

## **REQUEST FOR FIRST-COME/FIRST-SERVED PROCESSING AND WAIVER**

First-Come/First-Served processing of this W276AQ application pursuant to Section 74.12033(d)(1) of the Commission's rules is requested with respect to the application of Dennis Jackson specifying 3 watts ERP for W276BV, New Rochelle, NY (FCC File No. BPFT-20140711AAA) (hereafter, the "W276BV 3 Watt Application"). In addition, to the extent required, a waiver of Section 74.1204(a) of the Commission's rules is requested for the apparent overlap of the applied-for facilities to the facilities specified in the W276BV 3 Watt Application pending the dismissal of that application.

As shown in a concurrently filed informal objection to the W276BV 3 Watt Application, the FCC's acceptance for filing of the W276BV 3 Watt Application (FCC Public File Report No. 282852, released July 16, 2014) was in error, and the W276BV 3 Watt Application should be summarily dismissed as inadvertently accepted for filing. Accordingly, this application, pursuant to Section 74.1233(d)(1) of the Commission's rules, should be placed into a queue behind the defective W276BV Application.

In the informal objection, it is shown that the W276BV 3 Watt Application should not have been accepted for filing pursuant to Section 74.1204(f) of the Commission's rules as a regular listener to W276AQ within the proposed 60 dBμ contour of the W276BV 3 Watt Application will be subject to interference from the proposed W276BV Application facility.

In addition, as shown in the informal objection, the W276BV 3 Watt Application was filed within hours of the FCC's dismissal of an application for a minor modification of the W276BV licensed facilities that specified the same transmitter site, same antenna height above average terrain and same service for substantially the same area in a prior W276BV application (FCC File No. BPFT-20140606AAA) (the "Prior W276BV Application"). In fact, the W276BV 3 Watt Application was filed prior to FCC Public Notice of the dismissal of W276BVPrior Application and thus prior to the beginning date pursuant to Section 1.4 of the Commission's rules when action is initiated by the FCC's staff. Under such circumstances, the W276BV 3 Watt Application is either an amendment to the W276BV Prior Application and was dismissed with the W276BV Prior Application, or if not, the W276BV 3 Watt Application is in violation of Sections 73.3518, 73.3519 and 73.3520 of the Commission's rules and must be dismissed. Accordingly, the W276BV 3 Watt Application should not be considered in the evaluation of the W276AQ application.

Since the W276BV 3 Watt Application must either be dismissed because: (1) it should not have been accepted for filing pursuant to Section 74.1204(f) of the Commission's rules, or (2) it is an amendment to the now-dismissed W276BV Application, or (3) it is in violation of one or more of Section 73.3518 (Inconsistent or Conflicting Applications), 73.3519 (Repetitious Applications) and 73.3520 (Multiple Applications) of the Commission's rules, it should be disregarded in the processing of this application. This W276AQ application, pursuant to Section 74.1233(d)(1) of the Commission's rules, should be placed into a queue behind the defective W276BV Application and processed once the defective W276BV Application is dismissed as inadvertently accepted for filing.