

FEDERAL COMMUNICATIONS COMMISSION
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November 6, 2008

Richard J. Hayes, Jr., Esq.
Box 200
Lincolntonville, Maine 04849

Re: Walton Stations New Mexico, Inc.
KWES (AM), Ruidoso, New Mexico
Facility Identification Number: 160917
Special Temporary Authority

Dear Counsel:

This is in reference to the request filed November 4, 2008, on behalf of Walton Stations New Mexico, Inc. ("Walton"). Walton requests special temporary authority ("STA") to operate Station KWES with facilities at variance from its pending application for license.¹

In support of the request Walton states that Station KWES has been silent pursuant to Commission authority since the accidental destruction of its authorized tower on August 7, 2008. Walton states that a new, replacement tower has been constructed at the authorized site; however, the new tower has been constructed ten feet shorter than the formerly licensed tower, in order to eliminate the need for obstruction marking and lighting. Walton seeks STA for operation from the new tower pending the preparation and filing of an application for construction permit so specify the new, shorter tower.

Our review indicates that the proposed STA operation is not likely to cause interference to any other station. STA will be granted as requested, with conditions. We note that commonly owned Station KBUY formerly operated from the tower which was destroyed and is currently operating with an emergency wire antenna pursuant to STA. KBUY has filed an STA request for operation from the replacement tower, which is granted today by separate letter.

Accordingly, the request for STA IS HEREBY GRANTED. Station KWES may operate with a replacement tower shorter than that specified on its pending application for license, as discussed above. Operating power shall not exceed 1 kilowatt daytime and 0.86 kilowatt nighttime. It will be necessary to further reduce power or cease operation if complaints of interference are received. Walton must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310. Simultaneous operation of Stations KBUY and KWES shall not commence until sufficient diplexing equipment has been installed and properly adjusted to reduce all spurious emissions below the levels specified in 47 CFR Section 73.44(b). Within 10 days after commencement of such operation, Walton must submit the results of measurements which demonstrate compliance with the above condition. Walton must file an application for modification of Construction Permit BMP-20070508AAY to specify the actual height of the replacement tower, and must amend its pending application for license to specify the actual tower height. The authority granted herein is without

¹ KWES is authorized by Construction Permit BMP-20070508AAY for operation on 1450 kHz with 1 kW daytime and 0.86 kW nighttime, employing a nondirectional antenna (ND-2-U). Application BL-20080522ACJ, for license to cover the permit, is pending.

prejudice to any action which the Commission may take with regard to construction of the replacement tower.

This authority expires on **February 6, 2009**. No extension of this authority is contemplated absent the filing of an application for modification of construction permit.

STA Advisory: Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles N. Miller", with a long horizontal flourish extending to the right.

Charles N. Miller, Engineer
Audio Division
Media Bureau

cc: Walton Stations New Mexico, Inc.