

Waiver Request

Americom Limited Partnership (“Americom”), licensee of FM translator station K245DC, Carson City, Nevada (“K245DC”), hereby respectfully requests a waiver of 47 C.F.R. § 74.1201(g) (“Rule 74.1201”) to allow K245DC, a cross-service translator facility which rebroadcasts commonly owned KBZZ(AM), Sparks, Nevada, to increase effective radiated power from 40 watts to 250 watts. As demonstrated below, grant of the relief requested herein (the “Request”) would provide substantial public interest benefits in service of clearly articulated Commission policies designed to foster AM revitalization.

In 2017, as part of its ongoing efforts to revitalize the AM radio service and enhance AM’s ability to survive in an increasingly competitive audio marketplace, the Commission revised Rule 74.1201 to improve the ability of such stations to use cross-service FM translators to serve their core markets.¹ In particular, as revised, the rule allows a cross-service FM translator station to deploy transmission facilities that produce a signal that does not extend beyond the *greater* of the parent AM station’s predicted 2 mV/m daytime contour or a 25-mile radius centered at the AM station’s transmitter site.² In making this change, the Commission stressed that its primary “objective” was “to provide flexibility to an AM station using a cross-service translator to serve its core market while not extending its signal beyond the station’s core

¹ *Revitalization of the AM Radio Service*, Second Report and Order, 32 FCC Rcd 1724 (2017) (“Second R&O”).

² Prior to revision, the rule had restricted FM translator site options to those which met the *lesser* of these same two tests. In the Second R&O, the Commission declined to incorporate in the revised rule an absolute limit on an FM translator’s 1 mV/m contour extending beyond a 40-mile radius centered at the AM transmitter site.

service area.”³ By this application, Americom seeks a waiver of Rule 74.1204 to allow K245DC to better serve KBZZ’s core market.

Generally, the FCC may grant a waiver for good cause shown.⁴ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁵ In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁶ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁷ The facts of this case make clear that, under these tests, “strict compliance” with Rule 74.1201 would be “inconsistent with the public interest.” Similarly, grant of the requested waiver would promote “more effective implementation of overall policy on an individual basis.” That is because, in the words of the Second R&O, such a grant would allow K245DC to better “serve” KBZZ’s market “while not extending its signal beyond the station’s core service area.”

KBZZ and its translator K245DC operate in the Reno, Nevada Nielsen radio market (“Reno Market”), currently ranked 98th by size. A primary characteristic of the Reno Market relevant to this waiver request is its size and shape. That is, the Reno Market is relatively long and narrow, stretching 252 miles from top to bottom “as the crow flies,” and 25 miles measured that same way from the center of Reno (adjacent to Sparks, KBZZ’s community of license) in the north to that of Nevada state capital Carson City (K245DC’s community of license) in the south. As the Nielsen market map attached hereto as Exhibit A illustrates, Reno, Sparks, and

³ Second R&O, 32 FCC Rcd at 1726 (footnote omitted).

⁴ 47 C.F.R. § 1.3.

⁵ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

⁷ *Northeast Cellular*, 897 F.2d at 1166.

Carson City are very much part of the “core” of the Reno Market. As a consequence, KBZZ listeners in Sparks, Reno and Carson City, indeed throughout the Reno Market, count equally for purposes of market performance measurement and all that entails for ultimate station survival and success (e.g., audience size, advertising revenue).

Reno is the market’s most populous city, with a 2010 census population of 225,221, followed by Sparks (90,264), and then Carson City (55,274). As noted above, Reno/Sparks and Carson City are relatively far apart. In addition, in between Reno/Sparks and Carson City lie mountains that peak at approximately 6700 feet AMSL, some 2000 feet above Carson City. Because the KBZZ transmitter site is located just eight miles from Reno, distance and relatively low conductivity diminish KBZZ reception to the south, including in the vicinity of Carson City. The attenuation of, and interference to, KBZZ’s signal quality in the southern reaches of the market is even more acute during nighttime hours, when KBZZ must reduce power and switch from non-directional to directional operation, with particularly severe impact on Carson City coverage.⁸ These coverage deficiencies are what led Americom to apply for and construct K245DC in the first place. For all these reasons, K245DC operations are very important to KBZZ’s ability to provide quality service to as much of its “core” market as possible, particularly that part of the core in and around Carson City.⁹

However, compliance with Rule 74.1201’s alternative 2 mV/m daytime contour/25-mile tests has to date substantially restricted K245DC’s power, thereby sharply curtailing the scope and quality of K245DC’s coverage of this southern tier of the core of the Reno Market. This application, and this Request, address these issues through a proposed increase in K245DC’s

⁸ The nighttime signal propagation difficulties experienced by AM stations are universally recognized, particularly in the case of directional operations.

