



Federal Communications Commission
Washington, D.C. 20554

March 2, 2020

WMTM, LLC
5670 WILSHIRE BLVD. #1620
LOS ANGELES, CA 90036

Re: Application for Modification of a Licensed
Facility for Digital Class A TV Station
WAZT-CD, Woodstock, VA
Fac ID 168449
File No. 0000089020

Dear Applicant:

This letter concerns the above-referenced application for modification of license filed by WMTM, LLC (WL), licensee of Station WAZT-CD, Woodstock, Virginia (WAZT or Station) and accompanying requests for waiver. For the reasons set forth below, we deny WL's waiver requests and dismiss the application.

Background. WAZT is a Class A television station licensed to Woodstock, Virginia. As a result of the Commission's Incentive Auction and repacking process, the Station was repacked from channel 46 to channel 26. The Station subsequently sought and was approved a change to channel 20 for its post-auction channel operation.¹ In conjunction with the change to channel 20, the Station relocated from its existing tower site on Signal Knob in Virginia to a new mountain-top transmitter site across the West Virginia line at Raven Rocks, West Virginia (Raven Rocks Site). We note that WL sought and was granted a 180-day extension of its construction permit to January 29, 2020, based upon a delay in the installation of upgraded power to the Station's Raven Rocks Site, and has now completed construction and is operating from that site.²

Modification Application. In the above-referenced application, WL now seeks to relocate its transmitter site 42.7 miles to Washington, DC. WL seeks a waiver of the Commission's rule that provides that "minor" change applications propose a change in transmitting antenna location not greater than 30 miles (48 kilometers) from the reference coordinates of the existing station's antenna location (30-Mile Rule).³ WL also seeks waiver of the existing freeze on the filing of minor change applications by Class A television stations (Minor Change Freeze).⁴ In support of its waiver requests, WL states that it:

"recently discovered that the shadow maps for WAZT-CD's antenna show clear line of site significantly beyond our F(50,10) 52 dBu interfering contour. In some directions to the North, the line of sight extends 52 miles beyond this contour into the Philadelphia DMA."

¹ See LMS File No. 0000034549.

² See LMS File No. 0000081642.

³ 47 CFR 74.787(b)(1)(iii).

⁴ *Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate*, Public Notice, 28 FCC Rcd 4364 (MB 2013) (Freeze PN).

WL explains that the Station's assigned channel 20 is used for land mobile facilities in the Philadelphia, Pennsylvania area and that "WAZT-CD has only been able to use channel 20 because there is a channel 20 Land Mobile Preclusion Zone pursuant to Section 74.709(b)(1) in a radius around Washington DC." WL continues that "WAZT-CD's transmitter site is located 46.3 miles from the center of that preclusion zone, and . . . (WL) believes WAZT-CD on channel 20 will interfere with First Responders as it has experienced similar issues in the past for a commonly owned station (WTSD-CD)" WL argues that, "like the existing licensed facility of WAZT-CD, WTSD-CD was also 'theoretically' protected by an adjacent channel preclusion zone pursuant to Section 74.709(b)." WL maintains that relocating to the center of the Preclusion Zone should cure this problem.

Also in support of its waiver requests, WL argues that its choice of new transmitter sites to resolve the possible land mobile interference issue is limited because of its current tower lease. WL explains that it can only break its current tower lease with American Tower at the Raven Rock Site if it relocates to another tower owned by American Tower. WL maintains that the new transmitter site proposed in its application is the closest tower site owned by American Tower.

Discussion. We deny WL's requests for waiver of the 30-Mile Rule and Minor Change Freeze. With respect to WL's arguments concerning the Preclusion Zone, we find the Preclusion Zone is irrelevant to whether WL should be permitted to relocate the Station's transmitter site more than 30 miles. We conclude that use of the Station's existing Raven Rocks Site would have been permitted regardless of the existence of the Preclusion Zone. WL appears to rely on the full power television distance-based restriction on station placement with respect to land mobile operations;⁵ however, that Part 73 restriction does not apply to Class A television stations.⁶ Moreover, the Station's proposed resolution of this issue – moving to the center of the Preclusion Zone – would appear to only worsen the problem and not resolve it. A staff analysis of WL's proposal reveals that the Station would be closer to the land mobile contour resulting in more points of the Station's contour above 52 dBu appearing inside the 130 km Preclusion Zone contour at the proposed new transmitter location.

In addition, WL does not cite any actual interference complaints, but rather the theoretical possibility of interference. Such theoretical claims cannot form the basis of a grant of a waiver. Further, the fact that another WL station may have experienced interference is irrelevant and provides no proof that land mobile interference will occur in the case of WAZT operating on channel 20 from the Raven Rocks Site.

Finally, with respect to WL's argument that it must relocate to the site proposed in its application because it can only terminate its Raven Rock Site tower lease if it moves to another tower owned by American Tower, this is an artificial restriction of WL's making. WL voluntarily chose channel 20 for its post-auction channel for WAZT and chose to relocate to the Raven Rocks Site and enter into a multi-year tower lease. Further, there appear to be other towers owned by American Tower that would meet the 30-mile rule.⁷

⁵ See 47 CFR 73.623(e).

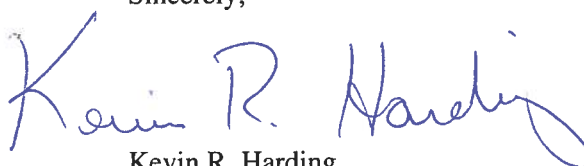
⁶ See 47 CFR 73.6020, which refers to 74.709, and 73.6026, which does not refer to 73.623.

⁷ For example, an American Tower in Martinsburg, West Virginia, currently home to WWPX-TV, Martinsburg, West Virginia, would meet the 30-mile rule. See LMS File No. 0000001691.

We conclude that WL has failed to show good cause that the public interest would be served by waiver of either the 30-Mile Rule or Minor Change Freeze.⁸ WL's proposed relocation from the suitable Raven Rocks site to a transmitter site 42.7 miles away (a distance 12.7 miles more than allowed by the 30-Mile Rule) appears to be based on a voluntary business reason – to serve the larger Washington, DC market. Further, WL's proposed transmitter site relocation is not "necessary or otherwise in the public interest for technical or other reasons to maintain quality service to the public, such as when zoning restrictions preclude tower construction at a particular site or when unforeseen events, such as extreme weather events or other extraordinary circumstances, require relocation to a new tower site."⁹

WHEREFORE, the above facts considered, WMTM, LLC's requests for waiver **ARE DENIED** and its application for modification of license for WAZT-CD, Woodstock, Virginia **IS DISMISSED**.¹⁰

Sincerely,



Kevin R. Harding
Deputy Chief, Video Division
Media Bureau

⁸ See 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.

⁹ *Freeze PN*, 28 FCC Rcd at 4366.

¹⁰ See 47 CFR § 73.3568(a).