



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

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In Reply Refer to: 1800B3-KV

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In re: W279DD, Hudson, WI
File No. BLFT-20160502ABR
Facility ID No. 141819

Interference Complaint

Dear Counsel:

This letter refers to the August 24, 2017, Interference Complaint (Complaint) filed by Stewards of Sound, Inc. (SSI), licensee of Station WWIB(FM), Hallie, Wisconsin, alleging interference from FM Translator Station W279DD, Hudson, Wisconsin,¹ (W279DD or Station) licensed to WRPX, Inc. (WRPX or Licensee).² For the reasons set forth below, we grant the Complaint and require WRPX to immediately cease operation of FM Translator Station W279DD.

Background. The Station originally was authorized on Channel 237 at Blue Earth, Minnesota.³ On May 23, 2016, Commission staff granted a covering license application to, *inter alia*, move the

¹ The Commission's consolidated database (CDBS) erroneously lists the Station's community of license as Husdon, Wisconsin, instead of the correct community, Hudson.

² Also before us are the following responsive pleadings: (1) a "Response to Interference Complaint" filed by WRPX on November 13, 2017 (Response); (2) a "Reply to Response to Interference Complaint" filed by SSI on December 27, 2017 (Reply); and a "Further Response to interference Complaint" filed by WRPX on January 29, 2018 (Further Response).

³ See BNPFT-20130327AFT, granted May 7, 2013.

Station to channel 279 at Hudson, Wisconsin.⁴ The Station is a translator for the primary station WDGY(AM), Hudson, Wisconsin, which is also licensed to WRPX.

On August 24, 2017, SSI filed the Complaint, alleging that W279DD is interfering with the reception of cochannel station WWIB(FM). In support, SSI attached 10 complaints, dated July 14 – 24, 2017, from listeners Linda Nelson (Nelson); Marlys O’Keefe (O’Keefe); Karen Adams (Adams); Roger Castleberg (Castleberg); Susie Monicken (Monicken); Fran Kromrey (Kromrey); Brenda Cogbill (Cogbill); Tom Moe (Moe); Jerry Holman (Holman); and Barbara Bartz (Bartz).⁵ SSI reports that it began “receiving complaints many months ago . . . [indicating] the interference started in the summer of 2016. [SSI] deferred filing this complaint until it had opportunity to approach WRPX privately and . . . to document the complaints . . .”⁶ SSI notes that the initial listener contacts, dated January 30, 2017 - July 15, 2017, were listener initiated, but it followed up with each listener “to flesh out each of the elements the Commission requires . . .”⁷ SSI then compiled written listener narratives with each reporting interference at their personal residences and/or vehicles and in one case at a farm;⁸ the listeners reviewed and executed the written narratives. SSI also submitted an engineering map showing of the contours for WWIB and W279DD and the listeners’ locations.⁹

On October 16, 2017, the Media Bureau (Bureau) sent WRPX a letter requiring it to respond within 30 days to the listener complaints reporting interference to their reception of WWIB(FM).¹⁰ Specifically, the Bureau directed Licensee to submit a detailed report addressing the listener complaints including: “(1) the name and address of each complainant; (2) specific devices receiving the interference (i.e. type of device, manufacturer’s name, model number, and serial number); and (3) any assistance provided by WRPX for each device allegedly receiving the interference and whether such interference persists.”¹¹ The Bureau further noted that “[f]ailure to correct all complaints within this time may require W279DD to suspend operation pursuant to 47 CFR §§ 74.1203(e) and 74.1232(h).”¹²

On November 30, 2017, WRPX filed a Response arguing that the Complaint should be deemed resolved. It notes that the Station operated for 11 months, before SSI contacted it in March 2017 about the alleged interference. Regarding the 10 listener complaints, Licensee states that it was unable to contact Castleberg because his phone had been disconnected.¹³ As for the remaining nine listeners, Licensee reports that in September and October 2017, it visited each listener location and tested WWIB(FM) reception using a car radio, a table radio, and a pocket radio.¹⁴ Licensee also reports that on specified dates in September and October 2017, it contacted each listener with the following results: 1) Cogbill, Moe, O’Keefe, Monicken, Holman and Kromrey each reported being satisfied their WWIB(FM)

⁴ See File No. BLFT-20160502ABR, implementing BMPFT-20160225AAM.

⁵ Complaint, Exh. 1.

⁶ *Id.* at n. 2.

⁷ *Id.* at 2

⁸ Complaint, Exh. 1.

⁹ *Id.* at Exh. 2.

¹⁰ See Letter from James D. Bradshaw, Deputy Chief, Audio Division, Media Bureau to WRPX, Inc., (dated Oct. 16, 2017), (2017 Letter).

¹¹ *Id.*

¹² *Id.*

¹³ Response at 1; Engineering Exhibit at 3, 4.

¹⁴ Specifically, WRPX reports that it used the following equipment: a 2015 Audi factory stock car radio #4G0035080G; an Insignia NS-HDRAD AM-FM-HD table radio 15C18A0000860; and a SPARC SHD-P360 FM-HD portable pocket radio. *Id.* at 3.

reception;¹⁵ 2) Bartz said “she had installed internet radio and was receiving WWIB that way”;¹⁶ 3) Adams “stated she would discuss it [WRPX’s offer to resolve the interference] with her husband and would get back to us if necessary”;¹⁷ and 4) during a November 2, 2017, home visit with Nelson, WPRX management “improved the quality of WWIB on her kitchen radio but we are exploring further options to assist her, including the installation of an antenna at no cost to Ms. Nelson.”¹⁸ Licensee also reported providing all nine listeners “with direct contact information for WRPX, Inc. management . . . should they have any further questions or need assistance receiving WWIB.”¹⁹

On December 27, 2017, SSI filed a Reply to WRPX’s response, contending that the listener complaints were in fact not resolved. Specifically, apart from Castleberg who SSI was also unable to contact, it submitted signed statements, dated November 30, 2017 – December 10, 2017, from each listener reporting that their WWIB(FM) interference continued:

- Cogbill reported “I did not say that the reception was good and . . . I continue to have less than clear reception from WWIB”;
- Moe noted that while he receives “good reception” at his house and “ok reception” on his farm, “just 2 miles west of our farm the reception is poor especially going west further towards New Richmond”;²⁰
- Kromrey stated that WRPX personnel did not speak to her, but rather spoke with her husband who “has no clue what I listen to in the house or car radio when I’m alone. I do not get WWIB in my home or car anymore”;²¹
- Bartz reported that she “cannot receive WWIB continuously in automobile without interference.”;
- O’Keefe noted “before I spoke with [Licensee] . . . I had not tried 103.7 in my car. Since then I have and receive WDGY loud and clear. I get WWIB very full of static on the hill going to Spring Valley, WI. My house radio does not bring in WWIB at all”;
- Adams stated “we don’t always have interference . . . but it still happens”;
- Holman declared “I want to listen to WWIB on 103.7 FM”, but indicates that he is not able to listen to WWIB(FM) either on his car radio or inside his house without interference;
- Monicken reported that on October 24, 2017, Licensee’s president, informed her that they checked WWIB(FM) reception in her driveway and “could receive WWIB just fine because they fixed the problem.” She was unable to check her reception at that time, but she told him to “consider the case closed for now . . .” Subsequently, she reported on “Nov. 14 I called Mr. Borgen [Licensee’s president to inform that] . . .there was still a problem. He offered to send his team of experts . . . [O]n November 15, [I] told him I

¹⁵ *Id.* at 3 -4.

¹⁶ *Id.* at 4.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

didn't want them [the experts] to come with an antenna and that they need to deal with WWIB and the FCC, not me"; and

- Nelson stated on November 30, 2017, that her interference problem was unresolved. On December 4, 2017, she reported that Licensee "came by this afternoon and brought me a 'Google Home Mini' so I can pick up WWIB on it at any time. They said there will be no cost to me – on it you[WWIB] come in loud [and] clear!"²² She further indicates that she cannot listen to WWIB(FM) on her radio without interference.

On January 29, 2018, Licensee filed a Further Response, arguing that the listener reports in SSI's Reply should be dismissed as hearsay. Next, WRPX attaches a "Declaration of George O. Borgen,"²³ Licensee's president, stating, in pertinent part:

Each of the nine (9) complainants . . . was contacted by me or my son who is also part of the station management. The tenth complainant . . . is unavailable.

The results . . . are correctly summarized in the Engineering Exhibit [in the Response] . . .

Each . . . was told that if . . . still experiencing interference . . . [to]contact WDGY . . . With the exception of Linda Nelson, none . . . have . . . In the case of Ms. Nelson, WDGY is planning to install a new antenna as soon as weather permits.

