

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

IN REPLY REFER TO:
1800B3-DEB

September 26, 1994

Central Coast Communications, Inc.
296 H Street
Chula Vista, CA 91910

In re: KKLFFM), Gonzales, CA
Central Coast Communications, Inc.
BPH-901211IG

Dear Licensee:

By letter dated October 10, 1991, the staff dismissed auxiliary facility application BPH-901211IG for station KKLFF (formerly KPUP-FM), Gonzales, CA as unacceptable for filing. The application could not be approved since the proposed auxiliary facility's 1 mV/m contour extended beyond the licensed main facility's 1 mV/m contour, in violation of 47 CFR § 73.1675. On November 12, 1991 a petition for reconsideration of this action was filed.¹ This petition for reconsideration is the subject of this letter.

The petition for reconsideration notes that the staff determined the 1 mV/m contours for the main and proposed auxiliary facilities using radials spaced every 5° of azimuth. However, the petition states that there is no requirement to employ more than eight radials spaced every 45°. The petition references 47 CFR § 73.313(d), which requires applicants for FM stations to compute the average height of 8 individual radials evenly spaced every 45°; these figures are then used in determining the antenna height above average terrain. The petitioner connected the points at which the 1 mV/m field strength is located along each of these 8 radials with a smooth curve to show the location of the contour. Although these results differ from the staff's locations of the 1 mV/m contours, the petitioner believes that this procedure remains valid and should be accepted. In addition, the petitioner notes that in either case no interference will be caused to another station.

Contrary to the petitioner's assertion, the Commission has indicated that extra radials should be included where increased accuracy is desirable for service and interference contour projections. Digitized Terrain Data, Docket 84-705, 57 RR 2d 415, 417 (1984), paragraph 11. See also Short-Spaced Assignments by Using Directional Antennas, MM Docket 87-121, 4 FCC Rcd 1681 (1989), paragraph 41, recon. denied, 6 FCC Rcd 5356 (1991). Here, the additional radials are necessary to accurately determine the location of the main and auxiliary facility 1 mV/m contours -- an accuracy which cannot be matched by the petitioner's smooth curve method. The rule does not take

¹ Both application BPH-901211IG and the November 12, 1991 petition for reconsideration were filed by the former licensee of KKLFF, Jerry J. Collins.

into account potential interference or lack thereof; thus the fact that interference would not occur is not relevant to the application of the rule. Consequently, the staff did not err when it found the violation of § 73.1675 and dismissed the application on October 10, 1991, and the petition for reconsideration will be denied.²

The petition for reconsideration also contains an "amendment" to specify a directional operation to eliminate the extension of the auxiliary facility's 1 mV/m contour beyond the main facility's 1 mV/m contour, in response to the staff's suggestion in Footnote 1 of the October 10, 1991 letter. Dismissed auxiliary applications are not subject to the Commission's "hard look" processing requirements and may be reinstated nunc pro tunc if a curative amendment is submitted concurrent with a petition for reconsideration. See Public Notice, "Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications" [47 CFR § 73.4015], 56 RR 2d 776, 49 Fed. Reg. 47331 (1984). Accordingly, we have reviewed the amendment submitted with the petition for reconsideration. However, we find that while the amendment eliminates the defect for which the original application was dismissed -- the violation of § 73.1675 -- the amendment itself violates another rule section. The proposed directional antenna pattern violates both the 15 dB maximum-to-minimum ratio and the 2 dB/10° rate-of-change limits imposed by 47 CFR § 73.316(a) and (b) and therefore would be unacceptable for filing and subject to dismissal. Pursuant to the Public Notice, applications reinstated once under this policy cannot be reinstated if dismissed a second time. Consequently, the present amendment will be dismissed along with the petition for reconsideration. Any new proposal for an auxiliary facility must be submitted to the Commission in the context of a new minor change application on FCC Form 301.

Accordingly, the petition for reconsideration filed on November 12, 1991 of the staff's dismissal of application BPH-901211IG IS HEREBY DENIED, and the supplemental amendment filed on the same date IS HEREBY DISMISSED. These actions are taken pursuant to 47 CFR § 0.283.

Sincerely,

Larry D. Eads
Chief, Audio Services Division
Mass Media Bureau

cc: Fletcher, Heald & Hildreth
: Robert A. Jones

² As we indicated in our October 10, 1991 letter, the ERP would have to be reduced to 0.22 kW with the nondirectional facilities originally proposed in application BPH-901211MG to achieve compliance with § 73.1675.