

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

In the Matter of)	
)	
NIA BROADCASTING, INC.)	Facility Identification Number 156011
)	File Nos. BLFT-20170815AAH,
FM Translator Station W248CA,)	BPFT-20180117A
Saint Petersburg, Florida)	BPFT-20180517AEU

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FEB 14 2020

Directed to: Office of the Secretary
Attention: Chief, Audio Division, Media Bureau

Federal Communications Commission
Office of the Secretary

RESPONSE TO
“ENGINEERING ASSESSMENT IN SUPPORT OF OPPOSITION TO
INFORMAL OBJECTION FILED BY HALL COMMUNICATIONS, INC.”

Hall Communications, Inc. (“Hall”) hereby submits its response to the “Engineering Assessment in Support of Opposition to Informal Objection” submitted by Kyle Magrill, who describes himself as a Technical Consultant to NIA Broadcasting, Inc. (“NIA”).¹ Presumably, this document was submitted on behalf of NIA, although it does not explicitly say so. With respect thereto, the following is stated:

Mr. Magrill’s pleading represents the latest chapter in a long, ongoing saga of dispute between Hall and NIA with regard to NIA’s translator, W248CA, Saint Petersburg, Florida, and Hall’s co-channel, full-power station, WPCV(FM), Winter Haven, Florida. As the Commission has previously been informed, this saga began in August 2017, when WPCV listeners began complaining to the station about interference to its reception shortly after W248CA began operation. The source of that interference was traced to W248CA, and, on September 29, 2017,

¹ It should be noted that Mr. Magrill did not provide any address for himself or any formal verification of the facts contained in his pleading, in contravention of Section 1.52 of the Commission’s rules, and it is therefore subject to dismissal without consideration.

Hall filed a complaint with the Commission concerning the interference to WPCV from W248CA's operation. In response to that complaint, the Commission's staff issued a letter to NIA, requiring that W248CA cease interfering with WPCV and, within 30 days, provide a detailed report to the staff with regard to what actions NIA had taken to resolve each interference complaint. *NIA Broadcasting, Inc.*, Reference 1800B3-PPD, dated November 6, 2017.

NIA requested an extension of time in which to submit its report but never actually did so.

What NIA did do was to reduce the power at which its translator was operating and request Special Temporary Authority ("STA") for such reduced-power operation. Subsequently, NIA and Hall 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. In general accord with that agreement, on January 17, 2018, NIA filed an application for modification of W248CA, File No. BPFT-20180117ACJ, which was granted on March 6, 2018, and those facilities are the translator's current licensed facilities. *See*, File No. BLFT-20180328AAW. Then, after the parties were unable to reach an agreement as to methods and a mutually agreeable time for conducting further testing, NIA filed the above-captioned application to return the translator to the same antenna height and power level that created the initial problem, and later amended that application to change from a directional pattern to nondirectional operation. Hall filed an Informal Objection to that application on June 4, 2018.

After the conclusion of the pleading cycle associated with that Objection, aside from NIA's June 2019 amendment, the matters rested until October 9, 2019, when Hall submitted its Response to the two letters which it received from the Senior Deputy Chief, Audio Division, Media Bureau. One of those letters was dated August 27, 2019, Reference 1800B3-KV, and the

other was dated September 9, 2019, Reference 1800B3-LHA. Both requested further information in connection with interference complaints and informal objections filed by Hall with regard to the above-captioned applications in light of changed Commission policy enunciated in *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, FCC 19-40, released May 9, 2019.

In response, Hall renewed its objection to the proposed higher power and nondirectional operation of W248CA. It further submitted the Declarations of 28 regular listeners to WPCV, all of whom identified specific locations in which they listen, along with a Predicted Interference Study which indicates that the proposed facilities of W248CA will cause objectionable interference to these listeners, as the undesired to desired signal strength exceeds -20 dB for all of these listeners. Thus, Hall met the requirements set out in revised Section 74.1204(f) of the Commission's Rules for demonstrating that interference would be caused by W248CA's proposed facilities, and W248CA's above-captioned modification application must therefore be dismissed.

