

FEDERAL COMMUNICATIONS COMMISSION

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Legend Communications of Wyoming, LLC.
6805 Douglas Legum Drive, Suite 100
Elkridge, MD 21075

Re: KYTS(FM), Manderson, WY
Facility ID #165979
Legend Communications of Wyoming, LLC.
("Legend")
BMPH-20080916ABE

Dear Applicant:

This is reference to: (1) the above-captioned contingent minor change application, as amended on December 9, 2008, to modify the community of license ("CofL") from Ten Sleep, WY to Manderson, WY, and to change effective radiated power, class, antenna height, and transmitter site; (2) the January 9, 2009 Informal Objection filed by White Park Broadcasting, Inc. ("White Park"); and (3) all other related pleadings.

The engineering review of the application reveals that the proposal violates 47 CFR § 73.3573(g)(2). Specifically, an applicant proposing to change the CofL via a minor change application must specify facilities at the proposed CofL that are mutually exclusive with the applicant's assignment, in the case of a winning auction bidder. The proposed facilities on Channel 271C3 at Manderson, WY are not mutually exclusive with the original allotment on Channel 286C3 in Ten Sleep, WY.¹ Although the permittee was granted a construction permit to specify 271C2 in lieu of 286C3 in Ten Sleep, WY, a modification of permit for an unlicensed station can not propose facilities that would not be authorized as an initial construction permit. Therefore, any application proposing a community of license change filed by a permittee that has not built its current permitted facilities and that is not mutually exclusive with either the applicant's built and licensed facilities or its original allotment is unacceptable for filing. Accordingly, the applicant must specify a proposal that is mutually exclusive to the original allotment on Channel 286C3 in Ten Sleep, WY. This deficiency constitutes an acceptance defect.

Pursuant to 47 C.F.R. § 73.3522, "... an applicant whose application is found to meet the minimum filing requirements but nevertheless is not complete and acceptable shall have the opportunity in the 30-day period specified in the FCC staff's deficiency letter to correct all

¹ The coordinates for the assignment in Ten Sleep, WY on Channel 286C3 are 42° 02' 06" N.L., 107° 27' 00" W.L. (NAD 27).

deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, 47 C.F.R. § 73.3564 states that "[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for amendment." See Appendix B in the Report and Order in MM Docket No. 91-347. This letter constitutes your opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3522.

Further action on the subject application will be withheld for a period of thirty days from the date of this letter to provide KYTS an opportunity to respond. Failure to correct all tender and acceptance defects within the thirty days from the date of this letter will result in the dismissal of the application with no further opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3564. This letter does not imply any judgment on the January 9, 2009 Informal Objection filed by White Park.

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Mark N. Lipp, Esq.
Barry A. Friedman, Esq.