



**Federal Communications Commission
Washington, D.C. 20554**

October 24, 2012

In Reply Refer to:
1800B3-MM

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In re: KRZQ-1, Olinghouse, NV
Facility ID No. 181097
Shamrock Communications, Inc.
File No. BPFTB-20120210AAK

KNEZ-1, Reno, NV
Facility ID No. 180965
Shamrock Communications, Inc.
File No. BPFTB-20120210ABE

Petitions for Reconsideration

KWNZ-1, Lovelock, NV
Facility ID No. 190208
Shamrock Communications, Inc.
File No. BNPFTB-20120214ABP

Informal Objection

Dear Mr. Corbett and Mr. Satten:

We have before us the referenced applications filed on February 10, 2012, by Shamrock Communications, Inc. ("Shamrock") involving FM booster stations near Reno, Nevada (collectively, "Applications"). We also have before us: (1) two Petitions for Reconsiderations (collectively, "Petitions") filed on March 22, 2012, by Americom Las Vegas Limited Partnership and Americom, L.P. (collectively, "Americom") against the Commission's grant of the KRZQ-1¹ and KNEZ-1² applications;

¹ Station KZHD-1 changed its call sign to KRZQ-1 and its community of license to Olinghouse, Nevada effective October 10, 2012.

(2) an Informal Objection (“Objection”) filed on the same day against the application for a new FM booster station construction permit, KWNZ-1,³ at Lovelock, Nevada; and (3) related pleadings.⁴ For the reasons set forth below, we deny the Petitions and Objection.

Background. On February 10, 2012, Shamrock filed a minor change application for KNEZ-1 and KRZQ-1 to “better penetrate structures” and “address intervening terrain in Sparks and the Northern part of Reno, Nevada.”⁵ On February 14, 2012, Shamrock filed a new station application for KWNZ-1 to rebroadcast the primary station KWNZ(FM), Lovelock, Nevada. The Commission granted the KNEZ-1 and KRZQ-1 applications on February 20, 2012. Public Notice of the grant was issued on February 21, 2012.⁶ Americom filed its Petitions and Objection on March 22, 2012, claiming that the Commission should place a condition on the licenses because, although there is no Rule violation, the parameters of the authorization (or proposed parameters in KWNZ-1’s application), leave very little room for error under the Commission’s interference protection standards.⁷ Specifically, Americom requests the following conditions to ensure the antenna is installed correctly and remains so in the future: (1) a complete proof-of-performance; (2) an affidavit from a licensed surveyor to establish that the directional antenna has been oriented at the proper azimuth; (3) an affidavit that the installation...of the antenna was overseen by a qualified engineer...⁸ and (4) an “annual certification” obligation to assure compliance on an “ongoing basis.”⁹ In Opposition, Shamrock states that it requested “the maximum permissible facilities consistent with the Commission’s rules” in order to improve reception within the area of the primary FM station’s Class C facilities, which is wholly consistent, not only with the purpose of a booster, but also with the Rules.¹⁰

Discussion. The Commission will consider a Petition for Reconsideration only when the petitioner shows either a material error in the Commission’s original order or raises changed circumstances or unknown additional facts not known or existing at the time of petitioner’s last opportunity to present such matters.¹¹ Pursuant to Section 309(e) of the Act, informal objections must

² Station KEHD-1 changed its call sign to KNEZ-1 effective September 12, 2012.

³ Full power station KZHD(FM) changed its call sign to KWNZ(FM) effective September 12, 2012.

⁴ On April 4, 2012, Shamrock filed an “Opposition to Petition for Reconsideration” for KRZQ-1 and KNEZ-1. It also filed an “Opposition to Informal Objection” on the same day (collectively, “Oppositions”).

⁵ Oppositions at 2.

⁶ *Broadcast Actions*, Public Notice, Report No. 47648.

⁷ Americom operates twelve full power or translator stations in the area.

⁸ Petitions at 6; Objection at 6.

⁹ Petitions at 7.

¹⁰ Oppositions at 3.

¹¹ See 47 C.F.R. § 1.106, *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff’d sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966), and *National Association of Broadcasters*, Memorandum Opinion and Order, 18 FCC Rcd 24414, 24415 (2003). Because of the brief time period between acceptance and grant of the KRZQ-1 and KNEZ-1 applications, Americom correctly filed petitions for reconsideration. See *WMCB-SP, Greenfield, MA*, Letter, 25 FCC Rcd 14172, 14174 (MB 2010) (considering informal objection as petition for reconsideration in light of brief period between acceptance for filing and grant), *citing Barnes Enterprises, Inc.*, Memorandum Opinion and Order, 55 FCC 2d 721 (1975) (application granted three days after being accepted for filing; Commission treats informal objection as an informal request for reconsideration); *Aspen FM, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 17852, 17854 (1997) (standing awarded to file petition for reconsideration without pre-grant objection when application granted five days after Public Notice of its acceptance); and *Ted and Jana Tucker*, Memorandum Opinion and Order, 4 FCC Rcd 2816 (1989) (standing awarded to file petition for reconsideration without pre-grant objection when application granted

provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest.¹² For the reasons set forth below, we find that Americom has not met either burden.

Here, Americom admits there is no Rule violation. It simply wishes to ensure strict compliance with authorized parameters at time of construction and in the future. However, we note that mere assumptions and prognostications of Rule violations are not enough to warrant even “prophylactic” measures, as advocated by Americom.¹³ Moreover, there are already measures in place to ensure rule compliance, as an application for license to cover requires applicants to confirm that the facility was constructed exactly in accordance with the permit.¹⁴ If Americom believes that the relevant rules need to be amended to protect against interference, it should pursue a rulemaking rather than the *ad hoc* measures requested in the Petitions and Objection.¹⁵ Accordingly, we deny the Petitions and Objection.

Conclusion. Accordingly, IT IS ORDERED that the Petition for Reconsiderations and the Informal Objection filed by Americom Las Vegas Limited Partnership and Americom, L.P. on March 22, 2012, ARE DENIED.¹⁶

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Shamrock Communications, Inc.
Americom Las Vegas Limited Partnership
Americom, L.P.

four days after Public Notice of its acceptance). We note that minor change applications are not subject to a 30-day petition to deny period. See 47 C.F.R. §§ 73.3580(a)(1) and (b) and 73.3584.

¹² 47 U.S.C. § 309(e); See also *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 R.R. 2d 862 (1986) (informal objections, like petitions to deny, must contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹³ Petitions at 4. See *WCRS-LP, Groveport and Columbus, Ohio*, Letter, 25 FCC Rcd 15277, 15280 (MB 2010) (finding speculative and unsupported allegations insufficient to raise a substantial or material question of fact).

¹⁴ See Instructions to FCC Form 350, Section II, Item 2.

¹⁵ See 47 C.F.R. § 1.401.

¹⁶ The KWNZ-1 application conflicts with two Auction 83 new FM translator applications. File Nos. BNPFT-20030312ADB and 20030317JTM. Accordingly, we must defer further processing of this application at this time. See 47 C.F.R. § 74.1233(b) (conflicting booster application processed in queue behind lead application).