

**MULLANEY ENGINEERING, INC.**  
9049 SHADY GROVE COURT  
GAITHERSBURG, MD 20877



**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of: )  
 ) MB Docket No. **05-210**  
Revision of Procedures Governing Amendments ) RM No. 10960  
to FM Table of Allotments and Changes of )  
Communities of License in the Radio Broadcast Services )

To the Commission:

**PETITION FOR RECONSIDERATION**

Mullaney Engineering, Inc. (“MEI”), hereby submits a petition for reconsideration on portions of the above report and order. In January 2007, MEI initially filed a petition for reconsideration calling the staff’s attention to several items that should be modified. However, since that time several other items have come to light concerning applications that have been filed since implementation of the new rules. Thus, this petition should be considered as additional items that should be modified.

One of the main provisions of this docket was to permit stations to change their city of license as a “minor” change via a Form 301 application. The staff believe that this new provision to change cities is available to all existing AM & FM stations and to initial Form 301 applications filed by winners of FM auctions. However, to the surprise of nearly everyone, the **staff does not believe** that applications for new AM facilities are permitted to file amendments to their applications requesting a change in their city of license prior to the initial grant of the CP. The staff points to the wording in section 73.3571(a) stating that:



“A major change in community of license is one in which the applicant’s daytime facilities at the proposed community are not mutually exclusive, as defined in Section 73.37 of this part, with the **applicant’s current daytime facilities**, or any change in community of license of an AM station in the 1605-1705 kHz band. All other changes will be considered minor. “

The staff position that **an applicant for a “new” facility** does not have “current” daytime facilities and thus, is not qualified under this section as a minor change (by the way, does “current” mean authorized or built — because there is a big difference). However, it should be understood that “new” AM window applicants are permitted to amend their pending, but yet to be granted, applications to specify a  $\pm 3$  adjacent channel change as a minor change discussed earlier in this same paragraph in the rules. Here the entity referenced is “an AM station authorized under this part” and yet the staff concludes that pending applications meet this definition but not that of “current” facilities. All applications for new AM & FM stations are filed during “windows” and thus, are cut-off after that window closes so everyone had the same equal chance to apply. The wording of this rule should be changed to permit an application for new AM stations to change their proposed city of license. This should even be permitted when two or more applications for new facilities are mutually exclusive if the amendment would make that application a “singleton” (just like changes in frequencies eliminate MXs).

The docket now permits FM stations operating in the “non-reserved” portion of the FM band to propose moving to any channel in the same portion of the band provided the Class of the station does not change. However, non-commercial FM and all AM stations



were not permitted to make such a change in frequency. This would truly be helpful in the upcoming non-commercial FM window. Applicants for that window have a decision to make when two or more channels are available in the same area. Take the case where there are just two applicants and at least two equal channels available (Ch. 205A & 215A). Both applicants apply for Ch. 205A and are thus, MX. However, if one could move to Ch. 215A they would no longer be MX and thus, both could receive a grant. The public benefits by getting two new services rather than just one new service. Again we believe this rule should be changed to permit all categories of AM & FM stations to use this option.

For some reason AM stations are the last to be thought about in the Media Bureau. Initially when the concept of moving to an adjacent channel was adopted it was limited to just FM stations. Similarly, when the rules were amended to permit a minor correction of geographic coordinates via a Form 302 license application this was limited to just FM & TV stations. However, while this rule has never been changed, AM stations are now permitted to use that same section to correct their coordinates. Although initially barred from using an FM translator to rebroadcast the signal of an AM station the Commission is now considering a modification of that rule as well.

First a little house keeping. It would be helpful if the staff cleaned up portions of the text and the adopted rules to make it easier to understand that non-adjacent channel changes are permitted provided the class of the station remains unchanged (99% of the people reading the R&O missed this fact). A little clarification is also needed as to



whether non-commercial FMs are required to maintain a 60 dBu overlap or if they too must simply be mutually exclusive with themselves by having prohibited contour overlap.

**Conclusion:** MEI believes that the R&O is a good step towards shortening the 1 to 3 year process of improving radio facilities through channel changes and changes in communities of license. However, more improvement is possible and necessary.

Respectfully submitted,

**MULLANEY ENGINEERING, INC.**

30 August 2007

By:

A handwritten signature in blue ink, reading 'John J. Mullaney', is written over a solid black horizontal line.

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