Mr. Magrill has filed his "Engineering Assessment" in an attempt to cast doubt on Hall's definitive showing, but he has been unsuccessful in doing so. His comments repeatedly attempt to apply new standards for interference complaints to past filings and to draw some sort of detrimental inference from Hall's failure to be clairvoyant as to standards which would be implemented nearly two years after it filed its initial complaint. The remainder of his comments are based primarily upon speculation as to the effects of existing interference or on claimed confusion due to failure to read listener declarations closely. Indeed, the most definitive information provided by Mr. Magrill establishes that not only will the proposed modified facilities of 248CA cause interference to WPCV and its listeners, but even its current, licensed

operation is creating such interference. On this basis alone, not only should the above-captioned modification application be denied, but W248CA should be ordered to cease operations.

One of Mr. Magrill's criticisms is that Hall's initial complaint, filed after listener-initiated contacts with the station in 2017, did not meet the standards for a complaint first adopted by the Commission almost two years later, in 2019. Clearly, no conclusion whatsoever can be drawn from the fact that a document filed in 2017 did not meet standards first adopted in 2019. As Hall has repeatedly stated, the interference complaints that it initially submitted on behalf of its listeners were unsolicited by Hall. Indeed, it was these complaints which initially alerted Hall to the issues with interference from W248CA. In 2017, when Hall filed these listener complaints, there were no standards which required any minimum number of listener statements. Furthermore, as recounted above, after the initial complaint was filed, Hall attempted to work with NIA to resolve the issues. Obviously, seeking out and filing further complaints would have enflamed the situation and harmed co-operative efforts. Given this combination of circumstances, plus the ensuing modifications to the translator's facilities, it is obvious that no logical conclusions whatsoever can be drawn about the severity of the interference caused by W248CA as first licensed.

Mr. Magrill also alleges that WPCV listeners are not truly regular listeners because they cannot currently receive WPCV's signal clearly. These comments are largely based upon speculations as to the effects of the interference currently caused by W248CA on the ability of persons who might wish to listen to WPCV to do so. Mr. Magrill does not claim to have visited each and every location listed by the WPCV listeners who voluntarily submitted sworn statements affirming their status as regular listeners at locations which they specified. Mr. Magrill has not provided any actual evidence that would tend to cast doubt on these sworn

statements but rather has only speculated as to the level of existing interference at listeners' locations and what impact such interference might have on their listening habits. There is no information offered, nor is it likely that Mr. Magrill has any information, with regard to the type of receivers or antennas which the listeners use.

Furthermore, while Mr. Magrill has offered a conclusion that relative signal levels make interference to WPCV likely, he has not quantified exactly how bad such interference is at each location, nor exactly what effects such interference might have on reception of the WPCV signal. More importantly, whatever the level of objective signal degradation might or might not be, there is no indication as to how dedicated to listening to their favorite station the WPCV listeners might be. It is not the case, however, that the presence of any detectable amount of interference would necessarily cause all potential listeners immediately to cease listening completely. The more dedicated the listener, the greater amount of interference he is likely to put up with before changing stations.

Moreover, it should be noted that many of the WPCV listeners have specified that they listen in their cars. It is an inevitable characteristic of such mobile listening that the interference situation changes as the listener travels. Listeners are far more likely to accept interference that comes and goes quickly and to continue listening to their chosen station as they pass through different areas than to tune away from their favorite programming. Thus, Mr. Magrill has no basis for questioning the veracity of WPCV listeners based solely on what level of interference he thinks that they "should" be currently receiving.

As an initial matter, it must be remembered that the Commission has explicitly adopted a presumption of the validity of sworn statements from listeners. *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, FCC 19-40, released May 9, 2019,

at ¶ 21. Here, the WPCV listeners voluntarily submitted sworn statements, under penalty of perjury, affirming their status as regular listeners. They submitted these statements even knowing, based on explicit language on the face of each statement, that it was to be submitted to a government agency to request particular action. A natural instinct of many people would be to avoid getting involved, but these listeners felt strongly enough to step up and sign a sworn statement. While Mr. Magrill has attempted to cast doubt on the declarants' status as regular listeners, it is unclear how they would have known to sign such a declaration if they did not regularly listen to WPCV so that they either would hear the announcement requesting such declarations or be directed to the station website where they would find it.

