



Federal Communications Commission
Washington, D.C. 20554

October 14, 2014

In Reply Refer to:
1800B3-ATS

Dr. Sandra Woodruff
Olympic Broadcasting, Inc.
P.O. Box 760
Shelton, WA 98584

In re: Olympic Broadcasting, Inc.
K281BM, Shelton, Washington
File No. BPFT-20140721AAM
Facility ID No. 154893

Petition for Reconsideration

Dear Dr. Woodruff:

We have before us the Petition for Reconsideration filed by Olympic Broadcasting, Inc. ("Olympic"), seeking reconsideration of the Media Bureau ("Bureau") letter dismissing the above-referenced application ("Application") that Olympic filed to modify the facilities of FM Translator Station K281BM, Shelton, Washington ("Translator").¹ For the reasons discussed below, we deny the Petition.

Background. The Translator is currently licensed to operate on Channel 281. Olympic filed the Application for "Minor Change in Licensed Facility"² on July 21, 2014, proposing to modify the Translator to operate on Channel 277. In its Engineering Exhibit, Olympic indicated that it was requesting a *Mattoon* waiver because it was seeking to change the Translator's current channel to a non-adjacent channel.³ On September 5, 2014, the Bureau dismissed the Application because it was a major change application under Section 74.1233(a)(1) of the Commission's Rules ("Rules")⁴ and the Application was not filed during a filing window.⁵

Olympic filed the Petition on September 5, 2014. It states that it mistakenly identified the Application as a "Minor Change in Licensed Facility" instead of as a "Major Change in Licensed Facility."⁶ Olympics thus requests that the Application be reinstated and processed as a "Major Change in Licensed Facility."⁷

¹ *Olympic Broadcasting, Inc.*, Letter, Ref 1800B3 (MB Sep. 5, 2014). See also *Broadcast Actions*, Public Notice, Report No. 48321 (MB Sep. 10, 2014).

² Application at Section I, Question 5.

³ See Application at Att. 13, Engineering Exhibit. See also *The Cromwell Group, Inc. of Illinois*, Letter, 26 FCC Rcd 12685 (MB 2011) ("*Mattoon*").

⁴ See *Dismissal Letter* at 1. See also 47 C.F.R. § 74.1233(a)(1) ("For FM translator stations, a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels, and any change in antenna location where the station would not continue to provide 1 mV/m service to some portion of its previously authorized 1 mV/m service area.").

⁵ 47 C.F.R. § 74.1233(b)(3) (Applications for reserved band FM translator stations will be processed using filing window procedures. The FCC will specify by Public Notice, a period for filing reserved band FM translator applications for a new station or for major modifications in the facilities of an authorized station. FM translator applications for new facilities or for major modifications will be accepted only during these specified periods.).

⁶ Petition at 1.

⁷ *Id.*

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 additional facts, not known or existing at the time of the petitioner's last opportunity to present such matters.⁸ Olympic has not met this burden.

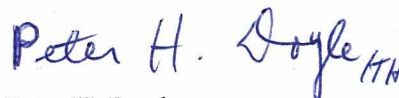
Applications for major modifications of existing translator facilities may only be filed during filing windows.⁹ The Application was not filed during a filing window and accordingly, we cannot reinstate the Application as a request for a major change. However, the *Dismissal Letter* did not address Olympic's request for a *Mattoon* waiver. Therefore, we now consider and deny Olympic's *Mattoon* waiver request.

We have previously granted *Mattoon* waivers where an applicant that is seeking to relocate its transmitter site to a location that would be prohibited by Section 74.1233(a) has demonstrated that: (1) it does not have a history of filing "serial" minor modification applications; (2) the proposed facility is mutually exclusive to its licensed facility; (3) the proposed move does not implicate the concerns raised by the Commission in the recent orders in the low power FM docket,¹⁰ and, (4) while not alone dispositive, the translator will rebroadcast an AM station.¹¹ Here, Olympic is not seeking to relocate its transmitter, so *Mattoon* is not applicable.

Moreover, even if we did apply *Mattoon*, we would deny the waiver request the proposed change to Channel 277 would not be mutually exclusive with the Translator's current operations on Channel 281. We have recently declined to grant a *Mattoon* waiver where this second criteria was not satisfied.¹² Additionally, although we have granted waivers of Section 74.1233(a) to allow prohibited channel changes in cases where a translator is displaced by a full-service station,¹³ Olympic has not indicated that the Translator faces displacement. Accordingly, we deny Olympic's request for a *Mattoon* waiver.

Conclusion/Actions. For the reasons set forth above, IT IS ORDERED, that the Petition for Reconsideration filed by Olympic Broadcasting, Inc., on September 5, 2014, IS DENIED.

Sincerely,

The image shows a handwritten signature in blue ink that reads "Peter H. Doyle". To the right of the signature, there are the initials "TH" also written in blue ink.

Peter H. Doyle
Chief, Audio Division
Media Bureau

⁸ See 47 C.F.R. § 1.106(c), (d); see also *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).

⁹ See 47 C.F.R. §§ 74.1233(b)(3) (reserved band) and (d)(2)(i) (non-reserved band).

¹⁰ *Creation of a Low Power Radio Service*, Third Further Notice of Proposed Rulemaking, 26 FCC Rcd 9986 (2011) ("Third Further Notice"); Fourth Report and Order and Third Order on Reconsideration, 27 FCC Rcd 3364 (2012) ("Fourth Report and Order").

¹¹ *Mattoon*, 26 FCC Rcd at 12686. See also *Perry Publishing & Broadcasting Company, Inc.*, Letter, 27 FCC Rcd 5955 (MB 2012).

¹² *Way Media, Inc.*, Letter, DA 14-1365 (MB Sep. 19, 2014) (denying *Mattoon* waiver where applicant had not demonstrated its proposal was mutually exclusive with its licensed facility).

¹³ See, e.g., *Wilks License Company-Columbus LLC*, Letter, 28 FCC Rcd 8924, 8925 (MB 2013) (referring to an underlying staff decision that granted a waiver to move a displaced translator station to a non-adjacent frequency).