⁹ The Reno Market, as measured by Nielsen, extends south of Carson City, to such locales as Minden and Gardnerville.

power to the standard limit of 250 watts for FM translators established by 47 C.F.R. § 74.1235(a).¹⁰ Commission grant of this Request and instant application would allow K245DC to provide much more effective coverage of the audience within this important part of KBZZ's core market, in direct service of the ultimate purpose of clearly articulated FCC policy underpinning the AM revitalization effort.

This Request is entirely consistent with, and would advance, the policy considerations underlying the Second R&O. That is because the Second R&O, despite finding that a "parent" AM station's contour generally defines that station's core service area, explicitly eliminated any requirement that FM translator coverage be pure fill-in within that parent's coverage contour, in favor of a policy that allows the translator's contour to reach 25 miles from the parent's transmitter site, regardless of where the AM station contour falls. The 25-mile limit was chosen to allow AM stations needed flexibility to cover their core markets. In this case, however, the particular circumstances of the Reno Market's size and shape, as well as the distance of Carson City from the KBZZ transmitter site, relatively low conductivity, and nighttime propagation limitations that negatively impact KBZZ coverage of the southern portion of the station's core market, amply justify making an exception through waiver of Rule 74.1201.¹¹ In this regard, Americom notes that its proposed new K245DC contour would extend approximately 42 miles from the point centered at the KBZZ transmitter site. Such a distance does not raise concerns *per se*, given that the FCC expressly *declined* in the Second R&O to adopt an absolute limit of 40 miles from the point centered at the pertinent AM station's transmitter site.

¹⁰ Rule waiver is necessary because, K245DC's 1 mV/m coverage at 250 watts, though within the core of the Reno Market, would extend beyond the limits set by Rule 74.1201.

¹¹ The Statements Chairman Pai and Commissioner Clyburn added to the Second R&O underline the importance of the Commission taking opportunities to help AM stations as part of the agency's revitalization initiative, given that AM is "a vital part of the nation's communications infrastructure" (Pai) and "the foundational part of the American media landscape." (Clyburn).

Americom emphasizes that grant of this application will substantially advance the public interest by increasing the numbers of listeners to whom Station service will be available, and dramatically improving the quality of the Station signal to which those listeners will have access. These enhancements are effectively summarized at p. 1 of the Engineering Statement of Hatfield & Dawson (“Engineering Statement”) that is part of the application which is the subject of this Request:

Grant of the waiver will allow K245DC to increase the population within its 60 dBu contour by 28%, going from 63,554 persons to 81,412 persons (per the 2010 Census). More importantly, however, the signal strength for all K245DC listeners will increase by 8 dB. This is a significant increase, and can mean the difference between good reception and poor (or no) reception.

For example, a listener using a desktop radio inside an office building in Carson City is likely to experience an approximate 10 dB reduction in signal strength due to building penetration attenuation. Experience has shown that building penetration from stations with low ERPs tends to be anemic, leading listeners to tune to other stronger stations. Likewise, a mobile listener traveling regularly between Carson City and Gardnerville (a community to the south, but also within the Nielsen Reno market) would experience the 40 watt signal dropping out sooner, when compared to the signals of the several 250 watt translators in the market. The additional 8 dB will ameliorate these competitive and comparative challenges that K245DC currently faces.

Grant of this Request would produce no countervailing harm. First, the Engineering Statement explains that the application raises no interference concerns vis-à-vis other broadcast stations. Second, the Request seeks to allow KBZZ’s translator to better serve its local radio market *without* extending its signal into another radio market. This important fact underscores that the Commission, *in the specific circumstances of this waiver case*, can comfortably treat the Nielsen Reno Market as a whole, not just the area within the predicted KBZZ contour, as defining the core Reno Market. Third, because this waiver request is predicated on a very particularized factual showing, precedential extension will be limited to only those scenarios which promise comparable public interest benefits, without harm. In sum, the balancing of the

