

FEDERAL COMMUNICATIONS COMMISSION
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FEB 23 2018

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Circuitwerkes, Inc.
2805 NW 6th Street
Gainesville, FL 32609

In re: W223CJ, West Palm Beach, FL
BPFT-20170718AES
Facility ID # 158103

Dear Applicant:

This refers to the above-captioned application for W223CJ, West Palm Beach, Florida. Based on the below, we will deny the waiver request and dismiss the application BPFT-20170718AES.

An engineering study has revealed the application is not a "fill-in" pursuant to 47 C.F.R. § 74.1201(g)¹. Specifically, the Section states that "The coverage contour of an FM translator rebroadcasting an AM radio broadcast station as its primary station must be contained within the greater of either the 2 mV/m daytime contour of the AM station or a 25-mile (40 km) radius centered at the AM transmitter site. The protected contour for an FM translator station is its predicted 1 mV/m contour."

The applicant requested the waiver to use the 2 mV/m "nighttime" contour to determine the "fill-in" requirements. The 2 mV/m contour was determined using the daytime parameters only since it was determined that this is the value that can be heard on a regular basis. Secondly, the nighttime signal was not used since there are AM stations that only can broadcast during the daytime.

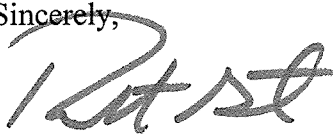
Furthermore, the applicant has not demonstrated that this waiver is unique and compelling. When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 644, 666 (D.C. Cir. 1968 (per curiam)). We have afforded Circuitwerkes, Inc.'s waiver request the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), but find

¹ *Revitalization of the AM Radio Service, Second Report and Order*, MB Docket 13-249, FCC 17-14, released February 24, 2017.

that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1201(g). Furthermore, Circuitwerkes, Inc. failed to cite other similar situations where the Commission has waived Section 74.1201(g).

Accordingly, the request for waiver of 74.1201(g), IS HEREBY DENIED, and the Application BPFT-20170718AES IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

for 

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau