



**Federal Communications Commission
Washington, D.C. 20554**

March 12, 2007

DA 07-1206

In Reply Refer to:

1800B3-TSN

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Minnesota Christian Broadcasters, Inc.
P.O. Box 409
Pequot Lakes, MN 56472

Ms. Carol J. DeLaHunt
P.O. Box 49
Park Rapids, MN 56470

DJ Broadcasting Corporation
P.O. Box 49
Park Rapids, MN 56470

Re: FM Broadcast Auction No. 25

Minnesota Christian Broadcasters, Inc.
WZFJ(FM), Pequot Lakes, Minnesota
Facility ID No. 76432
File No. BLH-20021205ABP

**Petitions to Deny Application for FM
Broadcast Station License**

Dear Applicant and Petitioners:

We have before us two Petitions to Deny the above-captioned application of Minnesota Christian Broadcasters, Inc. ("MCBI") for a license to cover its modified construction permit for Station WZFJ(FM), Pequot Lakes, Minnesota. One Petition was filed by Carol DeLaHunt ("DeLaHunt") on December 26, 2002 (the "DeLaHunt Petition"),¹ and the other by DJ Broadcasting Corporation ("DJ") on May 15, 2003 (the "DJ Petition").² For the reasons set forth below, we deny both Petitions to Deny and grant the license application.

¹ Also before us are MCBI's Opposition to Petition to Deny and DeLaHunt's Reply to Opposition to Petition to Deny.

² Also before us are two Errata filed by DJ on May 7 and May 15, 2003; MCBI's May 20, 2003, Opposition to Petition to Deny ("Opposition"); DJ's July 10, 2003, Reply to Opposition to Petition to Deny ("Reply to Opposition"); and MCBI's October 16, 2003 Supplement to Opposition to Petition to Deny ("Supplement to Opposition").

DeLaHunt Petition. Previously, DeLaHunt petitioned to deny MCBI's application for the initial construction permit for WZFJ(FM).³ She contended that MCBI was not entitled to the 35 percent new entrant bidding credit that it had claimed when it was the successful auction bidder for the construction permit for the station. In addition, she argued that MCBI was not financially qualified to be a Commission licensee, and thus that its application for construction permit should be denied. After DeLaHunt's Petition to Deny was denied by the Mass Media Bureau,⁴ and it also denied her Petition for Reconsideration of that action, the Commission partially granted her Application for Review, concluding that MCBI was financially qualified but that it was not entitled to the new entrant bidding credit.⁵ However, the Commission gave MCBI the opportunity to pay the balance of its gross winning bid for the Pequot Lakes permit, without application of such a credit.⁶ MCBI paid the full amount of its winning bid, and the construction permit was issued on March 21, 2002.⁷ The United States Court of Appeals for the District of Columbia Circuit affirmed the Commission's action.⁸

At the outset, neither the Communications Act of 1934, as amended (the "Act"), nor the Commission's Rules (the "Rules") provides for the filing of a petition to deny a covering license application.⁹ We thus treat the DeLaHunt Petition as an informal objection under Section 73.3587 of the Rules.¹⁰

The DeLaHunt Petition was filed before the Commission released its Memorandum Opinion and Order partially granting DeLaHunt's Application for Review. As such, the DeLaHunt Petition merely restated the same arguments and facts presented in DeLaHunt's challenges to MCBI's construction permit application. Those issues were adjudicated by the Commission and have been affirmed by the court. Accordingly, the DeLaHunt Petition is denied.

DJ Petition. With regard to the DJ Petition, again, because no petition to deny lies against an application for covering license, we consider this filing as an informal objection.¹¹ At the time of filing,

³ File No. BPH-19950601MA.

⁴ *Letter to Ms. Carol DeLaHunt and Minnesota Christian Broadcasters, Inc.*, Decision, Ref. No. 1800B3-TSN (MMB Sept. 27, 2000).

⁵ *Minnesota Christian Broadcasters, Inc.*, Memorandum Opinion and Order, 18 FCC Rcd 614, *recon. denied*, 18 FCC Rcd 24421 (2003), *aff'd*, 411 F.3d 283 (D.C. Cir. 2005).

⁶ *Id.*, 18 FCC Rcd at 620.

⁷ MCBI filed a subsequent application for minor modification to its construction permit, File No. BMPH-20020531AAJ, which was granted July 29, 2002. The instant application is for license to cover the construction permit as modified.

⁸ *See supra* note 6.

⁹ *See* 47 U.S.C. § 309(c); 47 C.F.R. §§ 73.3580(a)(3), 73.3584(a).

¹⁰ *Id.* § 73.3587.

¹¹ *See supra* note 10 and accompanying text.

DJ was licensee of then-KBKK(FM) in Pillager, Minnesota.¹² DJ alleged that it had received complaints from “certain of its listeners” that they were receiving interference to KBKK(FM)’s signal due to WZFJ(FM)’s signal.¹³ According to DJ, this interference occurred both in WZFJ(FM)’s blanketing contour and as a result of “receiver induced third-order intermodulation effect” (“RITOIE”) throughout portions of KBKK(FM)’s listening area.¹⁴ DJ requests that we hold the MCBI license application in abeyance, direct MCBI to investigate and cure all interference complaints, and require MCBI to reduce power or discontinue service until such time as a plan to eliminate interference could be implemented.¹⁵

We find no substantial or material question regarding interference problems precluding grant of the WZFJ(FM) license application. The interference complaints presented by DJ (many of which were reported by its advertisers) arise from communities, such as Pequot Lakes and Breezy Point, that are not located in KBKK(FM)’s 60 dB μ contour. Thus, the KBKK(FM) signal is not protected from interference in those communities.¹⁶ The fact that KBKK(FM) could not be heard in those communities due to interference is not in itself reason to grant the DJ Petition.

With regard to the complaints of blanketing interference, the complaints in the record, while coming from areas in or near the WZFJ(FM) community of license, do not indicate whether they were in fact within that station’s 115 dB μ blanketing contour. The WZFJ(FM) blanketing contour extends approximately six-tenths of a mile from the station’s transmitter.¹⁷ Moreover, it appears from the record that very few of the complaints were directly reported to MCBI. Instead, MCBI first learned of them from DJ, in some cases only from DJ’s pleadings. Nevertheless, the record shows that MCBI took affirmative steps to find and contact the complaining parties and, in all cases in which the complainant could be located,¹⁸ either resolved the complainant’s technical problems or the complainant withdrew its interference complaint.

Additionally, MCBI’s resolution of reported interference complaints comports with its obligations as to the RITOIE issue. DJ cites, *inter alia*, the case of *WKLX, Inc.*,¹⁹ to support its claim that

¹² On July 14, 2004, DJ consummated its sale of the station to Tower Broadcasting Corporation (“Tower”). File No. BALH-20040414ADD. Effective July 1, 2004, Tower changed the call letters of the station to WWVI-FM. We will refer to the station as “KBKK(FM).”

¹³ DJ Petition at 1.

¹⁴ *Id.* at 1-4.

¹⁵ *Id.* at 7.

¹⁶ *See* 47 C.F.R. § 73.215(a)(1).

¹⁷ The formula for calculating the 115 dB μ blanketing contour, in miles, is 0.245 times $\sqrt{\text{ERP in kilowatts}}$. 47 C.F.R. § 73.318. As WZFJ(FM)’s effective radiated power is 5.2 kW, the blanketing contour extends 0.559 miles from its transmitter.

¹⁸ In its Reply to Opposition, DJ referenced and attached two complaints in which the complainant’s names and addresses were hand-written on what appears to be a form prepared by DJ. One of the complainants lists only a partially legible name that MCBI took to be some variant on “Phillip Gantor” or “Phillip Gantore,” with the address listed only as “Breezy Point.” In its Supplement to Opposition, MCBI details several attempts to locate the complainant, but to no avail. Supplement to Opposition at 3-4.

¹⁹ Memorandum Opinion and Order, 6 FCC Rcd 225 (1991).

MCBI's program test authority ("PTA") for WZFJ(FM) must be revoked pending resolution of the RITOE complaints. However, that case does not support its position. In *WKLX, Inc.*, although the Mass Media Bureau did briefly revoke WKLX(FM)'s PTA, it was partially restored to allow the station to resolve the complaints and, when the complaints were satisfactorily resolved, PTA was fully restored and a license application granted.²⁰ Ultimately, in *WKLX, Inc.* the Commission found that the licensee had carried out all of its obligations with regard to interference complaints, and affirmed grant of its license application.²¹ Here, as noted above, MCBI has already resolved all locatable interference complaints either reported to it or to DJ. Although DJ's engineer reported that WZFJ(FM)'s second harmonic was not suppressed more than 80 dB below the carrier frequency,²² MCBI's engineering report showed all unwanted emission products to be suppressed more than the required 80 dB below the carrier frequency.²³ Given that all known and locatable interference complaints regarding WZFJ(FM) have either been successfully resolved or withdrawn, we find no reason to grant the DJ Petition or otherwise defer action on MCBI's license application based on discrepancies between these competing engineering reports. Accordingly, the DJ Petition is denied.

MCBI License Application. We find that MCBI has fulfilled all its obligations with regard to WZFJ(FM), including its "newcomer" obligations to respond to and correct interference complaints,²⁴ and its timely payment of all amounts due from its provisional winning bid in Broadcast Auction No. 25.²⁵ We further find that MCBI is fully qualified as a Commission licensee, and that grant of its license application for WZFJ(FM) is in the public interest, convenience, and necessity.

Accordingly, the application of Minnesota Christian Broadcasters, Inc. for a license for Station WZFJ(FM), Pequot Lakes, Minnesota (File No. BLH-20021205ABP), IS GRANTED, and the Petitions to Deny that application filed by Carol DeLaHunt and by DJ Broadcasting Corporation ARE EACH DENIED.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

cc: Dan J. Alpert, Esq.
Matthew H. McCormick, Esq.

²⁰ *Id.* at 225 n.3, 226.

²¹ *Id.* at 227-28.

²² *See* Exhibit 2 to DJ Petition. *See also* 47 C.F.R. § 73.317(d).

²³ *See* Exhibits A and B to Opposition.

²⁴ 47 C.F.R. §§ 73.318(b), (d).

²⁵ *Id.* § 73.5003.