More importantly, Mr. Magrill's assertions as to the current, licensed W248CA signal level being experienced by WPCV listeners are subject to question. His pleading contains map segments which purport to depict W248CA's 37.7 dBu contour and its 43 dBu contour relative to some of the WPCV listener declarants' locations. There is no explanation of how these contours were calculated, nor is there any statement one way or the other as to whether the Commission's standard prediction methodology was used. Mr. Magrill's pleading explicitly states at Page 7 that "[e]leven of the listeners are within the W248CA (Licensed) 43 dBu interfering contour." This statement is incorrect.

Attached hereto as Exhibit 1 is a depiction of the current and proposed 60 dBu and 40 dBu contours of W248CA as calculated in accordance with the Commission's standard prediction methodology. As can be seen from Exhibit 1, the current, licensed 40 dBu contour barely goes beyond the peninsula which contains Saint Petersburg and Clearwater.² Exhibit 2 is

² Hall's calculations are, of course, based upon W248CA's currently licensed facilities, as Hall would not expect NIA to operate the translator with other, unauthorized facilities.

a map which depicts the locations of the WPCV listener declarants and was originally attached to Hall's Response to Request for Information. As shown on that map, none of the listener locations is located on the peninsula to which the W248CA 40 dBu signal contour is almost entirely confined. Indeed, there is an expanse of water and land between the edge of the 40 dBu contour and any of the listeners' plotted locations. Obviously, a particular location cannot be both inside the 43 dBu contour and well outside the 40 dBu contour. Even if it were the case that a declarant sometimes travels within the 43 dBu contour, that location does not change the fact that his identified and plotted listening location is not.

Furthermore, the attached maps show that the claims made about the proximity of the currently licensed and proposed relevant signal contours are not entirely accurate. While none of WPCV's identified listeners are located within W248CA's currently licensed 40 dBu contour, all of them are located within the translator's proposed 40 dBu contour. Thus, the attempts to downplay the significance of the proposed increase in power while using a nondirectional antenna are misleading at best. Because the basis of the signal levels calculated by Mr. Magrill is unidentified, and because the levels vary significantly from those calculated by the Commission's approved methodology, the speculative conclusions which he attempts to draw from them are also unreliable.

Equally lacking in merit are the attempts to question whether a -20 dBu U/D ratio is one that would be likely to result in real-world interference. The fact remains, however, that, after due consideration, this is the ratio that the Commission adopted as demonstrating the likelihood of interference. *Id.* at ¶ 23. Thus, Mr. Magrill's comments attack the very basis for the policy established by the Commission. This, however, is not the proper venue for seeking

reconsideration of the Commission's decision, and, in any event, the time period for seeking such reconsideration has long ago expired.

Mr. Magrill's additional comments based upon alleged flaws in the declarations result primarily from his failure to read them closely. Hall's engineer was able to plot specific locations, with exact geographic co-ordinates, for each declarant. While Mr. Magrill objects that declarants simply name intersecting roads on which they travel, there are no specified cross streets for some, it may be assumed that if a person travels from one road to another road with which it intersects, at some point that person will be located at and near the intersection of the two. For any one person, several points along that travel route could be located as the location where that person listens, creating many identifiable locations for that person.³ Thus, the complaints about lack of specificity in the complaints are misplaced.

Finally, Mr. Magrill attached declarations, primarily provided by employees of NIA, which assert that during drives along some roads identified by WPCV listeners, they experienced interference to WPCV from W248CA. None of the declarants indicated what type of reception interference he used, and all of the listening was done on one day. None of the declarants indicated an absolute inability to hear WPCV, except for one declarant in one location. The one thing which is clear from all of the declarations is that even the current operations of W248CA are interfering with WPCV in areas where WPCV has regular listeners. Here, Hall does not need to rely upon its own listeners to demonstrate existing interference, as representatives of the translator have themselves proudly asserted that W248CA is interfering with WPCV in areas in

³ Mr. Magrill also complains that one declarant lists a work address but doesn't state that she listens there. Actually, however, the form asks for a work address to be listed only if the declarant listens there; accordingly, the listing of the address is, in fact, a representation that the declarant listens there.

which numerous WPCV listeners are located.⁴ If current, lower powered operations of W248CA are already causing objectionable interference to WPCV, then allowing the translator to operate with increased power and a nondirectional antenna would only create additional interference. Based solely on the evidence of interference advanced by Mr. Magrill, not only must W248CA's pending modification application be denied, but the translator must be ordered to cease operation in order to end the demonstrated interference.