Moe only listed his home address in the initial complaint. After learning the location of his farm, we drove [there] . . . and found that the car radio was receiving WWIB clearly . . .

WDGY had no reason to suspect that [Kromrey's] husband could not be speaking for the household. Thus, WDGY had every reason to assume there was no problem.

Bartz [said]. . . she listened to WWIB via internet radio, and did not mention . . . off-the-air radio. WDGY could only assume that she was not experiencing any interference.

O'Keefe does not regularly listen in her car since she states that she had never tried . . . previously. WDGY cannot explain why she now says she cannot get WWIB at home when she told us earlier that she could.

Monicken . . . indicates that she does not wish to have further contact with WDGY.

Adams [said] . . . she would 'get back' to [them, but] did not . . . [I]t appears that any interference is only intermittent, and it is not clear that WDGY is responsible . . .

Holman [said] . . . he would reach out . . . if he had [interference] problems . . . [H]e never did. [Also] . . . he wants to listen to WWIB, but . . . no mention of interference limiting his ability to do so, or that he attempts to listen to WWIB.

Discussion. Section 74.1203(a) provides, in pertinent part, that an FM translator station "will not be permitted to continue to operate if it causes any actual interference to . . . the direct reception by the public of off-the-air signals of any authorized broadcast station . . ."²⁴ The rule places no geographic or temporal limitation on complaints, and we have long held that mobile receivers, such as automobile radios, should not be subject to interference resulting from the operation of an FM translator or booster station.²⁵ The FM

²² Reply, Exh. 1.

²³ Further Response, "Declaration of George O. Borgen" (dated Jan. 24, 2018) (Borgen Declaration).

²⁴ 47 CFR § 74.1203(a).

²⁵ See, e.g., *Forus FM Broad. of New York, Inc.*, 7 FCC Rcd 7880, 7882, para. 16 (MB 1992) (because of the secondary nature of FM booster stations, and the resulting requirement that they provide interference-free service, such stations will not be permitted to cause interference to mobile receivers).

translator rules strictly prohibit interference by these secondary service stations, and an interfering FM translator station must remedy the interference or suspend operation.²⁶

The Commission has interpreted “direct reception by the public” to limit actionable complaints to those that are made by *bona fide* listeners.²⁷ Thus, it has declined to credit claims of interference²⁸ or lack of interference²⁹ from station personnel involved in an interference dispute. More generally, the Commission requires that a complainant “be ‘disinterested,’ e.g., a person or entity without a legal stake in the outcome of the translator station licensing proceeding.”³⁰ The staff has routinely required a complainant to provide his or her name, address, location(s) at which FM translator interference occurs, and a statement that the complainant is, in fact, a listener of the affected station. Moreover, as is the case with other types of interference complaints,³¹ the staff has considered only those complaints of FM translator interference where the complainant cooperates in efforts to identify the source of interference and accepts reasonable corrective measures.³² Accordingly, when the Commission concludes that a *bona fide* listener has made an actionable complaint³³ of uncorrected interference from an FM translator, it will notify the station that “interference is being caused” and direct the station to discontinue operations.³⁴

The issue before us is whether Licensee has eliminated the actual interference caused by the Station to the 10 listeners of co-channel station WWIB(FM) who filed complaints. As an initial matter, we find meritless Licensee’s argument that although the Station began operations at the Hudson site in May 2016, SSI did not file the Complaint until August 2017. Section 74.1203(a) of the Rules places no

²⁶ 47 CFR § 74.1203(b).

²⁷ See *Ass’n for Cmty. Educ., Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688, para. 16 (2004) (*Ass’n for Cmty. Educ.*).

²⁸ See *id.*

²⁹ See *Living Way Ministries, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 15070, 15077, n.46 (2008).

³⁰ *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688 n.37.

³¹ See, e.g., *Jay Ayer and Dan J. Alpert*, Letter, 23 FCC Rcd 1879, 1883 (MB 2008) (requiring complainants to cooperate fully with the station’s efforts to resolve interference and cautioning that the failure to do so could lead to a finding that the station has fulfilled its interference remediation obligations).

³² See *Radio Power, Inc.*, Letter, 26 FCC Rcd 14385, 14385-86 (MB 2011) (*Radio Power*) (listing grounds that translator licensee claimed are sufficient to conclude that complainant has failed to reasonably cooperate and finding that a listener may reasonably reject a non-broadcast technology to resolve interference claim).

