

COPY

2018 MAR 28 PM 1:43

Before the
Federal Communications Commission
Washington, D.C. 20554

Accepted / Filed

MAR 27 2018

In the Matter of

NIA BROADCASTING, INC.,
Licensee of FM Translator Station
W248CA, St. Petersburg, Florida

)
)
)
)
)

File No. BLFT-20170815AAH
Facility ID Number 156011

Federal Communications Commission
Office of the Secretary

UPDATE TO INTERFERENCE COMPLAINT
AND REQUEST FOR IMMEDIATE SUSPENSION OF AUTHORITY TO BROADCAST

Hall Communications, Inc. ("Hall"), licensee of WPCV(FM), Winter Haven, Florida, by its counsel, hereby updates its previous complaint, submitted September 29, 2017, regarding the operation of FM translator station W248CA, St. Petersburg, Florida, licensed to Nia Broadcasting, Inc. ("Nia"), which is causing actual interference to reception of a regularly used signal by *bona fide* listeners of WPCV, and requests that W248CA's authority to broadcast be immediately suspended pending its construction of modified facilities and a determination that such modifications have rectified the outstanding problems. With respect thereto, the following is submitted:

As the Commission has previously been informed, Hall is the licensee of full-service FM station WPCV, Winter Haven, Florida. WPCV operates on Channel 248C0, which is the same channel on which 248CA is authorized to operate. In Hall's Complaint, it submitted the declarations of five different listeners, as well as information from a sixth, and showed that W248CA was then causing interference to the reception of WPCV at 14 specific locations.

The Commission then issued a letter, dated November 6, 2017, and addressed to Nia Broadcasting, Inc., which required that Nia submit, within 30 days, a detailed report with regard to each complainant, the interference experienced, and whether the interference persisted or had been eliminated.

In response, Nia stated that it was reducing the power level at which W248CA was broadcasting and filed a request for Special Temporary Authority reflecting such reduced power operations, File No. BSTA-20171107AAE. On December 5, 2017, Nia submitted a Motion for Extension of Time, in which it requested more time, until January 5, 2018, in which to file its report on its efforts to eliminate the interference. Additionally, after discussions between Hall and Nia, the parties reached an agreement in principle whereby Nia would modify its translator facilities so that W248CA would no longer interfere with the reception of WPCV in Hillsborough County, Florida, and that Hall would not object to interference located in Pinellas County, Florida. *See* Declaration of Michael Jerger, attached hereto as Exhibit 1. On January 17, 2018, Nia filed an application for modification of W248CA, File No. BPFT-20180117ACJ, which was granted on March 6, 2018. To Hall's knowledge, the facilities authorized in this construction permit have not yet been constructed.

Throughout all of this time period, W248CA's operations have continued to cause interference to the reception of WPCV. Hall has attempted to be patient and to work with Nia so that it could make adjustments that would both allow the continued operation of W248CA and eliminate all interference to WPCV in Hillsborough County. Hall has reviewed successive proposals advanced by Nia, has sent station engineers around the areas of interference to check for improvements, and has agreed to continued extensions of time for Nia to submit its required report to the Commission.¹ Throughout all of this time period, however, interference to WPCV has continued to be present at varying levels. The time period involved is now in excess of seven months. Hall filed its complaint almost six months ago, on September 29, 2017, but that complaint reflected interference that had already been in place for over a month, since early

¹ The most recent extension of time expired on March 14, 2018.

August of 2017. During all of that time, regular WPCV listeners have had to put up with unwanted interference from W248CA, which is a secondary service.

Recent communications from Nia's counsel indicated that W248CA had begun operating with temporary facilities, with the modifications made installing a temporary antenna at a lower height, further reducing power to 30 watts, and reorienting the antenna to face away from WPCV. After being informed of these changes, Hall sent WPCV's operations manager and chief engineer to the W248CA tower site to observe the modified facilities and to the locations at which listeners had previously reported interference to ascertain the current situation. *See* Exhibit 1. When they did so, Mr. Jerner and Mr. Crews found that, notwithstanding the changes that had been made, interference persisted at four different locations. Furthermore, they found that the new antenna, although oriented somewhat differently than it had been before, was not pointed entirely away from WPCV as had been indicated, nor was it rotated as had been specified in its application for modification of license. It also is not located on the tower leg farthest from WPCV, as Nia had indicated it would be.

Hall recognizes that, as indicated above, the observed facilities for W248CA are temporary facilities, and that a new two-bay antenna is expected soon and will be installed upon receipt. Hall also acknowledges that Nia principal Neil Ardman has acknowledged Nia's responsibility and has committed to taking the steps which are necessary to solve the interference issues. Nonetheless, despite all of these positive statements, interference remains. While the situation has improved, there are still four locations which are suffering from interference. Moreover, those locations are limited to the ones reported by listeners who previously undertook the submission of declarations under penalty of perjury. The numbers do not include, nor could they reasonably include, other listeners who might simply suffer in silence, either because they

do not realize that complaining would have any effect or because, for whatever reason, they have not made the unusual effort to submit a declaration. Nonetheless, it may reasonably be assumed that each listener who submitted a declaration represents an indeterminate number of additional listeners who also are being adversely affected.

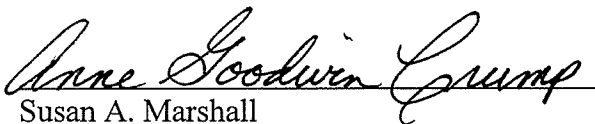
Hall appreciates Mr. Ardman's stated commitments to working to eliminate interference. The problem is that seven months have passed, and the interference is still there. Hall has been patient, but now enough is enough. Hall is dubious, based upon advice from its consulting engineer, that the facilities specified in Nia's outstanding modification construction permit will actually work to resolve all issues. The fact that there is still interference at Nia's stated power level of 30 watts from a one-bay antenna raises doubts about whether future operation at 130 watts with a two-bay antenna can further reduce existing interference even with further changes in orientation and antenna placement. Nonetheless, Hall is willing to participate in on-off testing of the translator once its permanent facilities are constructed.

In the meantime, however, Hall feels that its listeners have suffered enough and have waited more than long enough for relief. Hall is tired of waiting for what has been touted as a permanent solution actually to be put in place. Accordingly, Hall hereby requests that W248CA be ordered to suspend operation pending completion of construction of the facilities authorized in its construction permit and a successful on-off testing of such facilities to demonstrate that all previously identified interference issues have been resolved. Such a result is simply what is required of a secondary service such as that of an FM translator. Once facilities that do not create objectionable interference in Hillsborough County are demonstrably in place, Hall will have no further objection to the translator's operation. Until then, however, after suffering such interference for over seven months now, WPCV should be relieved from further interference.

Accordingly, Hall hereby requests that the Commission order W2248CA to suspend all operations until such time as its modified facilities are fully constructed and tested to demonstrate operation without causing interference to WPCV.

Respectfully submitted,

HALL COMMUNICATIONS, INC.

By: 
Susan A. Marshall
Anne Goodwin Crump

Its Attorneys

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 N. 17th Street – Eleventh Floor
Arlington, Virginia 22209
(703)812-0400

DECLARATION

I, Michael Jerger (a/k/a "Mike James"), hereby declare and state as follows:

I am the Operations Manager of WPCV(FM), Winter Haven, Florida, which is licensed to Hall Communications, Inc. ("Hall"). In this capacity, I am familiar with the operations of WPCV and with the complaint filed by Hall on September 29, 2017, with regard to interference to the reception of WPCV caused by FM translator W248CA, St. Petersburg, Florida. This translator is licensed to Nia Broadcasting, Inc. ("Nia"). I also personally heard the interference caused by the Nia translator in various locations in or near Tampa during the time period in which the complaint was filed.

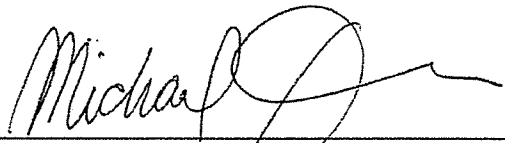
I also am aware that the FCC has sent a letter to Nia requesting information about the interference, and that shortly after receipt of that letter, Nia principal Neal Ardman stated that W248CA had reduced power, and Nia subsequently filed an application for minor modification of the W248CA facilities, File No. BPFT-20180117ACJ. During that timeframe, I spoke with Mr. Ardman, and we reached an agreement in principle that he would modify his translator facilities so that they no longer interfered with the reception of WPCV in Hillsborough County, Florida, and that Hall would not object to interference located in Pinellas County, Florida.

After grant of Nia's modification application, I became aware that Nia was in the process of making certain alterations to its technical facilities. Accordingly, WPCV chief engineer Jeff Crews and I traveled to the W248CA transmitter site and through the Tampa metro area on Friday, March 16, 2018, to determine whether we observed any changes in the translator or the interference situation. Over the course of seven hours travelling in the area, we kept the radio on the 97.5 MHz frequency. We visited each of the locations previously identified by WPCV listeners and included in the interference complaint filed with the Commission. In some areas, the signal for WPCV was now clean, but in areas there were intermittent pockets of interference on WPCV. In some areas we could hear both WPCV and WTMP as rebroadcast on W248CA overlapping each other's signals. At least once per hour, we heard WTMP identified as the station being played. While we noticed a reduction in interference at many of the locations previously identified in the interference complaint, there were still four such locations where the level of interference was quite noticeable and has not been remediated. These locations were identified as DG#1, DG#4, DG#5, and RD#1 in the Engineering Statement attached to Hall's interference complaint.

Additionally, when we visited the transmitter site, Mr. Crews found and informed me that the translator antenna is currently pointed approximately 130 degrees true, and that it is mounted on the leg of the tower pointed approximately 70.5 degrees true. A direct line from that tower to ours is 75.5 degrees; therefore, the antenna is pointed about 54.5 degrees south of the direct line to our tower. The application for construction permit for the permanent antenna specifies that the permanent antenna will have two bays, will operate with an ERP of 130 Watts, and will be pointed at 225 degrees.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated this 22nd day of March, 2018.



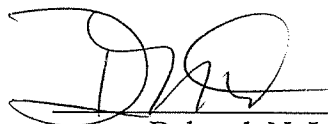
Michael Jerger

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, hereby certify that, on this 27th day of March, 2018, I caused a copy of the foregoing "Update to Interference Complaint and Request for Immediate Suspension of Authority to Broadcast" to be transmitted electronically, or placed in the U.S. Mail, first class postage prepaid, addressed to the following:

Peter H. Doyle, Chief (peter.doyle@fcc.gov)
James Bradshaw, Deputy Chief (james.bradshaw@fcc.gov)
Nazifa Sawez (nazifa.sawez@fcc.gov)
Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
peter.doyle@fcc.gov
(*Electronic service only*)

John C. Trent, Esquire
Putbrese Hunsaker & Trent, P.C.
200 South Church Street
Woodstock, VA 22664
(*First Class U.S. mail*)



Deborah N. Lunt