It should be noted, however, that such Commission action need not mean a death knell for W248CA. Thanks to the Commission's actions last year, NIA now has available to it options which it did not have when this saga began. Now, simply by filing an application demonstrating a reduction in the interference which clearly has been found to exist, and to be exacerbated by the proposed modification, the translator may modify its operation to any other commercial channel. Such a change in channel might well offer the translator more opportunities for a higher powered operation without interfering with the listeners of any full power station.

In sum, while Mr. Magrill, presumably on behalf of NIA, has attempted to wrap himself in an aura of objective, engineering analysis of Hall's demonstration of predicted interference to WPCV from W248CA's proposed, modified facilities, his efforts are unsuccessful. His speculations about why Hall did not previously submit more complaints about interference from prior W248CA facilities in order to meet a standard which did not yet exist are utterly illogical and irrelevant. Likewise, his assertions about the claimed inability of WPCV listeners to be listeners due to existing interference are based upon speculation as to listeners' levels of tolerance for interference and apparently faulty engineering. These listeners have submitted

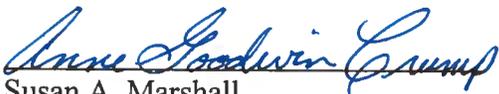
⁴ Mr. Magrill has questioned why Hall has not also filed interference complaints with regard to the licensed W248CA facilities, but his curiosity has no bearing on the matter now actually before the Commission, which is Hall's objection to the proposed, expanded facilities.

sworn statements attesting to their status as regular listeners, and Hall has demonstrated that desired to undesired signal ratios establish the likelihood of interference to their preferred station from W248CA's proposed operation. In fact, the primary thing that Mr. Magrill has established is that even W248CA's current operations are causing some interference in areas where WPCV listeners are located.

WHEREFORE, the premises considered, Hall respectfully requests that the above-captioned, pending application for modification of W248CA's license be dismissed.

Respectfully submitted,

HALL COMMUNICATIONS, INC.

By: 
Susan A. Marshall
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Its Attorneys

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February 14, 2020

Exhibit 1

WPCV(FM) vs W248CA licensed & proposed

WPCV

BLH19890908KA
 Latitude: 28-07-35.04 N
 Longitude: 081-33-03.03 W
 ERP: 100.00 kW
 Channel: 248
 Frequency: 97.5 MHz
 AMSL Height: 340.0 m
 Elevation: 26.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: None

W248CA

BLFT20180328AAW
 Latitude: 27-50-52.01 N
 Longitude: 082-45-49.03 W
 ERP: 0.13 kW
 Channel: 248
 Frequency: 97.5 MHz
 AMSL Height: 113.0 m
 Elevation: 3.0 m
 Horiz. Pattern: Directional
 Vert. Pattern: No
 Prop Model: None

W248CA.A

BPFT20180517AEU
 Latitude: 27-50-51.81 N
 Longitude: 082-45-49.83 W
 ERP: 0.18 kW
 Channel: 248
 Frequency: 97.5 MHz
 AMSL Height: 170.0 m
 Elevation: 3.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: None

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- WPCV (248)
- W248CA (248)
- W248CA.A (248)

