

## FCC Letter Questions Multi-Hop Move of FM Translator - Limits on Availability of Translators for AM Stations?

February 14, 2012 by David Oxenford

An FCC [letter to the licensee of an FM translator owner](#) asking very specific information about a series of applications to move that translator to a larger market raises question as to whether the FCC is shutting the door on moves of translators from one market to another - where they have often been used to rebroadcast the signal of an AM or an FM HD signal, adding new competition. While this letter does not explicitly say that multi-hop moves of translators are impermissible under FCC rules, the fact that an investigatory letter from the FCC to one applicant is published in the FCC's general releases indicates that a message is being sent by the Commission. And the letter questions whether the large move accomplished by a series of small hops is an abuse of the FCC's processes. The letter asks for the details of each move in the series - where the station was built, who gave permission to use the transmitter sites that were used, how long the station operated at each location, what primary station's signal did the translator rebroadcast at each site, and what the applicant's ultimate purpose in the moves was.

We've written about the FCC's apparent crackdown on FM translator moves - first by simply slowing the processing of such applications, then [entering into a consent decree](#) with a monetary penalty and the forfeiture of a translator license by a translator licensee who apparently did not have reasonable assurance of every transmitter site in a multi-hop move, then [suggesting that such moves were an abuse of process](#) (while, at the same time, making more limited moves easier). Now it seems to be actually taking steps to enforce the thinking that, where there is an intent to accomplish a "major change by multiple minor change applications", there is an abuse of process. Thus, the FCC seems to be drawing the noose tighter around the ability to move these stations large distances.

The FCC, when it [authorized the use of FM translators for AM stations](#) did so with the caveat that only translators that had been granted as of the date of its 2009 order would be allowed to be used for such rebroadcasts. In many markets, this put a premium on existing translators, as there were not enough translators to rebroadcast all the stations that wanted to be rebroadcast - even where the spectrum to locate such translators existed. A number of broadcasters found translators in other communities that could technically fit in the community where the broadcaster operated, and agreed to buy them if they could be moved. Outside a "major change window", translators can

only be moved by "minor changes", i.e. where their existing contour overlaps the proposed new contour. During translator windows, larger moves are permitted, but the last translator window was in 2003. Another is not expected for at least another year or, most probably, two or more. To get around the limitation on major changes, translator licensees would file a series of minor change applications to move a translator from one site to another (commonly referred to as a "hop"), build the translator at each site, and, through a series of minor changes, ultimately move to the city where there was an AM station or HD signal that wanted to use that translator. For a time, the FCC seemed fine with this process.

In fact, for the first year that the policy was in place, the FCC was incredibly quick to process each hop in these multi-hop moves. In many cases, a construction permit to move to a new site could be granted just a few days after filing. Then, after construction of the station at the new site, a license application demonstrating that construction had been completed would also be granted in days, allowing another construction permit application to be filed, which would again be granted in a matter of days. Stations could be moved through three or four hops often in a few months. I even seem to recall FCC staff members explaining at industry gatherings that this process was permissible, as long as stations were in fact built and operated at each of these hops in the move process.

However, stories of abuse of this process began to arise, where applicants specified intermediate transmitter sites in locations where the translator could not really be built (like in a state or national park), and where the station operated, at most, for a few hours on the back of a truck before being shut down (often without notifying the FCC that the station had gone silent). In the one case mentioned above, the FCC fined an applicant who had engaged in that kind of process. As some of these objections were brought to the Commission's attention, it slowed processing, and then more recently dropped statements into orders that it believed the process to be an abuse of FCC rules.

How the process went from one that was worked quickly and efficiently, and one which allowed AM stations to acquire FM translator properties that would assist in their economic survival, to one which is considered an abuse of process is unclear. Perhaps it was because LPFM applicants felt spectrum was being blocked by these translator stations being moved into larger markets. Or perhaps it was simply the FCC feeling that applicants were getting away with something. In any event, the use of multi-hop applications now seem to be on their way out.

We would hope that the FCC, over time, make clear what their policy is in this area. If the concern is about LPFM, then [current policies freezing move-ins by translators into metro areas](#) would seem to resolve that issue. If it is the feeling that applicants are "getting away with something", the FCC should specify what it is that is prohibited. Are two hops OK, but four not? Or are moves from certain rural areas prohibited, while others are not? Clear guidance is necessary, as a system that brands everyone as a violator, or which puts applicants in a position where they don't know what is permissible and what is permitted, does not help rational business decision-making. Hopefully, we will see some clarifications soon.

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