

POSTED ORIGINAL
12/29/08

Before the
Federal Communications Commission
Washington, D.C. 20554

FILED/ACCEPTED

DEC 12 2008

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Canyon Media Corporation)
)
Application for Minor Modification of FM)
Station KONY(FM), St. George, Utah (FIN-)
18140) to Change Community of License to)
Hurricane, Utah)

FCC File No. BPH-20070726AHL

To: The Commission, Office of the Secretary

PETITION FOR RECONSIDERATION

RECEIVED

2008 DEC 29 P 4: 48

ADMINISTRATIVE DIVISION

Canyon Media Corporation (“Canyon”), licensee of FM radio station KONY(FM), St. George, Utah (FIN-18140), by its counsel and pursuant to Section 1.106 of the Commission’s Rules,¹ hereby seeks reconsideration of the Media Bureau’s recent grant of the above-captioned construction permit application authorizing a minor modification of KONY(FM)’s licensed facilities, including changing the station’s community of license from St. George, Utah, to Hurricane, Utah.² As detailed below, this proposed modification is part of a contingent modification contemplated for KONY(FM) and KURR(FM), Hurricane, Utah (FIN-164147), licensed to Western Broadcasting, LS, LLC (“Western”). As the parties have not yet reached a definitive agreement regarding all aspects of the proposed modification of their respective stations, Canyon hereby requests reconsideration of this Commission action so that the proposed

¹ 47 C.F.R. § 1.106.

² Public notice of the grant of this construction permit was given by Broadcast Actions Report No. 46861, released November 12, 2008. Accordingly, this petition is timely filed.

11/3/08

change in KONY(FM)'s community of license does not become final, unless the parties can reach this final agreement. Given that the Commission has eliminated the underlying FM Table of Allotments,³ the proposed change of KONY(FM)'s community of license will become effective upon finality of the grant of this construction permit, regardless of whether the changes contemplated in the contingent applications are ever implemented. In order to avoid the prospect of prematurely changing KONY(FM)'s community of license, Canyon respectfully requests reconsideration of the Media Bureau's grant of this construction permit.

Previously, Canyon and Western entered into a Memorandum of Agreement whereby Canyon agreed to seek a modification of its license to specify operation on Channel 260C at Hurricane, Utah in lieu of Channel 260C at St. George, Utah, in order to accommodate the change of KURR(FM) to specify operation on Channel 276C at Indian Springs, Nevada in lieu of Channel 276C at Hurricane, Utah.⁴ As set forth in that Memorandum, either party can withdraw from the agreement until such time as the changes requested therein become final under the FCC's Rules. Consistent with that agreement, Canyon and Western simultaneously filed contingent applications seeking consent to the minor modification of their respective stations. See FCC File Nos. BPH-20070726AHL, BPH - 20070726AHG. On November 5, 2008, the Commission granted both applications, public notice of which was subsequently given on November 12, 2008.⁵

Following the submission of the applications, the parties intended to negotiate and execute a final agreement containing, *inter alia*, the terms of Canyon's compensation for

³ See *Revision of Procedures Governing Amendments To FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212 (2006).

⁴ See FCC File No. BPH-20070726AHL at Exhibit 24.


⁵ See note 2, *supra*.

accommodating KURR(FM)'s facilities change. To date, the parties have not yet finalized that agreement. Accordingly, in order to prevent KONY(FM)'s community of license from being changed unnecessarily, Canyon hereby seeks reconsideration of the Media Bureau's grant of the above-captioned construction permit. Currently, the parties are working to finalize and execute an agreement, at which time this Petition will be withdrawn.

It is hoped that the parties can quickly finalize the terms of their agreement, so as to moot this Petition. In the unlikely event that the parties are unable to reach a final agreement, this measure will save the parties and the Commission from dedicating money and resources to filing and processing, respectively, applications seeking to reverse the community of license changes contemplated by these construction permits to return the stations to the *status quo ante* and maintain their operations at their current communities that rely on their service. Therefore, Canyon Media respectfully requests that the Media Bureau reconsider its action in this matter unless the parties are able to resolve the matter and moot this filing.

Respectfully submitted,

CANYON MEDIA CORPORATION

By: 

David D. Oxenford
Brendan Holland

Its Counsel

DAVIS WRIGHT TREMAINE LLP
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006
(202) 973-4244

Dated: December 12, 2008

CERTIFICATE OF SERVICE

I, Rhea Lytle, a Secretary in the law firm of Davis Wright Tremaine LLP, hereby certify that on this 12th day of December 2008, I caused a copy of the foregoing "**PETITION FOR RECONSIDERATION**" to be served by U.S. Mail upon the following:

Peter Doyle*
Audio Division Chief
Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 2-A267
Washington, D.C. 20554

Kevin Latek, Esq.
Dow Lohnes PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, D.C. 20036
Counsel for Western Broadcasting LS, LLC



Rhea Lytle

*Via Hand Delivery