Scale 1:1,500,000
 0 20 40 60 km

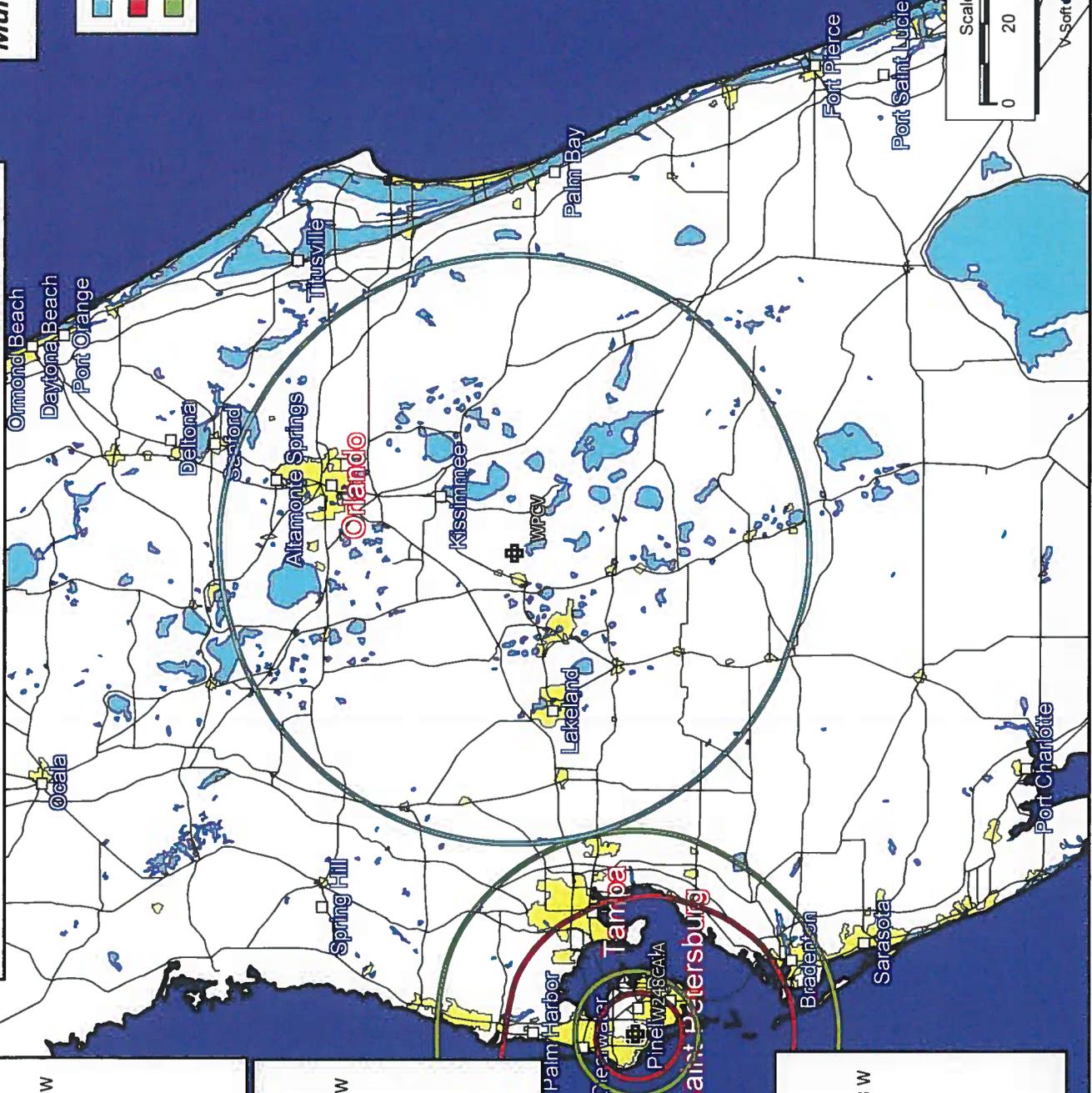


Exhibit 2

WPCV - Map of Listener Declarations vs Area of Interference based on FCC Contours (§73.313)

WPCV
 BLH19890908KA
 Latitude: 28-07-35 N
 Longitude: 081-33-03 W
 ERP: 100.00 kW
 Channel: 248
 Frequency: 97.5 MHz
 AMSL Height: 340.0 m
 Elevation: 26.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: None

W248CA.A
 BPFT20180517AEU
 Latitude: 27-50-51.80 N
 Longitude: 082-45-49.80 W
 ERP: 0.18 kW
 Channel: 248
 Frequency: 97.5 MHz
 AMSL Height: 170.0 m
 Elevation: 3.0 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: None



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WPCV (248)
 W248CA.A (248)

CERTIFICATE OF SERVICE

I, Michelle Brown Johnson, hereby certify that, on this 14th day of February, 2020, I caused a copy of the foregoing "Response to Request for Information" to be transmitted electronically, or placed in the U.S. Mail, first class postage prepaid, addressed to the following:

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