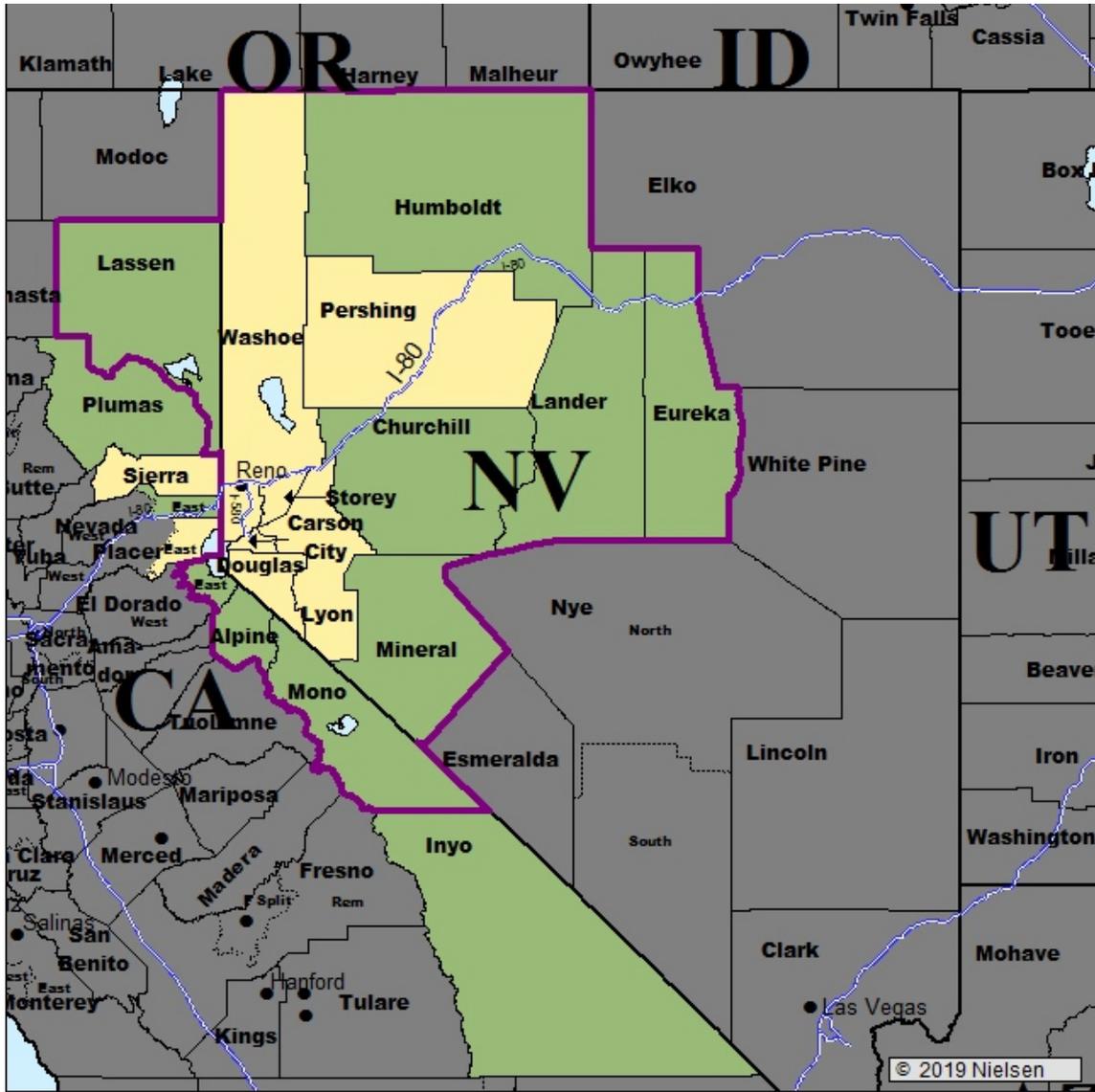
tangible public interest benefits promised by this Request against its non-existent detriments dramatically favors Commission grant of the Request.

For all of the reasons set forth above, waiver of Rule 74.1201 is amply warranted in the circumstances presented and hereby respectfully requested.

EXHIBIT A



Reno



- Metro
- TSA
- DMA®

Metro Rank: 98

TSA and DMA are sampled in Spring and Fall only.

For definitions of the geographic terms found on this map, see "Glossary of Selected Terms" in the "Description of Methodology."

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