

FEDERAL COMMUNICATIONS COMMISSION
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July 22, 2019

Jeff Chang
269 South Beverly Drive
PMB #704
Beverly Hills, CA 90212

In re: K296HE, Victorville, CA
BMPFT-20190424AAM
Facility ID # 200953

Dear Applicant:

This refers to the above-captioned application for K296HE, Victorville, California. Based on the below, we will dismiss the application BMPFT-20190424AAM.

An engineering study has revealed the application is a major change application pursuant to 47 C.F.R. § 74.1233(a)(1). Specifically, the Section states that “a major change is any change in frequency (output channel) except changes to first, second or third adjacent channels, or intermediate frequency channels”. K296HE is authorized to operate on channel 296. This modification application proposes channel 268 by requesting a waiver of Section 74.1233(a)(1) based on interference caused from co-channel KPTG-LP, Adelanto, California.

We have allowed FM translators to waive Section 74.1233(a)(1) only when “displacement” occurs. Displacement occurs when a full service commences operation and there is interference predicted or caused by an existing translator. The current license for KPTG-LP was granted in 2017. Since KPTG-LP is operating on channel 296 and the proposed translator is not an existing licensed operating facility, Section 74.1233(a)(1) will not be waived.

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 644, 666 (D.C. Cir. 1968 (per curiam)). We have afforded Jeff Chang’s waiver request the “hard look” called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1233.

Accordingly, the request for waiver of 74.1233(a)(1), IS HEREBY DENIED, and the Application BMPFT-20190424AAM IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "for Paul" followed by a stylized signature.

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau