

From: Joyce Bernstein
Sent: Friday, September 30, 2011 9:29 AM
To: 'DelNero, Matthew'; Barbara Kreisman
Cc: Hossein Hashemzadeh
Subject: RE: Waiver of Third-Party Fundraising Rule for Vermont Flood Relief
Dear Mr. DelNero:

This is in reference to the September 29, 2011, request on behalf of Vermont ETV, Inc., d/b/a Vermont Public

Television (the "Licensee"), licensee of noncommercial educational television stations WETK, WVER, WVTA and WVTB, for a waiver of FCC policies to permit the Licensee to air a fundraising program on behalf of victims of recent flooding in Vermont as a result of Hurricane Irene.

Licensee requests the waiver in order for its stations to air a live telecast of a local benefit concert. The fundraiser would air from 7:00 p.m. until midnight on Sunday, October 9, 2011. In its telecast of the concert, the licensee would superimpose fundraising messages and a related number and/or website that viewers can access to donate funds to the relief effort. Funds raised by the telecast would benefit the Vermont Disaster Relief Fund, American Red Cross (Vermont chapter) and the Mad River Valley Fund. Licensee indicates that this will be a "stand-alone" campaign not part of its regularly scheduled fundraising drives.

The Commission has a policy prohibiting noncommercial educational stations from engaging in on-air fundraising activities on behalf of any entity other than the station itself, where such activities alter or suspend regular programming. See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, 90 FCC 2d 895-907 (1982). It is generally inappropriate for NCE stations to air fundraising efforts on behalf of other entities, even those engaged in philanthropic or beneficial works. However, we believe that, due to gravity of the damage wrought by the recent flooding in Vermont due to Hurricane Irene and the limited duration of the proposed programming, the public interest would be served by grant of the requested waiver. Accordingly, the September 29, 2011, waiver request IS HEREBY GRANTED.

Joyce L. Bernstein
Attorney-Advisor
Media Bureau

From: DelNero, Matthew [mailto:mdelnero@cov.com]
Sent: Thursday, September 29, 2011 9:26 PM
To: Barbara Kreisman
Cc: Joyce Bernstein
Subject: Waiver of Third-Party Fundraising Rule for Vermont Flood Relief

Dear Barbara:

As I mentioned in my voicemail earlier today, our client Vermont ETV, Inc., d/b/a Vermont Public Television ("VPT"), licensee of noncommercial educational stations WETK, WVER, WVTA and WVTB (the "Stations") would like to assist in efforts to raise funds for victims of the flooding in Vermont that occurred August 28-29 in the wake of Tropical Storm Irene. As you may know, these floods were the most severe to hit the state of Vermont since 1927 and caused over \$1 billion in damage.

Specifically, VPT hereby requests a waiver of Section 73.621(e) of the Commission's Rules to allow the Stations to air a live telecast of a local benefit concert featuring the band Grace Potter and the Nocturnals. The program would air live on Sunday, October 9, 2011 from 7pm until midnight local time, and it would solicit contributions on the air from viewers to support flood-related relief and rebuilding efforts in Vermont.

Following is additional information on the fundraising activity that is the subject of this waiver request:

1. Nature of the Fundraising Effort. The fundraising program is a live telecast of a fundraising concert that will feature Grace Potter and the Nocturnals (the "Concert"). Ms. Potter is a native of Waitsfield, Vermont, in the Mad River Valley -- an area especially hard-hit by the flooding. At this time, it appears that the Stations would be the sole live broadcast outlet for the Concert. In its telecast of the Concert, VPT would superimpose fundraising messages and a related number and/or website that viewers can access to donate funds to the relief effort.
2. Proposed Duration of the Fundraising Effort. The fundraising effort would occur over a five-hour time span on October 9, 2011, beginning at approximately 7 pm and ending at approximately midnight local time.
3. Organization(s) to Which Funds Will Be Donated. Funds raised by the telecast of the Concert will benefit the Vermont Disaster Relief Fund, American Red Cross (Vermont chapter) and the Mad River Valley Fund.
4. Whether the Fundraiser Will be Part of the Licensee's Regularly Scheduled Pledge Drive or Fundraising Effort. The airing of the Concert will not be part of the Stations' regularly scheduled pledge drive or fundraising effort. It will, however, interrupt regularly-scheduled programming.

Thank you for your consideration of this request. VPT would be especially grateful if the Division could provide expedited grant of the waiver, given the need to begin logistical efforts in connection with the telecast of the Concert.

If you have any questions or would like to discuss this request, please do not hesitate to contact me by e-mail or by phone. I am available by email or at 202-662-5543.

Best wishes,

Matt DelNero (Covington & Burling LLP, Counsel to Vermont ETV, Inc. d/b/a Vermont Public Television)

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