

EXHIBIT A



Federal Communications Commission
Washington, D.C. 20554

February 19, 2008

DA 08-407

In Reply Refer to:

1800B3-MJW

Released: February 19, 2007

Ms. Sheila Weber
2350 Douglas Road #25
Ferndale, Washington 98248

Ms. Kay Sutcliffe
969 W. Axton Rd.
Bellingham, WA 98226

In re: **BBC Broadcasting, Inc.**
KRPI (AM), Ferndale, Washington
Facility ID 21416
File No. BR-20050922ACS

Application for Renewal of License

Informal Objections

Dear Ms. Weber and Ms. Sutcliffe:

This letter concerns the captioned application (the "Application") filed by BBC Broadcasting, Inc. ("BBC" or the "Licensee") to renew the license of Station KRPI (AM), Ferndale, Washington ("KRPI"). Also on file is an informal objection (the "Objection") filed by Ms. Sheila Weber on behalf of Residents Against High-Power Radio Interference ("Residents") on December 1, 2005, alleging that persons in Ferndale, Washington, are experiencing interference problems due to their proximity to KRPI's transmitter. For the reasons set forth below, we deny the Objection and grant the Application. In an attachment to this letter, we also outline the station's responsibilities under the blanketing interference provisions for AM stations as set forth in Sections 73.88 and 73.318 of the Commission's Rules (the "Rules").¹²

¹ 47 C.F.R. §§ 73.88 and 73.318.

² BBC filed an Opposition to Informal Objection on Jan, 20, 2006 ("Opposition"). Residents filed a reply to the BBC Opposition on Feb. 6, 2006. It later filed a "Reply to Opposition to Informal Objections" on August 2, 2006 ("Reply to Opposition"), and supplemented its Reply to Opposition by letter dated August 9, 2006. BBC argues that Residents are not permitted to file a reply to an opposition to an informal objection. We will consider the Reply to Opposition in the interest of developing a complete record and because our doing so in no way prejudices BBC. We also consider Residents' supplement which transmitted letters inadvertently omitted from the Reply to Opposition, and the Mar. 13, 2006, letter from Ms. Kay Sutcliffe transmitting a letter she sent to BBC explaining why she signed Residents' Objection. Ms. Sutcliffe recites that KRPI interferes with her reception of other, unspecified, stations; that KRPI interferes with the public address system at her church and that KRPI causes "background noise" in residential and business telephones. We accept Ms. Sutcliffe's letter to BBC as an informal objection pursuant to 47 C.F.R. § 73.3587. However, the matters raised by Ms. Sutcliffe are fully addressed in our discussion of the Residents' Objection and we thus make no further specific reference to Ms. Sutcliffe's letter.

Background. Residents allege that: (a) KRPI causes blanketing interference to radio frequency (“R.F.”) and non-R.F. devices located in the vicinity of the KRPI towers;³ (b) KRPI signals exceed safe environmental levels;⁴ (c) KRPI does not conform to the spurious emission limits in the Rules;⁵ (d) the fences and warning signs at the KRPI tower are inadequate;⁶ (e) KRPI’s foreign language programming is of no value to the local community;⁷ and (f) property values have declined in areas affected by interference from KRPI.⁸ In its Opposition, BBC states that: (a) since 1995, BBC has not been financially liable for resolving complaints of interference to radio and television receivers;⁹ (b) that KRPI complies with the Rules governing electromagnetic exposure and spurious emission limits;¹⁰ (c) that the KRPI facility is suitably fenced and warning signs are posted;¹¹ and (d) that BBC has cooperated, and will continue to cooperate, in resolving interference complaints.¹²

Discussion. Pursuant to Section 309(e) of the Communications Act of 1934, as amended (the “Act”),¹³ informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be, *prima facie*, inconsistent with Section 309(k) of the Act,¹⁴ which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission’s Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.¹⁵ If, however, the licensee fails to meet that standard, the Commission may deny the application -- after notice and opportunity for a hearing under Section 309(e) of the Act -- or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”¹⁶ For the reasons set forth below, we find that BBC has met this standard and, accordingly, we grant renewal of the KRPI license.

