

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

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In re Application of)
)
GLOBAL NEWS CONSULTANTS, LLC)
)
For License to Cover Construction Permit)
And for Program Test Authority for)
KYTS, Facility ID No. 165979,)
Manderson, Wyoming)

File No. BLH-20110225ACI

FILED/ACCEPTED

AUG 19 2011

Federal Communications Commission
Office of the Secretary

Directed to: Office of the Secretary
Attention: Chief, Audio Division, Media Bureau

RESPONSE TO REQUEST FOR PROGRAM TEST AUTHORITY

Cochise Broadcasting, LLC ("Cochise"), licensee of Station KWWY(FM), Shoshoni, Wyoming, hereby responds to the second "Request for Program Test Authority" filed by Global News Consultants, LLC ("Global"), on July 22, 2011. With respect thereto, the following is submitted:

Global is the permittee of Station KYTS, Manderson, Wyoming. It holds a modified permit for that station which requires that KWWY commence operation on a new channel before Station KYTS will be granted program test authority. It is now filing its second, repetitive request for program test authority,¹ in which it essentially asks the Commission to ignore the special operating condition which Global finds inconvenient.

The essence of Global's duplicative filing at this time is that Cochise has not yet changed the operating channel for KWWY pursuant to its construction permit which does not expire until January 24, 2014. Global notes that it entered into a Reimbursement Agreement with Cochise,

¹ Its first was filed on February 25, 2011, together with its license application. Cochise filed an Informal Objection with regard to the license application and request for program test authority on March 9, 2011, which remains pending.

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which provided that the channel change would be made in May of this year. What it does not reveal, however, is that it is Global that has failed to meet the reimbursement requirements pursuant to that Reimbursement Agreement.

Once those reimbursement obligations have been satisfactorily met, Cochise stands ready to move forward quickly with the KWWY channel change. Thus, the timing of the channel change and accompanying ability to obtain program test authority is completely within Global's control. The sooner it satisfies its obligation to reimburse Cochise as it agreed to do in the Reimbursement Agreement, the sooner the KWWY channel change will be made.²

Moreover, this is not a case in which Cochise has sat upon the KWWY channel change construction permit for any extended period of time or has allowed it to lapse. Rather, it was not granted the permit until January 24 of this year, and thus is less than seven months into a three year term. Furthermore, a special operating condition added to a construction permit after due consideration by Commission staff is not to be so quickly brushed aside. Thus, Commission intervention at this point is unwarranted.

The other allegations made concerning Cochise and KWWY are simply red herrings, designed to distract the Commission from the central point that Global is required by well-established Commission policy, and an agreement which it negotiated, to reimburse Cochise for its expenses in connection with the KWWY channel change but has failed to do so. Instead, with its current, repetitious request for program test authority, Global is seeking to avoid its obligations to Cochise. If the Commission were to grant program test authority in these circumstances, Global would have no incentive whatsoever to fulfill the reimbursement

² While there has been some disagreement as to the amounts included in a certain major category of expenses, that disagreement does not excuse Global from paying anything at all with regard to that category of expenses. Cochise is willing and intends to work with Global to resolve these differences in an amicable fashion.

obligations into which it freely entered, and Cochise would suffer harm. Global's recent actions give no confidence that it can be relied upon to meet its obligations without such an incentive.

Accordingly, the second request for program test authority constitutes an abuse of the Commission's processes, in that it seeks to use those processes to allow Global to violate long-standing Commission policy with regard to reimbursement of expenses and to avoid its obligations pursuant to an agreement into which it voluntarily entered after negotiation. If Global truly wishes to move forward with program test operations, the quickest way to its goal is simply to live up to the commitments it made in the Reimbursement Agreement.

WHEREFORE, the premises considered, Cochise respectfully requests that the Commission deny Global's second request for program test authority at this time.

Respectfully submitted,

COCHISE BROADCASTING, LLC

By:



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August 19, 2011

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary with the law firm of Fletcher, Heald & Hildreth, PLC, hereby state that a true copy of the foregoing RESPONSE TO REQUEST FOR PROGRAM TEST AUTHORITY was served by first class mail, postage prepaid, this 19th day of August, 2011, to the following:

Mark Lipp, Esquire
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
Counsel for Global News Consultants, LLP



Deborah N. Lunt