

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 12<sup>th</sup> Street, SW**  
**Washington, DC 20554**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
**TECHNICAL PROCESSING GROUP**  
**APPLICATION STATUS:** (202) 418-2730  
**HOME PAGE:** [www.fcc.gov/media/radio/audio-division](http://www.fcc.gov/media/radio/audio-division)

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Sagittarius Communications, LLC  
3032 Vega Avenue  
Cleveland, OH 44113

**FEB 14 2019**

In re: NEW(FM), Warren, OH  
Facility ID No. 201039  
BNPFT-20180327ACG  
**Petition to Deny**

Dear Applicant:

The staff has under consideration: (1) the above-captioned application for a new translator in Warren, Ohio; (2) the Petition to Deny filed by Rubber City Radio Group, Inc., (Rubber City) on April 19, 2018; and (3) all related pleadings. For the reasons set forth herein, we deny the Petition to Deny and grant the application.

Rubber City purports that the proposed translator will cause interference to listeners of WONE-FM, Akron, Ohio, on channel 248 (BLH-20010810AAQ) and violate 47 C.F.R. Section 74.1204(f) of the Commission's Rules.

Rubber City further purports that the proposed translator did not specify a licensed AM primary station when Sagittarius Communications, LLC, (Sagittarius) filed its short form application during the Auction 99 filing window. Rubber City states that when Sagittarius filed its short form application (BNPFT-20170726ACH), it was the proposed assignee of station WHTX(AM) (BAL-20131223ACL), however, the assignment application was never consummated and was dismissed on February 20, 2018. Therefore, Sagittarius did not have consent to rebroadcast the programming of station WHTX(AM) making its long form application unacceptable for filing.

In order to provide convincing evidence under Section 74.1204(f) that grant of the translator construction permit "will result in interference to the reception" of an existing full-service station, an opponent must provide, at a minimum: (1) the name and specific address of each listener for which it claims credit; (2) some demonstration that the address of each purported listener falls within the 60 dB $\mu$  contour of the proposed translator station;<sup>1</sup> (3) some evidence, such as a declaration from each of the claimed listeners, that the person listens to the full-service station at the specified location; and (4) evidence that grant of the authorization will result in interference to the reception of the "desired" station at that location. The "undesired-to-desired" ("U/D") signal strength ratio methodology may be used

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<sup>1</sup> The best method is to plot the specific addresses on a map depicting the translator station's 60 dB $\mu$  contour.

to demonstrate the potential for interference under Section 74.1204(f).<sup>2</sup> Section 74.1204(f) requires the objector to show that a specific U/D signal strength ratio is exceeded at the location of a *bona fide* listener of the desired station to establish that interference will result.

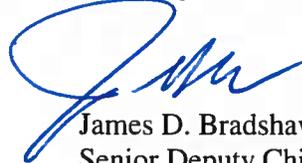
We note that Sagittarius amended its application on June 27, 2018 so that none of the nine listeners identified in the Petition to Deny are within the amended 60 dB $\mu$  contour of the translator. Therefore, the application is no longer in violation of Section 74.1204(f).

In addition, the staff reinstated the license for station WHTX(AM), Warren, Ohio (BL-12985) on May 4, 2018 and reinstated the assignment application for consent to assign the license for station WHTX(AM), Warren, Ohio (BAL-20131223ACL) on May 4, 2018 and granted it on August 6, 2018. For the same reasons the Commission reinstated the license for station WHTX(AM), we hereby conclude the AM station was eligible to participate as a primary station during the Auction 99 filing window. Furthermore, permitting a proposed assignee of an AM station to participate in the AM revitalization filing windows is consistent with the Commission's policies which were intended to further enhance the viability of the AM broadcast service and further the public interest, convenience, and necessity. Therefore, we will deny the Petition to Deny and grant the application.

Please note, Section 74.1203(a) states that should the translator commence operation and cause interference to WONE-FM, the translator will be required to eliminate the interference or cease operation.

Accordingly, the April 19, 2018, Petition to Deny filed by Rubber City Radio Group, Inc., IS HEREBY DENIED and the application BNPFT-20180327ACG IS HEREBY GRANTED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



James D. Bradshaw  
Senior Deputy Chief  
Audio Division  
Media Bureau

cc: Edward A. Schober  
Melodie A. Virtue

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<sup>2</sup> See *The Association for Community Education, Inc.*, FCC 04-155, Para. 13, (rel. July 8, 2004).