

FEDERAL COMMUNICATIONS COMMISSION

**445 12th Street SW
WASHINGTON DC 20554**

**MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
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AUG 05 2013

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Cox Radio, Inc.
1601 West Peachtree Street, NE
Atlanta, GA 30309

In re: WALR-FM, Palmetto, GA
Facility ID No.: 48728
Cox Radio, Inc. ("Cox")
BPH-20130624ABZ

Dear Applicant:

The letter is in reference to the above-captioned minor change application proposing to upgrade its Class from C1 to C0 at its licensed site.

An engineering study reveals that both the facility and assignment sites specified in the application fail to meet the minimum spacing requirement of 47 C.F.R. § 73.207 with respect to the fifty-third adjacent channel Class C0 construction permit (BPH-20091124ACR) for WVFJ-FM, Greenville, GA. Specifically, the facility and assignment sites are short-spaced by 4 kilometers to WVFJ. The required spacing pursuant to § 73.207 is 41 kilometers while the actual spacing proposed in the application is 37 kilometers.¹ This constitutes an acceptance defect. Therefore, the applicant must amend the application to eliminate this short-spacing.²

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 "[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.

¹ This letter does not imply any judgment on the justifications provided in the application regarding the short-spacings from the proposed assignment site to the following stations: (1) the first-adjacent channel Class A license (BLH-20040709ACR) of WZTR(FM), Dahlongega, GA, and (2) the co-channel Class A license (BLH-20040709ACQ) of WCLE(FM), Calhoun, TN.

² Cox attempts to equate its previous Class C1 facility to a co-channel downgrade. Co-channel downgrades are not effectuated until a license is granted to cover the permit and thus, the previous license remains protected. However, construction permit BPH-20091124ABA proposed the modification of its community to Palmetto, GA with Class C1 facilities. The grant of this permit modified WALR's assignment and license to specify both Palmetto, GA and Channel 281C1. WALR's licensed facility in Greenville, TN on Channel 281C0 operates via an implied Special Temporary Authority and is no longer afforded protection. Therefore, Cox is required to either implement the Channel 281C1 assignment in Palmetto, GA or specify a rule compliant application protecting WVFJ's construction permit (BPH-20091124ACR).

Further action on the subject application will be withheld for a period of thirty days from the date of this letter to provide the applicant 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. Please note, any amendment must be submitted in the same manner as the original application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci". The signature is stylized and includes a horizontal line at the end.

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Rober J. Folliard, III