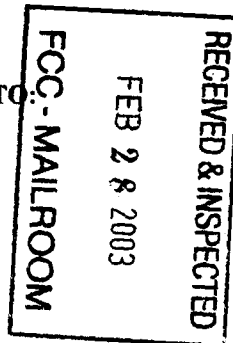


2 B450 Mike Wagon

**FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D. C. 20554**

FEB 25 2003

IN REPLY REFER TO:  
1800B3-ARE



David D. Oxenford, Esquire  
ShawPittman, PLLP  
2399 N Street, N.W.  
Washington, D. C. 20037-1128

**In Re: KGZH(FM), Nyssa, Oregon**  
Facility ID No. 57066  
Educational Media Foundation  
Application for Assignment of License  
File No. BALH-20021223ABK

File No. BMLH-20030121ABK  
To Convert to Noncommercial  
Educational Status

Request for Waiver of 47 C.F.R. §73.1125

Dear Mr. Oxenford:

This is in reference to the captioned applications to: (1) assign the license of KGZH(FM), Nyssa, Oregon from First Western, Inc. ("First") to Educational Media Foundation ("EMF"); and (2) modify the KGZH(FM) license by converting it from commercial to noncommercial educational status.<sup>1</sup> The modification of license application also contains a request for a waiver of the Commission's Main Studio Rule, 47 C.F.R. Section 73.1125, in order to operate station KGZH(FM) as a "satellite" of commonly owned noncommercial educational ("NCE") station KLRD(FM), Yucaipa, California.<sup>2</sup> For the reasons set forth below, we shall grant the assignment application, the modification of license application, and the waiver request. The latter grants will become effective upon notification of consummation of the assignment application.

Main Studio Waiver. Pursuant to Section 73.1125(a), a broadcast station's main studio must be located either (1) within a station's community of license, (2) within the principal

<sup>1</sup> EMF is proposing to reclassify KGZH(FM) from commercial to noncommercial educational status pursuant to 73.1690(c)(9).

<sup>2</sup> A "satellite" station meets all of the Commission's technical rules. However, it originates no programming and instead rebroadcasts the parent station's programming. See *Amendment of Multiple Ownership Rules Memorandum Opinion and Order*, 3 RR2d 1554, 1562(1964).

community contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.<sup>3</sup> However, under Section 73.1125(b)(2), the Commission will waive these requirements where “good cause” exists to do so and where the proposed studio location “would be consistent with the operation of the station in the public interest.” Each waiver request by an NCE station needing to operate as the satellite of another NCE station is considered on a case-by-case basis. The Commission has recognized the benefits of centralized operations for NCE stations, given their limited funding, and thus found “good cause” exists to waive the main studio location requirement where satellite operations are proposed.<sup>4</sup> A satellite station must, however demonstrate that it will meet its local its local service obligation to satisfy the Section 73.1125 “public interest” standard.<sup>5</sup>

EMF’s request is based on the economies of scale, which would be realized by grant of its waiver. We agree and conclude that there is a “good cause” to waive 47 C.C.R. Section 73.1125(a)(4) under these circumstances.

EMF proposes to operate KGZH(FM), Nyssa, Oregon as a satellite station of KLRD(FM), Yucaipa, California, approximately 636.9 miles from Nyssa. Where there is a great distance between the parent and satellite station, as here, we are particularly concerned that the licensee take adequate measures to maintain the awareness of the satellite community’s needs and interests. To that end, EMF has stated that it will: (1) maintain an auxiliary studio at a location that complies with Section 73.1125 and that is capable of originating local programming that is responsive to local community needs; (2) engage the services of a local Nyssa public affairs representative to conduct quarterly ascertainment surveys of local leaders and other residents to determine the concerns, problems and needs of Nyssa listeners, which will be covered in EMF’s news and public affairs programming and broadcast by KGZH(FM); (3) maintain local representation in the Nyssa area, whereby EMF’s local representative will further serve as a liason between the residents of Nyssa and EMF’s programming personnel; (4) maintain its public inspection file within the Nyssa community; (5) maintain a toll-free telephone number, as required by Section 73.1125(d) of the rules.

In these circumstances, we are persuaded that EMF will meet its local service obligation and thus, that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for the Nyssa, Oregon, station at the main studio of the “parent” station KLRD(FM), Yucaipa. It must also make reasonable accommodation for listeners wishing to examine the file’s contents.<sup>6</sup> We further remind EMF that, notwithstanding the grant of the waiver requested here, the public file for KGZH(FM) must

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<sup>3</sup> See *Review of the Commission’s Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691 (1998), *recon.granted in part*, 14 FCC Rcd 11113(1999)(“*Reconsideration Order*”).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See *Reconsideration Order*, 14 FCC Rcd at 11129, Paragraph 45.

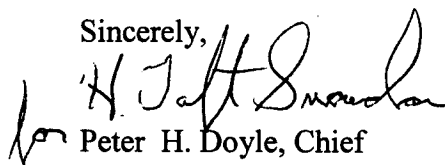
contain the quarterly issues and programs list for Nyssa, Oregon required by 47 C.F. R. Section 73.3527(e)(8).

Assignment application. We have examined the application and find that it comports with all statutory and regulatory requirements, that EMF is qualified to operate KGZH(FM), and that routine approval of the application would further the public interest, convenience and necessity.

License application. Pursuant to *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit*,<sup>7</sup> EMF may apply to convert the KGZH(FM) commercial authorization to noncommercial educational FM status. It may do so by filing a license application and a demonstration that it is a qualified educational organization pursuant to 47 C.F.R. Section 73.503(a) and that the station will be used to advance EMF's educational program.<sup>8</sup> We will accept the instant showing. An examination of EMF's proposal reveals the EMF is qualified to operate KGZH(FM) as a noncommercial educational facility and that grant thereof would serve the public interest, convenience, and necessity. We will therefore convert KGZH(FM) to noncommercial educational FM status with the effective date of the grant being the date that EMF notifies the Commission of the consummation of the acquisition of the station.<sup>9</sup>

Actions. Accordingly, in light of the above discussion the application (File No. BALH-20021223ABK) to assign KGZH(FM) from First Western Inc. to Educational Media Foundation IS HEREBY GRANTED. Additionally, the application (File No. BMLH-20030121ABK) to convert the KGZH(FM) license from commercial to noncommercial educational status, and the concomitant request for waiver of 47 C.F.R. Section 73.1125, ARE GRANTED. The effective date of the latter two actions will be the date on which the Commission is notified that Educational Media Foundation has consummated its acquisition of the station.<sup>10</sup> The authorization to operate the station as a noncommercial educational facility will be sent at that time. In order to facilitate the transmission of the authorization, Educational Media Foundation and counsel are requested to send a copy of the consummation notification to both Andree Ellis, Room 2-A165, and Druscilla Smalls, Room 2-A140, at the Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.

Sincerely,



Peter H. Doyle, Chief  
Audio Services Division  
Mass Media Bureau

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<sup>7</sup> 12 FCC Rcd 12371(1977)

<sup>8</sup> See 47 C.F.R. § 73.1690(c)(9).

<sup>9</sup> See 47 C.F.R. § 1.102.

<sup>10</sup> *Id.*

cc: First Western, Inc.  
Educational Media Foundation  
Jerrold Miller, Esq.