

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

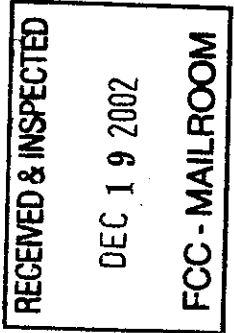
DEC 18 2002

IN REPLY REFER TO:  
1800B3-ALM

Bradford D. Carey, Esquire  
Hardy, Carey & Chautin, L.L.P.  
110 Veterans Blvd., Suite 300  
Metairie, Louisiana 70005

David D. Oxenford, Esquire  
ShawPittman LLP  
2300 N Street, N.W.  
Washington, D. C. 20037-1128

Brian M. Madden, Esquire  
Leventhal, Senter & Lerman P.L.L.C.  
2000 K Street, N.W., Suite 600  
Washington, D. C. 20006-1809



**In re: MX Group No. 990110**

**NEW(Ed. FM), Corbin, KY**  
Eastern Kentucky University  
Facility ID No. 92574  
File No. BPED-19990114ME

**NEW(Ed. FM), Somerset, KY**  
Educational Media Foundation  
Facility ID No. 93774  
File No. BPED-19990628MC

**NEW(Ed. FM), Science Hill, KY**  
Western Kentucky University  
Facility ID No. 93771  
File No. BPED-19990625MD

Dear Counsel:

Currently before the Commission are (1) the captioned mutually exclusive applications for new noncommercial educational FM stations in Corbin, Somerset, and Science Hill, Kentucky filed respectively by Eastern Kentucky University ("EKU"), Educational Media Foundation ("EMF"), and Western Kentucky University ("WKU"); (2) a

February 7, 2001 Joint Request For Approval Of Settlement Agreement (“Joint Request”) filed by EKU, EMF, and WKU; and (3) requests by EKU and EMF for waivers of 47 C.F.R. § 73.1125, the Commission’s main studio rule<sup>1</sup>.

**The Joint Request:** Pursuant to the terms of the Joint Request, the WKU application will be dismissed and EMF has filed a minor amendment to eliminate its mutual exclusivity with EKU, thus permitting both applications to be granted. Accordingly, the applicants have complied with the provisions of 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525. Furthermore, approval of the Joint Request would serve the public interest by providing Corbin its first and Somerset a second noncommercial educational FM radio station. No monetary consideration is promised to achieve the terms of the Joint Request.

The parties have demonstrated that with respect to Section 307(b) none of the applicants is entitled to a decisional preference pursuant to the *Report and Order* in MM Docket No. 95-31, *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, FCC 00-120, 15 FCC Rcd, 7386 (2000), *recon. denied*, *Memorandum Opinion and Order*, FCC 01-264, released February 28, 2001 (waiver of 47 C.F.R. § 73.3525(a)(3) for settlement agreements filed prior to June 4, 2001). Therefore, no publication is required under 47 C.F.R. § 73.3525(b).

**Main Studio Waivers:** EKU and EMF have requested waivers of the Commission's main studio requirement, see 47 C.F.R. § 73.1125, in order to operate the proposed Corbin and Somerset, Kentucky stations as a satellites of their commonly owned NCE stations WEKU(FM), Richmond, Kentucky and KLVR(FM), Santa Rosa, California, respectively.<sup>2</sup> For the reasons set forth below, we will waive 47 C.F.R § 73.1125.

Pursuant to section 73.1125(a), a main studio must be located either (1) within a station’s principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community. See Report and Order, *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*”). 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 seeking 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

---

<sup>1</sup> A supplement to EMF’s waiver request was submitted on September 10, 2001.

<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).

proposed. *Id.* A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard. *Id.*

EKU's and EMF's requests are based on the economies of scale that would be realized by grant of its waiver. We agree and conclude that there is "good cause" to waive 47 C.F.R. § 73.1125(a) in these circumstances.

EKU proposes to operate Corbin, Kentucky station as a satellite station of WEKU(FM), Richmond, Kentucky which is approximately 60 miles from Corbin and EMF proposes to operate the Somerset, station as a satellite of KLVR(FM), Santa Rosa California, approximately 2054 miles from Somerset, Kentucky. Where there are great distances between parent and satellite stations, as there are here, we are particularly concerned that the licensees take adequate measures to maintain their awareness of the satellite stations' community needs and interests.

To that end, ECU has pledged to: (1) maintain an advisory board for Corbin composed of residents of the area from which it will solicit input on programming; (2) at least annually, conduct interviews with residents (in addition to those on the advisory board) and community leaders to assess community needs and programming; (3) provide periodic local programming and local public service announcements for Corbin residents, including significant local news and announcements of civic, charitable and cultural events as appropriate based on the ascertained needs and interests of Corbin; and (4) maintain a toll free telephone number between Corbin, Kentucky and the WEKU(FM) main studio.

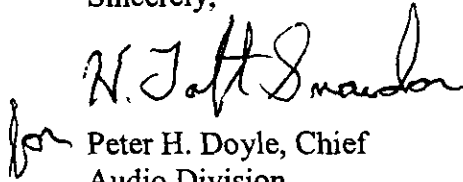
EMF has pledged to: (1) engage the services of a local Somerset public affairs representative to conduct quarterly ascertainment surveys of local community leaders and other residents to determine the concerns, needs, and programs for Somerset listeners, which will be covered in EMF's news and public affairs programming; (2) have the EMF local representative serve as a liaison between the residents of Somerset and EMF's programming personnel; (3) maintain an auxiliary studio within the proposed station's city grade contour which is capable of originating local programming that is responsive to local community needs; and (4) maintain a toll free telephone number between Somerset, Kentucky and the KLVR(FM) main studio in Santa Rosa, California.

In these circumstances, we are persuaded that ECU and EMF will both meet their local service obligations and thus, that grant of the requested waivers is consistent with the public interest. We remind ECU and EMF, however, of the requirement that they maintain public files for the Corbin and Somerset stations at the main studio of the "parent" stations, WEKU(FM), Richmond, Kentucky and KLVR(FM), Santa Rosa, California. They must also make reasonable accommodation for listeners wishing to examine the files' contents. *See Reconsideration Order*, 14 FCC Rcd 11113, 11129 at ¶45. We further remind ECU and EMF that, notwithstanding the grant of the waivers requested here, the public files for the Corbin and Somerset stations must contain the quarterly issues and programs list for Corbin and Somerset, Kentucky required by 47 C.F.R. § 73.3527(e)(8). Furthermore, ECU and EMF have adequately demonstrated to

the Commission their qualifications to be the licensees of noncommercial, educational broadcasting stations.

Accordingly, the Joint Request For Approval Of Settlement Agreement IS GRANTED; the application of Western Kentucky University (BPED-19990625MD) IS DISMISSED; and the applications of Eastern Kentucky University (BPED-19990114ME) and Educational Media Foundation (BPED-19990628MC) and their requests for waiver of 47 C.F.R. § 73.1125 ARE HEREBY GRANTED.

Sincerely,

  
for Peter H. Doyle, Chief  
Audio Division  
Media Bureau