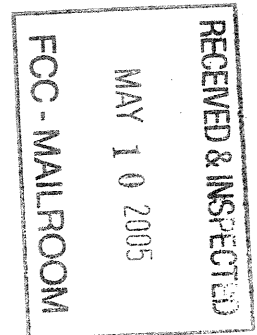


FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

MAY 06 2005

IN REPLY REFER TO:
1800B3-ACS



Henry A. Solomon, Esquire
Garvey, Schubert, Barer
Fifth Floor
1000 Potomac Street, N.W.
Washington, D.C. 20007

In Re: NEW(FM), Farmington, New Mexico
KUTE, Inc.
Facility ID No. 91346
BPED-19980804MB

Request for Waiver of 47 C.F.R. § 73.1125
(Main Studio Rule)

Dear Counsel:

The staff has under consideration the above captioned application of KUTE, Inc. for a new noncommercial educational ("NCE") station in Farmington, New Mexico and its request for a waiver of the Commission's Main Studio Rule, Section 73.1125, in order to operate the new facility as a "satellite" of commonly owned NCE station KUTE (FM), Ignacio, Colorado.¹ For the reasons set forth below, we will waive Section 73.1125 and grant KUTE, Inc.'s 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 community contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.² 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

¹ 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).

² 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"*).

proposed.³ A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard.⁴

KUTE, Inc.'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 "good cause" to waive 47 C.F.R. Section 73.1125(a)(4) under these circumstances.

KUTE, Inc. proposes to operate the Farmington, New Mexico facility as a satellite station of KUTE (FM), Ignacio, Colorado, approximately 39 miles from Farmington. 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 its awareness of the satellite community's needs and interests. To that end, KUTE, Inc. has stated that it will meet its local service obligations to the community by: (1) ascertaining, on a quarterly basis, issues of importance to the Farmington community and ensuring that the programming aired on the Farmington satellite station will be responsive to those needs and concerns; (2) subscribing to local newspapers and publications; (3) covering news stories related to events in Farmington; and (4) providing a toll-free number which will permit residents to reach the KUTE main studio.

In these circumstances, we are persuaded that KUTE, Inc. will meet its local service obligation and thus, that grant of the requested waiver is consistent with the public interest. We remind KUTE, Inc., however, of the requirement that it maintain a public file for the Farmington station at the main studio of the "parent" station, KUTE(FM), Ignacio, Colorado. It must also make reasonable accommodation for listeners wishing to examine the file's contents.⁵ We further remind KUTE, Inc. that, notwithstanding the grant of the waiver requested here, the public file for the Farmington station must contain the quarterly issues and programs list for Ignacio, Colorado, required by 47 C.F.R. Section 73.3527(e)(8).

Construction Permit Application. We have examined the application and find that it complies with all pertinent statutory and regulatory requirements and thus that the public interest, convenience and necessity would be furthered by its grant.


³ *Id*

⁴ *Id*

⁵ See *Reconsideration Order*, 14 FCC Rcd at 11129, Paragraph 45.

Accordingly, KUTE, Inc.'s request for waiver of 47 C.F.R. Section 73.1125 and its application BPED-19980804MB, ARE HEREBY GRANTED. The authorization is enclosed.

Sincerely,


for Peter H. Doyle, Chief
Audio Division
Media Bureau

Enclosure