

May 1, 2019

**VIA ECFS**

Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: “Superpower” Class B FM Station KHYZ, Mountain Pass, CA  
MB Docket No. 18-119**

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To Chairman Pai and Commissioners O’Rielly, Carr, Rosenworcel and Starks:

Heftel Broadcasting Company LLC (“Heftel”) is the licensee of FM Station KHYZ, 99.7 MHz, Mountain Pass, California. Station KHYZ can be deemed a “superpower” Class B FM station in that its authorized service contour extends past the maximum reference distance for Class B FM stations. However, this status is not as the result of “grandfathering” due to the later enactment of more restrictive class power and height limits, but due to an intentional waiver by the Commission of those limits so that Station KHYZ may serve the needs of travelers across the Mohave Desert.

REC Networks submitted a request in this docket on April 24, 2019, asking that the Commission protect “super-powered, grandfathered Class B” FM stations to less than their 45 dBu contour against potential interference from translators. REC Networks asserts that the outer limit for remediation of translator interference for such stations should be the 45 dBu contour based on the Class B maximum reference distance (50 kilowatts at 150 meters height above average terrain (“HAAT”)). Whatever action the Commission might take on REC Networks’ request, Station KHYZ is not a grandfathered station, and its intentionally authorized “superpower” contour must be fully protected under the Commission’s new FM translator interference policy to the same extent as any other station that is compliant with the class maximum contour, whether by operating facilities within such maximum, or by operating pursuant to waiver.

Specifically, in 1985, due to the need for service to the travelers along Interstate Highway 15 through the Mohave Desert, the Commission granted Station KHYZ a waiver of 47 C.F.R. Section 73.211, authorizing the station to increase its facilities from 2.3 kilowatts at 521 meters HAAT to 10 kilowatts at 522 meters. *See* FCC File No. BPH-820714AB. This waiver grant allowed Station KHYZ to extend its 1.0 mV/m contour from 49.0 kilometers to 63.6 kilometers, which is beyond the 52 kilometers Class B reference distance in Section 73.211(b). Thereafter, KHYZ was authorized to provide service to 63.6 kilometers with slightly altered facilities: 8.4 kilowatts at 551 meters HAAT. *See* FCC File No. BLH-960313KB.

More recently, the Commission has recognized and reiterated the intentional status of Station KHYZ as a “superpower” station. When in 1999, the FCC modified the license for

Station KHYZ to specify operation on Channel 259B (99.7 MHz) in lieu of Channel 258B (99.5 MHz), the *Report and Order* stated:

IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of KHWY, Inc. for Station KHYZ, Mountain Pass, California, IS MODIFIED to specify operation on Channel 259B in lieu of Channel 258B and *to use their current, Class B superpower facilities (8.4 kilowatts effective radiated power and antenna height of 551 meters above average terrain).*

*See Report and Order, Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Indian Springs, Nevada, Mountain Pass, California, Kingman, Arizona, and St. George, Utah), 14 FCC Rcd 10568, at ¶ 24 (Chief, Allocations Branch 1999) (emphasis added).* This change in Station KHYZ's channel to Channel 259B was licensed in FCC File No. BMLH-20020228ADC.

Clearly then, Station KHYZ's "superpower" service contour has been intentionally authorized by the Commission, and to the extent the adopted Report and Order in Docket 18-119 implements the 45 dBu contour limit on FM translator remediation as proposed in the draft Report and Order, to preserve the Commission's intentional action, Station KHYZ's actual 45 dBu contour service area – and not one limited to the Class B reference contour – must be afforded full protection in the event of interference, or projected interference, from an FM translator.

Respectfully submitted,

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