FEDERAL COMMUNICATIONS COMMISSION
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APPLICATION STATUS: (202) 418-2730
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Michael Celenza
41 Kathleen Crescent
Coram, NY 11727

In re: W283BA, Selden, NY
BPFT-20060621AAH
Facility ID # 142563

Dear Applicant:

This refers to the above-captioned application for W283BA, Selden, New York.

An engineering study of the application reveals that it is in violation of 47 C.F.R. § 74.1231(b). The applicant requests a waiver of Section 74.1231(b). Section 74.1231(b) of the Commission's Rules states that a translator may be used for the purpose of retransmitting the signal of a primary FM radio broadcast station or another translator station which is received directly through space. A translator providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast. The 60 dBu proposed translator contour is not encompassed by the 60 dBu contour of the primary station therefore is not providing fill-in service. The application proposes to rebroadcast WLIX-LP and receive the signal via a fiber cable from the phone company.

The applicant requested the waiver because the applicant alleges that an individual, not associated with WLIX-LP or W283BA, took control of the translator by using a transmitter between the primary station and the translator that overpowered the primary station. This allegedly resulted in a rebroadcast of an unauthorized station. In addition, the applicant states that the combination of the troposphere and several existing FMs in the area of the translator reduce the signal quality from the primary station. We note that such impediments to receiving a clear input signal are not unusual and do not justify waiver of the rules. Furthermore, the applicant has not demonstrated that this waiver is unique and compelling. When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. Columbia Communications Corp. v. FCC, 832 F.2d 139, 192 (D.C. Cir. 1987), quoting Rio Grande Family Radio Fellowship, Inc. v. FCC, 406 F. 2d 644, 666 (D.C. Cir 1968 (per curiam)). We have afforded Michael Celenza's waiver request the "hard look" called for under WAIT Radio v. FCC, 418 F. 2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances presented are not sufficient to warrant waiver of 47 CFR Section 74.1231. Furthermore, Michael Celenza has failed to cite other similar situations where the Commission

has waived Section 74.1231(b). Accordingly, we will deny the waiver request and dismiss the application.

Accordingly, the request for waiver of 74.1231(b), IS HEREBY DENIED, and the Application BPFT-20060621AAH IS HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau