

Federal Communications Commission  
Washington, D.C. 20554

In reply refer to:  
1800B3-TGN

June 30, 1998

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Calvary Chapel of Twin Falls, Inc.  
P.O. Box 271  
241 Main Ave W.  
Twin Falls, ID 83301

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555 Thirteenth Street, N.W.  
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In re: NEW(FM), Running Springs, CA  
Calvary Chapel of  
Twin Falls, Inc.  
("Calvary Chapel")  
BPFT-970318TB

Dear Gentlemen:

This refers to: (1) the above-captioned application for a new FM translator station to serve Running Springs, California and (2) the August 22, 1997 Petition to Deny filed by counsel on behalf of Citicasters Co. ("Citicasters"), licensee of KIOZ(FM), San Diego, California. For the reasons stated below, the petition to deny will be denied and the application will be granted.

**Citicasters' Petition to Deny**

Citicasters alleges that Calvary Chapel's translator would cause interference to station KIOZ's regularly-used, off-the-air signal within the Running Springs area in violation of 47 C.F.R. § 74.1204(f). In addition, Citicasters contends that Calvary Chapel's translator is a first-adjacent channel to KIOZ and that the proposal would be in violation of 47 C.F.R. § 74.1203(a). Therefore, Citicasters requests that the application be dismissed.

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Discussion

Under our current rules and policies, an FM translator station may not cause either predicted or actual interference to the public's direct reception of any authorized FM broadcast station. Predicted interference is an application processing standard and is based on a computerized mathematical model of predicted contour overlap. An application for an FM translator station will not be accepted for filing if the translator's interference contour will overlap the protected contour of an authorized FM broadcast station. 47 C.F.R. 74.1204(a). In this instance, the proposed 48 dBu interference contour does not overlap KIOZ's 54 dBu protected contour. 47 C.F.R. § 74.1204(a)(1).

By the same token 47 C.F.R. § 74.1204 is not a strict "go/no-go" rule. The Commission recognizes that strict application of the contour overlap method of predicted interference could result in the acceptance of some applications that would cause signal interference. However, the Commission has placed the burden on the objecting party to provide "convincing evidence that the proposed translator station would be likely to interfere with the reception of a regularly received off-the-air existing service..." Report and Order In the Matter of Amendment of Part 74 of the Commission's Rules Concerning FM Translator Station, 5 FCC Rcd 7212 (1990), modified, 6 FCC Rcd 2334 (1991), recon. denied, 8 FCC Rcd 5093 (1993). This evidence may take several forms, including Arbitron ratings, proof of listeners, and news advertisements. The Commission's basic query in these matters is whether or not the evidence provided is sufficient to support the threshold showing of possible interference resulting from operation of the proposed translator station.

To show that the proposed translator would likely interfere with station KIOZ, Citicasters would have to demonstrate that KIOZ has listeners within the translator's proposed 1 mV/m contour and that there is a likelihood of interference. See Report and Order In the Matter of Amendment of Part 74 of the Commission's Rules Concerning FM Translator Station, 5 FCC Rcd 7212 (1990), modified, 6 FCC Rcd 2334 (1991), recon. denied, 8 FCC Rcd 5093 (1993). Although Citicasters submitted exhibits suggesting that there is likelihood of interference to KIOZ, Citicasters has not demonstrated that KIOZ has any listeners within the translator's proposed 1 mV/m contour. Citicasters states that Arbitron's Spring 1997 survey indicates that it has "...a resident of the 92325 zip code..." that listens to KIOZ.<sup>1</sup> However, Arbitron data does not demonstrate that any such listener is within the translator's 1 mV/m contour. Thus, Citicasters has not proffered any convincing evidence of listenership of KIOZ within the translator's proposed 1 mV/m contour and that the grant of application "will result in the interference to the regularly used off-the-air

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<sup>1</sup> Please note that Arbitron data or surveys of a particular zip code or multi-county area does not necessarily establish, as the rules require, that any populated area within the specific contour receives a "regularly used off-the-air signal" of an authorized station. This determination is made on a case-by-case basis with the burden on the petitioner to provide convincing evidence that a proposed translator facility does not satisfy the rule's requirements.

reception" of KIOZ. Furthermore,

Citicasters alleges that the proposed translator would cause interference to KIOZ pursuant to 47 C.F.R. § 74.1203(a). However, the proposed facility is not in operation. Section 74.1203(a) of the Commission's Rules states that a facility will not be permitted to continue to operate if it causes actual interference to an authorized broadcast station. Hence, should operation of Calvary Chapel's authorized facility cause actual interference to reception of KIOZ, Calvary Chapel would be required to remedy such interference or cease operation in accordance with 47 C.F.R. § 74.1203. Accordingly, the petition to deny will be denied.

**Conclusion**

In light of the above, the petition to deny filed by Citicasters Co. IS DENIED and the application BPFT-970318TB IS GRANTED. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

Dennis Williams  
Assistant Chief  
Audio Services Division  
Mass Media Bureau