³ See Objection at 4, 35.

⁴ *Id.* at 7.

⁵ *Id.* at 12.

⁶ *Id.* at 47.

⁷ *Id.* at 42.

⁸ *Id.* at 36.

⁹ Opposition at 11.

¹⁰ *Id.* at 14-17.

¹¹ *Id.*, Attachment to Engineering Statement in Support of KRPI (“KRPI Engineering Statement”).

¹² *Id.* at 12-13. See KRPI Engineering Statement at 5-6.

¹³ 47 U.S.C. § 309(e).

¹⁴ 47 U.S.C. § 309(k). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objection must contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹⁵ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

¹⁶ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

The blanketing interference described by Residents can occur to electronic devices that are in close proximity to an AM transmitter.¹⁷ Irrespective of whether the interference situation described by Residents constitutes blanketing interference, however, the Objection does not raise a *prima facie* case calling for further Commission inquiry. Section 73.88 of the Rules refers to Section 73.318, the blanketing interference rules for FM stations, for more detailed instructions. Section 73.318 states that licensees "must satisfy all complaints of blanketing interference which are received by the station during a one year period. The period begins with the commencement of program tests . . . These requirements specifically do not include interference complaints resulting from malfunctioning or mistuned receivers, improperly installed antenna systems, or the use of high gain antennas or antenna booster amplifiers. Mobile receivers and non-R.F. devices such as tape recorders or hi-fi amplifiers (phonographs) are also excluded." Hard-wired telephones are considered non-R.F. devices under Section 73.318 and, as such, are not covered by this Rule. Cordless telephones are covered by Part 15 of the Rules. (See Section 15.3(j) of the Rules for a definition of a cordless telephone system.)¹⁸ Section 15.5(b) of the Rules states, in pertinent part, that cordless telephones may not cause harmful interference and that interference to cordless telephones caused by the operation of an authorized radio station must be accepted.¹⁹ Accordingly, any complaints of interference to cordless telephones, and "non-R.F. devices" such as hard-wired telephones, public address systems, musical instruments, doorbells and similar equipment referenced in this case are not covered by the blanketing interference rules.

Decision: *R.F. Devices:* Based on the record here, we find that the information supplied by Residents is insufficient to support its claim of blanketing interference to radio²⁰ and television receivers.²¹ Specifically, we cannot determine from Residents' filing: (a) whether the alleged interference occurred inside the KRPI blanketing contour;²² (b) that the alleged interference compromised listeners' or viewers' ability to receive other stations; (c) that the Residents provided copies of interference complaints to BBC; or (c) if BBC received complaints, whether the Licensee responded inadequately.²³ *Non-R.F. Devices:* Residents' complaints about interference to "non-R.F." devices are

¹⁷ See 47 CFR §§ 73.88, 73.318.

¹⁸ 47 C.F.R. § 15.3(j).

¹⁹ 47 C.F.R. § 15.5(b).

²⁰ Residents claim that amateur radio operators have encountered interference to their receivers when operating in the amateur radio bands. See Objection at 23. "Radio receivers" in the context of 47 C.F.R. § 73.318, refers to receivers tuned to broadcast frequencies, not the amateur radio bands. Hence, broadcast stations are not liable for remedying blanketing interference caused to amateur radio receivers. Cf. *Greater Boston Radio, Inc.*, Memorandum Opinion and Order, 8 FCC Rcd 4065, n.1 (1993). ([T]he FM blanketing rule "is designed to protect listeners of FM radio and viewers of television . . .")

²¹ The Commission's rules hold licensees financially responsible for abating blanketing interference to radio and television receivers during a station's first year of operation. Thereafter, the licensee must provide affected listeners or viewers with the technical assistance and guidance necessary to mitigate blanketing interference. KRPI has operated with its current facilities since 1986. In 1995 the Commission determined that KPRI had met its obligations to resolve complaints, and, in 1997, relieved KPRI of the requirement to file reports concerning blanketing interference. See *Letter to Ms. June McQuarrie* (Aud. Div. Sept. 22, 2003). Accordingly, KRPI no longer is financially responsible for abating blanketing interference, but is bound to assist and guide complainants in their efforts to eliminate interference to radio and television broadcast receivers located within the station's blanketing contour. See 47 C.F.R. §§ 73.88, 73.318.

