB Docket No. 03-185, *Second Report and Order*, 26 FCC Rcd at 10732, 10759, para. 59 (2011).

¹⁹ *Id.*