

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Application of)	
)	
Delmarva Educational Association)	FCC Permit File No.
For Modification of Construction Permit for)	BPFT-20181129AAI
Station W224DK, Durham, NC)	Facility ID 146901
)	Call Sign W224 DK

To: Office of the Secretary
Attn: Chief, Audio Division, Media Bureau

OPPOSITION TO PETITION TO DENY

Delmarva Educational Association (“Delmarva”), permittee of FM translator station W224DK, Durham, North Carolina (Facility ID 146901) (the “Station”),¹ pursuant to 47 C.F.R. §§ 73.3584 and 1.45, hereby respectfully submits this Opposition to the Petition to Deny (“Petition”) dated February 11, 2019, by Northstar Broadcasting Corporation (“Northstar”), licensee of WRSV(FM), Elm City, North Carolina (“WRSV”), which Petition was submitted in opposition to Delmarva’s application for a modification to the Station in FCC File Number BPFT-20181129AAI (the “Application”).

The Petition provides five listener declarations (referencing four locations), each of which alleges that grant of the Application will result in interference to their reception of station WRSV. However, the legitimacy/veracity of each of the declarations and the claims therein is, at best, dubious. Several of the declarations clearly fail to satisfy the Commission’s current requirements for translator interference complaints.²

¹ See FCC File No. BNPFT-20130814ACE.

² 47 C.F.R. § 74.1204(f).

For example, the declaration from Linda Herndon claims interference would be received “on the way to shopping,” but the declaration provides only a beginning location—and not a final destination. As such, it is not possible to determine whether the location of purported interference falls within the Station’s proposed 60 dBu service contour.

And, the declarations of Kristina Balderson, Lyndsey Lewis, and Alex Lewis claim that interference would be received on a street called Fairintosh Place in Durham, North Carolina. The addresses listed on such declarations would have extremely low listenability signal levels to WRSV—less than 20 dBu. For these reasons alone, the Bureau should reject the Petition.

Moreover, the Commission is in the midst of a proceeding in which it has proposed several rule changes designed to (if adopted) streamline and expedite the FM translator complaint resolution process by putting in place new procedures to ensure prompt resolution of FM translator interference disputes, while also providing more flexibility and investment certainty to translator licensees.³ Among the rule changes the Commission proposes are the following:

- The Notice proposes an outer full-service station’s 54 dBu contour as the limit beyond which interference complaints would not be considered actionable in order to address the issue of full-service stations seeking to extend their reach beyond certain areas.⁴
- The Notice proposes to require a minimum of six listener complaints to be submitted with a claim of FM translator interference (and asks whether this number should vary based on the circumstances).⁵
- The Notice proposes to require that bona fide, complaining listeners must provide more information along with their complaints, including (but not limited to) (a) full name and contact information, (b) a clear, concise and

³ See generally *Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference*, Notice of Proposed Rulemaking, MB Docket No. 18-119, FCC 18-60 (“Notice”) (rel. May 10, 2018).

⁴ Notice at ¶¶ 28-29.

⁵ Notice at ¶¶ 15-17.

accurate description of the location where the interference is alleged to have occurred, (c) *a statement that the listener listens to the full-service station alleging interference at least twice a month*, and (d) a statement that the listener has no legal, financial, or familial affiliation with the full-service station in question.⁶

Commission adoption of the above-referenced proposals would render the Petition facially invalid and subject to immediate dismissal. As discussed, the Petition attaches just five listener complaints (with two of them coming from the same location)—not six. Two of the declarations (those from Mr. and Ms. Lewis) fail to specify any frequency with which the declarants actually listen to WRSV. And, perhaps most importantly, all of the complaints cite locations well outside WRSV’s 54 dBu contour area (indeed, they are all outside WRSV’s 33 dBu contour area!), which would render them non-actionable under the Commission’s proposed “outer service limit” rule.

Whether analyzed under the Commission’s current interference complaint framework or that which the Commission appears headed toward, the Petition fails and should be denied.

Finally, Delmarva is well aware that it must “resolve all bona fide actual interference complaints.”⁷ Should Northstar bring any such bona fide complaints of actual interference, Delmarva will take the appropriate action as required under the Commission’s rules.

⁶ Notice at ¶ 19 (emphasis added).

⁷ See *Creation of a Low Power Radio Service*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 21912, 21945, ¶ 82 (2007) (emphasis in original).

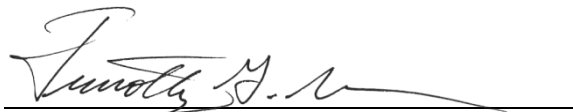
CONCLUSION

For the foregoing reasons, the Petition should be denied and the Application should be granted.

Dated: February 25, 2019

Respectfully submitted,

DELMARVA EDUCATIONAL ASSOCIATION

A handwritten signature in cursive script, appearing to read "Timothy G. Nelson", is written over a horizontal line.

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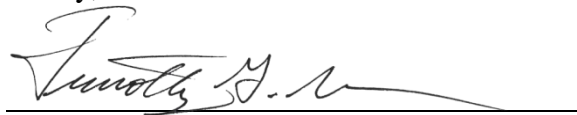
CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of February, 2019, a copy of the foregoing **Opposition to Petition to Deny** was served by first-class, postage prepaid U.S. mail and email on the following:

Dan J. Alpert
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Attorney for Petitioner Northstar Broadcasting Corp.

This the 25th day of February, 2019.



Timothy G. Nelson