

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, SW
WASHINGTON, DC 20554

MEDIA BUREAU

AUDIO DIVISION

APPLICATION STATUS: (202) 418-2730

HOME PAGE: www.fcc.gov/mb/audio/

PROCESSING ENGINEER: Arthur E. Doak

TELEPHONE: (202) 418-2715

FACSIMILE: (202) 418-1411

MAIL STOP: 1800B3-AED

INTERNET ADDRESS: arthur.doak@fcc.gov

May 26, 2011

Western New Life, Inc.
P.O. Box 7707
Caguas, PR 00726-7707

In re: WQML(FM), Culebra, PR
Facility ID No.: 183333
Western New Life, Inc.
BMPH-20101202ABW

Dear Applicant:

This is reference to the above-captioned minor change application to modify the community of license ("CofL") from Charlotte Amalie, VI to Culebra, PR and to change effective radiated power, class, antenna height, and transmitter site.¹

An engineering study of the application reveals that the proposal violates 47 C.F.R. § 73.3573(g)(2). Specifically, an applicant proposing to change the CofL via a minor change application must specify facilities at the proposed CofL that are mutually exclusive with the applicant's assignment, in the case of a winning auction bidder. The proposed facilities on Channel 254A in Culebra, PR are not mutually exclusive with the original assignment on Channel 257A in Charlotte Amalie, VI.² Although the permittee was granted a construction permit (BMPH-20100618ANW) to specify Channel 254B1 in lieu of Channel 257A in Charlotte Amalie, VI, a modification of permit for an unlicensed station can not propose facilities that would not be authorized as an initial construction permit. Therefore, any application proposing a community of license change filed by a permittee that has not built its current permitted facilities and that is not mutually exclusive with either the applicant's built and licensed facilities or its original assignment is unacceptable for filing. Accordingly, the applicant must specify a proposal that is mutually exclusive to the original assignment on Channel 257A in Charlotte Amalie, VI. This deficiency constitutes an acceptance defect.

Pursuant to 47 C.F.R. § 73.3522, "... an applicant whose application is found to meet the minimum filing requirements but nevertheless is not complete and acceptable shall have the opportunity in the 30-day period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, 47 C.F.R. § 73.3564 states that

¹ The application was amended on December 13, 2010 and May 17, 2011.

² The coordinates for the original assignment in Charlotte Amalie, VI on Channel 257A are 18° 21' 25" N.L., 64° 58' 00" W.L. (NAD 27).

"[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for amendment." *See* Appendix B in the *Report and Order* in MM Docket No. 91-347. This letter constitutes your opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3522.

Further action on the subject application will be withheld for a period of thirty days from the date of this letter to provide WQML an opportunity to respond. Failure to correct all tender and acceptance defects within the thirty days from the date of this letter will result in the dismissal of the application with no further opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3564.

Sincerely,

Arthur E. Doak

Arthur E. Doak
Senior Engineer
Audio Division
Media Bureau

cc: Scott C. Cinnamon, Esq.
Bromo Communications, Inc.