

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Application of)	
)	
Michigan Community Radio)	File No. BPFT-20180731ABQ
)	Facility ID: 157285
For Minor Change to a Licensed Facility)	
FM Translator W248CC on channel 248D)	
Ecorse, Michigan)	

To: The Office of the Secretary
Attention: Chief, Audio Division, Media Bureau

PETITION FOR RECONSIDERATION

Michigan Community Radio (“MCR”) hereby petitions the Chief, Audio Division, Media Bureau (the “Division”), for reconsideration of the grant of the above referenced application

Background

MCR filed its short-form application on March 17, 2003, however was not able to file FCC auction form 175 because the FCC’s website server was extremely congested. Due that issue, that was beyond the control of the applicant, the application stayed in a state of limbo for over a decade and the original application was finally granted on January 14, 2014. Just over six months later, on June 23, 2014, a Canadian station Facility ID # 198153 notified the US of it’s intention to modify its antenna pattern and move it’s transmitter closer toward the US. The US approved the modification on July 7, 2014 without notice to the permittee. The permittee became aware of the Canadian facility and attempted a displacement application July 7, 2017, however the FCC denied the application saying the displacement policy does not apply to permittees. The translator then became licensed for the first time on April 17, 2018. Shortly thereafter the

licensee filed a displacement application on July 31, 2018. The FCC dismissed this application stating the Canadian facility modified its facility prior to the instant application therefore the waiver policy is not applicable.

Discussion

The FCC's translator displacement waiver policy is arbitrary and capricious. On one hand, staff doesn't allow permittees to file a displacement application, but once the station is licensed they deny it stating it should have filed it earlier. This creates an untenable situation where the argument becomes circular and is not in the public interest.

This case is also unique in the sense that the FCC webserver had well publicized issues in the March 2003 translator filing window, and if that did not happen FCC 175 form would have been filed and the application would have been granted and constructed long before the Canadian came into existence, and therefore would have been eligible to file for displacement without an issue.

The commission has also granted waivers of the rules for interference received from international stations for increases in power, or even alternate frequencies.¹

Conclusion

Translator licensees should be allowed "one bite of the apple" for filing a displacement application especially in light of the the FCC webserver delayed the grant of the original application for over a decade that prevented it from filing a displacement application and that the translator is receiving significant interference from an international station which is clearly a unique situation and grant of the application would be the public interest.

¹ New FM Translators have been granted due to Cuban interference.

Respectfully submitted,

Smile FM

By:



Edward Czelada

Its President

October 25, 2018

Send replies regarding this matter to:

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