²² The blanketing contour is the area where the signal from an AM Broadcast station is one volt per meter (V/m) or greater. See 47 C.F.R. § 73.14.

²³ See *Amendment of Part 73 of the Commission's Rules to More Effectively Resolve Broadcast Blanketing Interference, Including Interference to Consumer Electronics and Other Communications Devices*, Notice of Proposed Rulemaking, 11 FCC Rcd 4750, 4752 (1996); Report and Order, Termination of Proceeding, 57 RR 2d 126 (1984).

irrelevant to the KRPI license renewal because BBC has no responsibility under Sections 73.88 and 73.318 of the Rules to address such interference. We note with approval, however, that BBC has cooperated in the resolution of interference complaints to “non-R.F.” devices and states it will continue to do so.²⁴ We find no sound technical basis for Residents’ speculation that radio frequency radiation in populated areas near KRPI’s towers exceeds permissible levels because of the directional pattern of KRPI’s antennas.²⁵ We also find that allegations of “R.F. burns”²⁶ based on KRPI’s operations do not establish that KRPI is radiating excessive R.F. energy, and the allegations, therefore, are not actionable. Antennas are intended to intercept electromagnetic energy and are particularly efficient in doing so when their dimensions correspond to, or approach, the wavelength of the source. It is therefore unremarkable that KRPI’s transmission facilities might induce R.F. energy into amateur radio antennas sufficient to cause “R.F. burns” when the antenna terminals are touched. We note that the “question pool” used in examinations for amateur radio licenses tests applicants’ knowledge of R.F. burns.²⁷ Thus, Residents have not overcome BBC’s documented certification that its operations conform to the Commission’s guidelines for electromagnetic radiation. Moreover, the data submitted by Residents do not support their claim that the KRPI signals are “dirty,” *i.e.*, that KRPI transmits spurious emissions exceeding permissible levels.²⁸ With respect to Residents’ claim of inadequate fencing and signage, we find that the photographs supplied by BBC satisfactorily demonstrate that KRPI’s tower fences and R.F. radiation warning signs are adequate.²⁹ Residents’ allegation that KRPI does not serve the public interest because it broadcasts foreign language programming is without merit. The Commission has held that foreign-language programming furthers its diversity goals.³⁰ Finally, assuming, *arguendo*, that the presence of KRPI’s towers do affect property values in the vicinity, the Commission does not consider such factors in a license renewal proceeding.³¹

²⁴ See KRPI Engineering Statement at 12-13

²⁵ See Objection at 7, Exhibit A-14, A-15. Residents contend that KRPI’s radiation levels are excessive because the “configuration of the transmitting phased arrays results in a gain [measured in decibels per inch (sic)]” thereby increasing KRPI’s power over the authorized maximum of 50 kW in the direction of hillside areas in Ferndale.” *Id.* at 32. BBC, however, correctly points out that electromagnetic energy decreases inversely with distance, and therefore that the energy received in the areas that concern Residents cannot be greater than in the area around the base of the towers where BBC has demonstrated it is in compliance with the Commission’s electromagnetic radiation guidelines. See KRPI Engineering Statement at 7. See also, *Entertainment Communications, Inc.*, Memorandum Opinion and Order, 9 FCC Rcd. 1557, 1558, n.5 (1994). (“*Entertainment Communications*”) (“[T]he amount of R.F. radiation at the base of the WYUU tower is only 16.6% of the ANSI limit. This amount decreases as the distance from the tower increases (and as the distance to Tyrone's property decreases)”).

²⁶ See Objection at Exhibit A-20-21, 25.

²⁷ See *Amendment of Part 97 of the Commission's Rules to Permit Volunteer-Examiner Coordinators (VEC's) to Maintain Pools of Questions for Amateur Operator Examinations*, Report and Order, 60 R.R. 2d 1444 (1986). See also, www.w6nbc.com/documents/genpool.doc (Question G9B01).