³³ Because only a complaint from a *bona fide* listener of the desired station can force a translator station to suspend operation, the engineering showing submitted by SSI in Exhibit 2 to the Complaint do not meet that criterion. See, e.g., *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 16 (station’s engineer locating the points on a map where the translator had interfered with the stations’ signal as he drove around the full-service station’s coverage area listening to the car radio did not meet that criterion) and *Valley Broad., Inc.*, 7 FCC Rcd 4317, 4319, para. 26 (MB 1992) (tests for booster interference were conducted under Special Field Test Authority by a neutral party, using a mobile receiver and a stationary receiver. The application was granted with the *caveat* that if the booster station resulted in listener interference complaints, the permittee would be required to discontinue its operation until all complaints had been resolved). Likewise, the referenced engineering showing presented by SSI is not probative because Section 74.1203(b) does not allow us to rely on such studies.

³⁴ See 47 CFR § 74.1203(e); see also *Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations*, Report and Order, 5 FCC Rcd 7212, 7230, para. 131 (1990), *modified*, 6 FCC Rcd 2334 (1991), *recon. denied*, 8 FCC Rcd 5093 (1993); *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 15.

time limits on addressing actual interference caused by a translator station.³⁵ Moreover, several of the listeners reported that their interference problems began in 2016.³⁶

Here, we find, as detailed below, that Licensee has failed to resolve the eight listener complaints. We further find that two listeners, Castleberg, who both SSI and WRPX reported was unavailable, and Monicken, who requested no further contact with WRPX, have dropped out of the Complaint process.

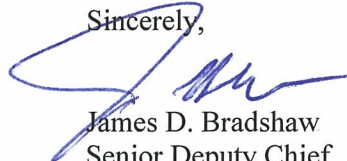
Regarding the eight remaining listeners, in the November 30, 2017, Reply, each signed a statement, on specified dates in November – December 2017, reporting that their interference was unresolved. We do not see a need to address Licensee's argument that these detailed, signed, statements should be rejected as hearsay because each of the eight listeners indicated that he or she continues to experience interference to the reception of WWIB(FM).

Apart from Nelson, Licensee made no attempt to re-contact any listener to address the outstanding interference issues. Rather in the Further Response, Licensee primarily summarizes "the statements contained in the previously-filed response."³⁷ Moreover, in certain cases, Licensee implicitly acknowledges that it never resolved the listener complaint: it did not speak with Kromrey, but rather spoke only to her husband who was not involved in the process; and it "assumed" that Bartz's use of internet radio for WWIB(FM) meant that "she was not experiencing any problem."³⁸ As for Nelson, Licensee stated only that on November 2, 2017, it "improved" her WWIB(FM) reception. Subsequently, on January 24, 2018, Licensee reported it "is planning to install a new antenna as soon as weather permits."³⁹ To date Licensee has not submitted any evidence that it installed said antenna for Nelson.⁴⁰ Consequently, we conclude that WRPX has failed to eliminate the interference to eight listeners and, therefore, W279DD must suspend operations.

Conclusion. Based on the above, IT IS ORDERED, that the Interference Complaint filed by Stewards of Sound, Inc. on August 24, 2017, IS GRANTED.

IT IS FURTHER ORDERED that pursuant to Sections 74.1203 and 0.283 of the Rules,⁴¹ based on the above, WRPX, Inc. IS HEREBY ORDERED TO CEASE OPERATION OF STATION W279DD IMMEDIATELY.

Sincerely,



James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau

³⁵ Under Section 74.1203(a), interference is considered to occur "*whenever* reception of a regularly used signal is impaired by the signals radiated by the FM translator or booster station" (emphasis supplied).

³⁶ See Complaint, Exh. 1

³⁷ Further Response at 1.

³⁸ *Id.*, Borgen Declaration at 2.

³⁹ *Id.*

⁴⁰ As an aside we note that although Licensee supplied Nelson with a "Google Home Mini" to receive WWIB(FM) over the internet this does not resolve her interference issue. See *Radio Power*, 26 FCC Rcd at 14386 (finding that a non-broadcast service does not cure a Section 74.1203(a)(3) violation.).

⁴¹ 47 CFR §§ 74.1203 and 0.283.