

# FEDERAL COMMUNICATIONS COMMISSION

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TECHNICAL PROCESSING GROUP  
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JUN 20 2016

Cumulus Licensing, LLC  
3280 Peachtree Road, NW  
Suite 2300  
Atlanta, GA 30305

In re: INTERFERENCE COMPLAINT  
W266AN, Lexington, KY  
BLFT-20151013ADD  
Facility ID # 153203

Dear Licensee:

The staff has under consideration: (1) the November 19, 2015, Interference Complaint (Complaint) filed by Mountain Broadcasting Service, Inc. (MBS); (2) the April 22, 2016, staff letter requiring that Cumulus resolve all interference complaints (Staff Letter); and (3) all related pleadings. For the reasons set forth below, we require Cumulus Licensing, LLC (Cumulus) to immediately cease operation of W266AN.

**Background.** In its Complaint, MBS alleges that W266AN, licensed to Cumulus, is interfering with the reception of its co-channel station WSGS(FM), Hazard, Kentucky. MBS identified 51 complaints from listeners in the Complaint. These listeners complained of recent difficulties receiving WSGS(FM) at their homes and in the nearby areas while driving. On April 22, 2016, staff sent the Staff Letter to Cumulus providing the station thirty days to resolve all complaints of interference. The staff letter also explained that Section 74.1203 of the Rules<sup>1</sup> states that if interference can not be properly eliminated by suitable techniques, the operation of the translator shall be suspended.

In response to the Staff Letter, Cumulus filed an Application for Review on May 20, 2016, requesting that the Commission rescind the Staff Letter. Cumulus argues that any additional action relating to the staff letter must await resolution of the legal and policy issues it raises in the Application for Review. We note that, as of the date of this letter, Cumulus has not resolved or addressed any of the listener interference complaints submitted in the Complaint.

**Discussion.** Non-hearing actions taken pursuant to delegated authority, such as the Staff Letter, are effective upon release.<sup>2</sup> The Commission may, at its discretion, stay the effectiveness of such action pending review, which it did not do in this case.<sup>3</sup>

<sup>1</sup> 47 CFR § 74.1203 (Section 74.1203)

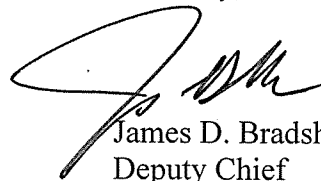
<sup>2</sup> 47 CFR § 1.102(b)(1).

<sup>3</sup> 47 CFR § 1.102(b)(3).

Therefore, Cumulus was required to comply with the staff's determination regarding interference and resolve all complaints by May 23, 2016.<sup>4</sup> Cumulus cannot extend this deadline simply by filing an appeal. Rather, during the pendency of its appeal, Cumulus must continue to comply with its obligations under the Rules. Because Cumulus has failed to eliminate the interference complaints to co-channel Station WSGS(FM), it must immediately suspend operations of W266AN.

For the reasons stated above, Cumulus Licensing, LLC IS HEREBY ORDERED TO CEASE OPERATION OF W266AN IMMEDIATELY. This action is taken pursuant to 47 CFR. §§ 74.1203(e), 74.1232(h), and 0.283. For W266AN to resume operations, it must submit a request for program test authority to the Audio Division. Such authority will only be granted upon resolution of all interference complaints.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bradshaw', is written over the typed name.

James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau

CC: John Garziglia (via Email: JGarziglia@wcsr.com)  
Andrew Kersting (via Email: Andy.Kersting@Cumulus.com)  
Aaron Shainis (via Email: [Aaron@s-plaw.com](mailto:Aaron@s-plaw.com))

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<sup>4</sup> See, e.g., *A-O Broadcasting Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 615 (2008).