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FEDERAL COMMUNICATIONS COMMISSION
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MEDIA BUREAU / OFFICE OF BROADCAST LICENSE POLICY
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
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May 24, 2004

John Crigler, Esq.
Garvey, Schubert & Barer
1000 Potomac Street NW, Fifth Floor
Washington, DC 20007

Re: WPEB(FM), Philadelphia, Pennsylvania
Facility Identification Number : 71637
West Philadelphia Educational Broadcasting Foundation
Special Temporary Authorization
Petition for Reconsideration

Dear Counsel:

This is in reference to your letter dated May 6, 2004, filed on behalf of West Philadelphia Educational Broadcasting Foundation (WPEBF). WPEBF requests special temporary authority ("STA") to operate Station WPEB from a site other than the licensed site.¹ In support of the request, WPEBF states that station operations were disrupted by a dispute which has now been resolved.

STA requests which involve a change in transmitter site must include four critical elements: (1) Loss of the licensed site must be beyond the licensee's control; (2) STA facilities must continue to provide service² to the licensed community; (3) STA facilities must maintain, as closely as practicable, the licensed service area³ without extending it; (4) STA facilities cannot involve the construction of towers intended for permanent use by the station requesting the STA.

Our review indicates that Station WPEB has been silent since August 2, 2003, and thus faces the loss of its license if it does not resume broadcasting on or before August 2, 2004, and that WPEBF has lost the use of its licensed site. Our engineering review indicates that, although there would be some extension of the 60 dBu beyond the licensed contour, such extension is virtually unavoidable due to the extremely low power and antenna height of the licensed Class D operation. Our review further indicates that the proposed STA operation is not likely to cause interference to any other station. We further note that, on April 13, 2000, Station WPEB was

¹ WPEB is licensed for operation on Channel 201D (88.1 MHz) with effective radiated power of 0.001 kilowatt (H&V) and antenna height above average terrain of 15 meters.

² For AM - 5 mV/m; for commercial FM - 3.16 mV/m; for noncommercial educational FM - 1.0 mV/m.

³ For AM - 0.5 mV/m contour; for FM - 1.0 mV/m contour.

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granted STA under somewhat similar circumstances. It is expected that WPEBF will act expeditiously to restore licensed operation to Station WPEB; an appropriate condition is incorporated.

Accordingly, the request for STA IS HEREBY GRANTED. Station WPEB may operate with the following facilities:

Channel and Class	201D (88.1 MHz)
Geographic Coordinates:	39° 57' 54" N, 75° 12' 21" W (NAD 1927)
Effective Radiated Power:	0.001 kilowatt (H&V)
Antenna height:	
Above ground:	19 meters
Above Mean Sea Level:	52 meters
Above Average Terrain:	49 meters
Antenna type:	Nondirectional

Within 60 days from the date of this letter, WPEBF must file an application for construction permit on Form 340 for permanent relocation of Station WPEB, accompanied by an engineering showing which demonstrates that the proposed relocation complies with the Commission's technical rules.⁴ Failure to file the requested application will result in cancellation of STA.

Notwithstanding the grant of this STA or the expiration date specified herein, **the station's license will expire as a matter of law if it does not resume broadcasting on or before August 2, 2004.** See Pub. Law No. 104-104, 110 Stat. 56, § 403(1) (1996) and *Order, Silent Station Authorizations*, FCC 96-218 (released May 17, 1996). See also *Public Notice, Expedited Processing of Applications Filed by Silent Stations*, DA 96-818(May 22, 1996). The licensee must notify the Audio Division immediately upon resumption of broadcasting.

This authority expires on **November 24, 2004.**

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.

⁴ Because WPEB is a Class D station, special procedures apply, which are set forth in Section 73.512 of the Commission's rules. WPEBF should carefully review its application for compliance with this section before filing.

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 that reads "Charles N. Miller". The signature is written in a cursive style with a long horizontal line extending to the right.

Charles N. Miller, Engineer
Audio Division
Office of Broadcast License Policy
Media Bureau

cc: West Philadelphia Educational Broadcasting Foundation