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

SECTION
OCT 8 3 11 PM '93
MCC Docket No. 93-241
File No. BPH-920109MA
DISPATCHED BY
File No. BPH-920123MD

FCC 93M-645
40042

In re Applications)
)
DARRELL BRYAN)
)
SBH PROPERTIES, INC.)
)
For Construction Permit for a)
New FM Station on Channel 276A)
in Tusculum, Tennessee)

O R D E R

Issued: October 6, 1993 ; Released: October 8, 1993

Under consideration are the following:

Petition for Leave to Amend, filed September 16, 1993, by Darrell Bryan ("Bryan"); and

Opposition to Petition for Leave to Amend, filed September 27, 1993, by SBH Properties, Inc. ("SBH").

Bryan seeks leave to amend Section V-B, Item 17 of his application to revise the figures previously reported with respect to the area and the population that would be served by his proposed 1.0 mV/m contour. In his application Bryan reported these figures as 2,122 square kilometers and 95,440 persons.

Although Bryan alleges that there will be no comparative upgrading, acceptance of Bryan's amendment would indeed constitute comparative upgrading. Accordingly, Bryan's amendment may not be accepted pursuant to Section 73.3522. Additionally Bryan has not demonstrated compliance with any other element of the good cause standard, applicable to amendments filed pursuant to 73.3522(b)(1), much less the more stringent lack of foreseeability test applicable to engineering amendments.

Accordingly, IT IS ORDERED that the Petition for Leave to Amend, filed September 16, 1993, by Darrell Bryan IS DENIED, and the amendment IS REJECTED.

FEDERAL COMMUNICATIONS COMMISSION

John M. Frysiak
John M. Frysiak
Administrative Law Judge