



Federal Communications Commission
Washington, D.C. 20554

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In Reply Refer to:
1800B3-DD

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In re: **KILV(FM), Castana, Iowa**
Facility ID No. 87226
File No. BPED-20170317AAB

**Application to Change Community
of License**

Dear Ms. O'Connor:

This letter refers to the captioned minor change application (Application) of Educational Media Foundation (EMF), licensee of FM Station KILV, Castana, Iowa. The Application proposes a city of license modification for KILV from Castana, Iowa, to Whiting, Iowa. For the reasons discussed below, we dismiss the Application.

Background. The Application was filed pursuant to Section 73.3573(g) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.¹ Among other requirements, an application for such a minor modification must demonstrate that the proposed change of community constitutes a preferred arrangement of allotments in comparison to its current service.² We make this determination using the FM allotment priorities set forth in Revision of FM Assignment Policies and Procedures.³

In support of the Application, EMF contends that grant of the Application would not violate the Commission's prohibition on the removal of a community's sole local service under Priority (3) because Castana, Iowa, is no longer a licensable community under the Commission's standards, and Castana has no governing board, no full-time employee, no school, no medical facility, no public business, and only one church and one paved road. EMF states that the proposed application would be a preferential arrangement of allotment under Priority (4) because it would provide Whiting, Iowa with its second local

¹ 47 C.F.R. § 73.3573(g).

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989) (*Change of Community R&O*), recon. granted in part, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990) (*Change of Community MO&O*).

³ The FM allotment priorities are (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to Priorities (2) and (3). See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988) (*FM Allotment Priorities*).

service. EMF further points out that the population of Whiting (762) is more than the population of Castana (147). Finally, EMF notes that the community of Castana would continue to be served by 14 aural reception services.

Discussion. Removal of Sole Local Service. The Commission places a high priority (Priority 3) on providing and retaining a community's sole local transmission service. It strongly disfavors the removal of a community's sole local service as violative of this policy and also because any such removal would frustrate the public's expectation of continuing service from an operating station.⁴ However, the Commission permits waiver of this policy "in the rare circumstances where removal of a local service might serve the public interest by, for example, providing a first reception service to a significantly sized population."⁵

In this case, we find that grant of the Application would violate the prohibition on the removal of a community's sole local service. We reject EMF's argument that Castana is no longer a licensable community. If a community is incorporated or listed in the United States Census, it is generally considered to be a community for allotment purposes.⁶ Castana is both incorporated and listed in the 2010 United States Census. Although EMF cites Castana's small population in support of its contention that Castana is not a community for allotment purposes, the population is approximately the same size as when KILV first began broadcasting in 2001 (178); moreover, there is no indication of other significant and relevant changes in Castana's characteristics as a community.

While the Commission has indicated that it would waive the prohibition on removal of a community's sole local service in "rare circumstances," EMF has not submitted a waiver request, attempting to make such a showing. In addition, we do not find that the facts of this case fit into these "rare circumstances." For example, the Application would not provide a first full-time reception service to a substantial population. On the contrary, the proposed reallocation of the station to Whiting as a second local service under Priority (4) to a slightly larger community than its retention as a first local service under Priority (3) at Castana is not a preferential arrangement of allotments under the *FM Allotment Priorities*. Further, we reject EMF's argument that the community of Castana would continue to be served by 14 aural reception services. The Commission has stated on numerous occasions that reception service from nearby communities is not a substitute for a local service.⁷ Accordingly, we conclude that it would not serve the public interest to reallocate the Station from Castana (Priority 3) to Whiting (Priority 4) because it would not result in a preferential arrangement of allotments under the *FM Allotment Priorities*, and it would result the removal of a sole local service at Castana, Iowa.

⁴ See n.2, *supra*

⁵ *Id.* at 7096 (¶ 17). In modifying its procedures to permit the filing of change of community proposals by application rather than rule making petitions, the Commission continued its policy disfavoring removal of sole local transmission service, subject to waiver on a case-by-case basis upon a compelling public interest showing. See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212,14229-30 (2006) (¶¶ 32-34).

⁶ *FM Allotment Priorities*, 90 FCC at 101 (¶34).

⁷ See, e.g., *Royston and Commerce, Georgia*, Report and Order, 15 FCC Rcd 5676, 5679 (MMB 2000), *citing*, *Sarnac Lake, New York*, Report and Order, 6 FCC Rcd 5121 (MMB 1991), *recon dismissed*, Memorandum Opinion and Order, 8 FCC Rcd 3066 (MMB 1993).

Conclusion/Actions. Accordingly, IT IS ORDERED, that the application of Educational Media Foundation, File No. BPED-20170317AAB, IS DISMISSED.

Sincerely,



Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau