

FEDERAL COMMUNICATIONS COMMISSION

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WASHINGTON DC 20554

JUN 30 2011

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
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Don J. Tlapek
5064 Vermillion Drive
Castle Rock, CO 80108

In re: NEW(FM), Olathe, CO
Facility ID #189525
Don J. Tlapek
BNPH-20110628ABN

Dear Mr. Tlapek:

The staff has under consideration the above-captioned FM Auction No. 91 for a new commercial FM facility to modify the community of license ("CofL") from Gunnison, CO to Olathe, CO and to change Channel from 299C3 to 298C1, effective radiated power, and transmitter site.

An engineering study reveals that the one-step assignment site¹ specified in the application fails to meet the minimum spacing requirement of 47 C.F.R. § 73.207 with respect to the co-channel Class C licensed facility (BLH-19991214ABI) for KQKS(FM), Lakewood, CO and the second-adjacent channel Class C licensed facility (BLH-20110209ADF) for KBKL(FM), Grand Junction, CO. Specifically, with respect to KQKS, the proposed facility is short-spaced by 24 kilometers. The required spacing pursuant to § 73.207 is 270 kilometers while the actual spacing proposed in the application is 246 kilometers. With respect to KBKL, the proposed facility is short-spaced by 25 kilometers. The required spacing pursuant to § 73.207 is 105 kilometers while the actual spacing proposed in the application is 80 kilometers. These short-spacings were not addressed in the application. These deficiencies constitute an acceptance defect. Therefore, the applicant must amend the application to eliminate these short-spacings.

Further action on the subject application will be withheld for a period of thirty (30) days from the date of this letter to provide an opportunity to submit the requested information. Failure to respond within this time period will result in the dismissal of the application for failure to prosecute pursuant to 47 C.F.R. § 73.3568(a)(1).

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: James L. Osyter, Esq.
David J. Doherty, Engr.

¹ The one-step assignment coordinates specified in the Tech Box of the application are 38° 56' 38" N.L., 107° 40' 26" W.L. (NAD 27). The one-step assignment coordinates specified in the engineering exhibit are 38° 25' 38" N.L., 107° 50' 38" W.L. (NAD 27). Only the coordinates specified in the Tech Box of the application were studied.