

FEDERAL COMMUNICATIONS COMMISSION
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May 25, 2011

Lee J. Peltzman, Esq.
Shainis & Peltzman
1850 M Street NW, Suite 240
Washington, DC 20036

Re: Hatfield McCoy Communications, Inc.
WVKM (FM), Matewan, West Virginia
Facility Identification Number: 67039
Special Temporary Authority

Dear Counsel:

This is in reference to the request filed May 23, 2010, on behalf of Hatfield McCoy Communications, Inc. ("HMC"). HMC requests special temporary authority ("STA") to operate Station WVKM with emergency antenna facilities pursuant to Section 73.1680.¹ In support of the request, HMC states that the underground power line leading to the station's transmitter site exploded following heavy rains and must be replaced. HMC requests STA for operation with temporary facilities from an existing tower pending replacement of the power line.

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, with the exception of a small area of extension of the proposed 60 dBu contour beyond the licensed contour toward the north-northwest, the proposed STA operation complies with the foregoing criteria. Our review indicates that the extension is caused by a terrain anomaly, that the area of extension is sparsely populated, mountainous terrain and that a power reduction sufficient to eliminate the extension would prevent coverage of the city of license.

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

Geographic coordinates: 37° 42' 17" N, 82° 12' 53" W (NAD 1927)
Channel 294 (106.7 MHz)
Effective radiated power: 1.0 kilowatt (H&V)

¹ WVKM is licensed for operation on Channel 294C3 (106.7 MHz) with effective radiated power of 4.3 kilowatts (H&V) and antenna height above average terrain of 229 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.

Antenna height:
above ground: 55 meters
above mean sea level: 636 meters
Above average terrain: 283 meters
ASRN 1033651

HMC must notify the Commission when licensed operation is restored. HMC 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.

This authority expires on **November 25, 2011**.

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,



Charles N. Miller, Engineer
Audio Division
Media Bureau

cc: Hatfield McCoy Communications, Inc.