JB450 - CHRon

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

JUN 18 2007

IN REPLY REFER TO:
1800B3-EEB

Karen A. Ross, Esq.
Davis Wright Tremaine, LLP
1919 Pennsylvania Ave., NW
Suite 200
Washington, DC 20006-3402

In Re: KLIT(FM), Hobbs, New Mexico
Facility ID No. 93053
Educational Media Foundation

Application for Assignment of Construction Permit
File No. BAPED-20070417ACM

Request for Waiver of 47 C.F.R. § 73.1125
(Main Studio Rule)

Dear Counsel:

The staff has under consideration the referenced application to assign the noncommercial educational ("NCE") FM construction permit for KLIT, Hobbs, New Mexico, from Broadcasting for the Challenged, Inc. to Educational Media Foundation ("EMF"). In the application, EMF seeks a waiver of Section 73.1125 in order to operate KLIT(FM), as a "satellite" of its NCE FM station KLVR(FM), Santa Rosa, California.[1] For the reasons set forth below, we shall grant the assignment of construction permit application.

Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's community of license, (2) within the principal community contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.[2] However, under Section 73.1125(b)(2), the Commission will waive these requirements where good cause exists to do so and where the proposed studio location would be consistent with the operation of the station in the public interest. Each waiver request by an NCE station seeking to operate as the satellite of another NCE station is considered on a case-by-case basis. The

[1] A "satellite" station meets all of the Commission's technical rules. However, it originates no programming and instead rebroadcasts the parent station's programming. *See Amendment of Multiple Ownership Rules, Memorandum Opinion and Order*, 3 RR2d 1554, 1562 (1964).

[2] *See Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691 (1998), *recon. granted in part*, 14 FCC Rcd 11113 (1999) ("*Reconsideration Order*").

Commission has recognized the benefits of centralized operation for NCE stations, given their limited funding and, thus, found good cause exists to waive the main studio location requirement where satellite operations are proposed.[3] A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 public interest standard.[4]

EMF's request is based on the economies of scale which would be realized by grant of its waiver, *e.g.*, avoiding the cost of equipping, staffing, and operating a studio in the Hobbs, New Mexico, area. We conclude that there is good cause to waive 47 C.F.R. Section 73.1125(a) under these circumstances. As noted above, EMF proposes to operate KLIT(FM) as a satellite of KLVR(FM), Santa Rosa, California, approximately 1,169 miles from Hobbs, New Mexico. Where there is considerable distance between the parent and the satellite station, and where the parent and satellite station are in different states, as here, we are particularly concerned that the permittee takes adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, EMF has pledged to meet its local service obligations by: (1) maintaining an auxiliary studio at a location that complies with Section 73.1125 and that is capable of originating programming to meet local community needs; (2) engaging the services of a local Hobbs public affairs representative, who may be a volunteer, to conduct, at least on a quarterly basis, ascertainment surveys of local community leaders and other residents to determine the concerns, problems and needs of Hobbs listeners, which will then be covered in EMF's news and public affairs programming; (3) ensuring that the local representative will further serve as a liaison between the residents of Hobbs and EMF's programming personnel; (4) maintaining a toll-free number from Hobbs, New Mexico, to the KLVR(FM) studio in Santa Rosa.

In these circumstances, we are persuaded that EMF will meet its local service obligation and, thus, that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for KLIT(FM), Hobbs, New Mexico, at the main studio of the "parent" station, KLVR(FM), Santa Rosa, California. It must also make reasonable accommodation for listeners wishing to examine the file's contents.[5] We further remind EMF that, notwithstanding the grant of waiver requested here, the public file for KLIT(FM) must maintain the quarterly issues and programs list for Hobbs, New Mexico, as required by C.F.R. Section 73.3527(e)(8).

---

[3] *Id.*

[4] *Id.*

[5] *See Reconsideration Order,* 14 FCC Rcd at 11129, Paragraph 45.

Accordingly, finding the applicants qualified and that grant of the assignment application would serve the public interest, convenience and necessity, the application (File No. BAPED-20070417ACM) to assign the construction permit from Broadcasting For The Challenged, Inc. to Educational Media Foundation and the concomitant request for waiver of 47 C.F.R. Section 73.1125, ARE GRANTED. The authorization is enclosed.

Sincerely,

H. Taft Snowdon
Supervisory Attorney
Audio Division
Media Bureau

cc: Educational Media Foundation