²⁸ The Residents’ data show, generally, that the levels of harmonic radiation from KRPI increase when KRPI changes from its nighttime power (10 kW) to its daytime power (50 kW). See Reply to Opposition at Exhibit B1-2. Spurious emission limits, however, are not absolute values. Rather, these limits are related to the power of a station’s carrier (the signal being radiated on a station’s authorized frequency). See, *e.g.*, 47 C.F.R. § 73.44(b). We therefore attach no significance to the Residents’ measurements purporting to show that harmonic radiation increases when KRPI converts operations to its authorized daytime power level.

²⁹ See KRPI Engineering Statement (Photo Attachment).

³⁰ See *Network Representation of TV Stations in National Spot Sales, Request of Spanish International Network for Waiver of § 73.658(i), Request of Telemundo Group for Waiver of § 73.658(i), Request of Latin International Group for Waiver of § 73.658(i)*, Report and Order, 5 FCC Rcd. 7280, 7281 (1990). (“[f]ostering foreign-language programming” is a “longstanding goal” of the Commission.)

³¹ *Letter to Betsy Webster, et al*, DA 07-3821, (Aud. Div. Sept. 4, 2007). (“[C]oncern over property values is not an environmental factor considered by the Commission in reviewing proposals for broadcast facilities.”) See also, *Entertainment Communications*, 9 FCC Rcd. at 1558, n.7. (Commission lacks jurisdiction to redress claims of

In sum, we have evaluated BBC's renewal application pursuant to Section 309(k) and find that Station KRPI(AM) has served the public interest, convenience, and necessity during the subject license term; there have been no serious violations of the Act or the Rules; and there have been no other violations which, taken together, constitute a pattern of abuse.

Accordingly, pursuant to Section 309(k)³² of the Act and Sections 0.61 and 0.283 of the Commission's Rules,³³ IT IS ORDERED that the informal objection filed by Ms. Sheila Weber on behalf of Residents Against High-Power Radio Interference IS DENIED. IT IS FURTHER ORDERED, that the application (File No. BR-20050922ACS) of BBC Broadcasting, Inc. for renewal of license for station KRPI(AM), Ferndale, Washington IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

Attachment

cc: James R. Bayes, Esq.

property devaluation due to alleged interference.)

³² 47 U.S.C. § 309(k).

³³ 47 C.F.R. §§ 0.61, 0.283.

Attachment

Blanketing Interference –Covered Devices; Licensee Obligations

The blanketing interference rules cover only devices with radio frequency (RF) tuners – radios, televisions, VCRS, etc. Pursuant to Section 73.88 (AM) and Section 73.318 (FM) of the Commission's Rules, licensees "must satisfy all complaints of blanketing interference which are received by the station during a one year period. The period begins with the commencement of program tests . . . These requirements specifically do not include interference complaints resulting from malfunctioning or mistuned receivers, improperly installed antenna systems, or the use of high gain antennas or antenna booster amplifiers. Mobile receivers and non-R.F. devices such as tape recorders or hi-fi amplifiers (phonographs) are also excluded." Hard-wired telephones are considered non-R.F. devices under Section 73.318 and, as such, are not covered by this Rule. Cordless telephones are covered by Part 15 of the Rules. (*See* Section 15.3(j) of the Rules for a definition of a cordless telephone system.)³⁴ Section 15.5(b) of the Rules states, in pertinent part, that cordless telephones may not cause harmful interference and that interference to cordless telephones caused by the operation of an authorized radio station must be accepted.³⁵ Accordingly, any complaints of interference to cordless telephones, and "non-R.F. devices" such as hard-wired telephones, public address systems, musical instruments, doorbells and similar equipment referenced in this case are not covered by the blanketing interference rules.

Blanketing Interference – Situations Covered by the Commission's Rules and Licensee Responsibilities for Resolving Complaints

We have formulated a list of the five most common blanketing interference situations. The key issues are:

- Whether the complaint was filed within the first year of operation.
- Whether the complainant is located inside or outside the blanketing contour.
- Whether the device experiencing interference is covered under the blanketing interference rule.

Situation # 1

The station is financially responsible for resolving complaints of interference to electrical devices covered under Section 73.318 if the complaint is filed within the first year of program test authority and the complainant is located inside the station's blanketing contour. *See FM Broadcast Station Blanketing Interference* ("Blanketing Interference"), FCC 84-514, 57 RR 2d 126 (1984) at paragraph 15.

Situation # 2

The station is not financially responsible for resolving complaints of interference to electrical devices covered under Section 73.318 if the complaint is filed within the first year of program test authority and the complainant is located outside of the station's blanketing contour. However, the station is expected to cooperate with the complainant by providing effective technical assistance in determining the cause of the problem and advice on corrective measures. *See Blanketing Interference supra* at paragraph 17.

Situation # 3

The station is not financially responsible for resolving complaints of interference to electrical devices covered under Section 73.318 if the complaint is filed after the first year of program test authority and the complainant is located inside the station's blanketing contour. The station is required to provide effective

³⁴ 47 C.F.R. § 15.3(j).

³⁵ 47 C.F.R. § 15.5(b).

technical assistance to the complainant. This entails the providing of information on the cause of the interference and also providing information on proper corrective measures. *See Blanketing Interference, supra*, at paragraph 20.

Situation # 4

The station is not financially responsible for resolving complaints of interference to electrical devices covered under Section 73.318 if the complaint is filed after the first year of program test authority and the complainant is located outside of the station's blanketing contour. However, in similar past cases, to promote goodwill within the station's community, licensees have taken steps to assist in alleviating interference complaints.

Situation # 5

The station is not financially responsible for resolving complaints of interference to electrical devices not covered under Section 73.318. However, in similar past cases, to promote goodwill within the station's community, licensees have taken steps to assist in alleviating interference complaints.

Blanketing Interference - Effective Technical Assistance

47 CFR Section 73.318(d) states, "[f]ollowing the one year period of full financial obligation to satisfy blanketing complaints, licensees shall provide technical information or assistance to complainants on remedies for blanketing interference." The rule requires that the station provide information and assistance sufficiently specific to enable the complainant to eliminate all blanketing interference and not simply that the station attempt to correct the problems. Effective technical assistance entails providing specific details about proper corrective measures to resolve the blanketing interference. For example, providing complainants with diagrams and descriptions which explain how and where to use radiofrequency chokes, ferrite cores, filters, and/or shielded cable. In addition, effective technical assistance also includes the recommendation on replacement equipment that would work better in the high radiofrequency fields. Also, effective technical assistance does not mean referring the complainant to the equipment manufacturer.

Submitting Blanketing Interference Complaints

The Commission intends that broadcast stations take very seriously their responsibility to resolve blanketing interference. Accordingly, the station must respond to all the complaints that have been filed and must submit a detailed report of the steps taken to resolve the complaints within 60 days from the date of the staff letter advising the station of its obligations under Section 318 of the Rules. The report must contain the following information for each complaint:

1. Date of the complaint
2. The affected devices (i.e., the manufacturer, model number and serial number);
3. Whether or not the complainant is within the blanketing contour;
4. The dates and description of the assistance provided; and
5. Whether or not the interference has been resolved.

The report must include a map showing the following:

1. The station's transmitter site;
2. The station's blanketing contour (1V/m for AM stations, 115 dBu (562 mV/m) for FM station), and
3. The locations of the complainants.

The station must determine which of the five situations described above apply and take the appropriate aggressive actions required by Section 73.318 to fulfill its obligations. The complainants will be expected to cooperate fully with the station's efforts to resolve the interference problems; their failure to do so could lead to a finding that the station has fulfilled its obligations pursuant to Section 73.318. Excessive

postponements of appointments by either party will be viewed as an obstructive tactic in delaying the resolution of the blanketing interference. These requirements are in place to insure that all parties cooperate fully and immediately. Any further complaints received by the FCC will be forwarded to the station for investigation. We will respond separately to the station's report, which explains how each individual complaint was resolved.