

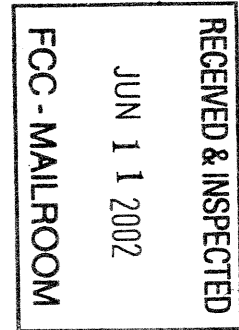
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

JUN 10 2002

IN REPLY REFER TO: 1800B3-JR

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In re: **NEW(FM), Stuart, OK**  
**Facility ID No. 93276**  
File No. BPED-19990420MF  
Lighthouse of Prayer, Inc.  
Minor Amendment

**NEW(FM), Stigler, OK**  
**Facility ID No. 106473**  
File No. BNPED-19991004AAH  
Educational Media Foundation  
Main Studio Waiver  
Minor Amendment

MX Group 990410  
"Joint Request for Approval of  
Settlement"

Dear Counsel:

This letter concerns: (1) the captioned application of Lighthouse of Prayer, Inc. ("Lighthouse") for a new noncommercial educational ("NCE") station at Stuart, Oklahoma (File No. BPED-19990420MF); (2) the captioned application of Educational Media Foundation ("EMF") for a new NCE station at Stigler, Oklahoma (File No. BNPED-19991004AAH); (3) the May 4, 2001 "Joint Request for Approval of Settlement Agreement" ("Joint Request") filed by Lighthouse and by EMF; (4) amendments to the Lighthouse and EMF applications; and (5) EMF's main studio location waiver request. For the reasons set forth below, we approve the Joint Request, dismiss the amendment to the Lighthouse application and grant it, and we accept the amendment to the EMF application, grant EMF's waiver request, and grant the EMF application.

*Settlement agreement.* The instant applications are mutually exclusive and comprise NCE MX Group 990410. Attached to the Joint Request is a copy of an April 30, 2001 Settlement Agreement between Lighthouse and EMF. Pursuant to that agreement, the parties agree to amend their respective applications in order to resolve the mutual exclusivity. Also attached to the Joint Request are declarations under penalty of perjury by each party that their respective applications were not filed for the purpose of reaching or carrying out a settlement and that, other than the agreements to amend, neither applicant nor its principals has been paid, received, or been promised any other consideration. The parties request that we approve the agreement, accept the amendments, and grant their applications. They assert that this would benefit the public interest by expediting the introduction of new NCE service at Stuart and at Stigler and by conserving Commission and applicant resources.

As provided in their settlement agreement, the parties initially submitted minor engineering amendments on May 4, 2001. On August 22, 2001, the staff notified EMF that its amendment was defective and required corrective action before its application could be processed further. See *Letter to Amy L. Van de Kerckhove, Esq. from Brian Butler, Supervisory Engineer, Audio Services Division, Mass Media Bureau* (reference 1800B3).<sup>1</sup> On September 21, 2001, EMF responded by submitting a second minor amendment. On November 13, 2001, EMF filed a third amendment in order to correct an error in the September 21, 2001 amendment as well as to change to the third adjacent channel, change class, increase effective radiated power ("ERP"), and to add a directional antenna. Subsequently, on December 20, 2001, the staff returned EMF's November 13, 2001 corrective amendment due to prohibited contour overlap with application BPED-19960412MA filed by the University of Tulsa for a new NCE station in Tulsa, Oklahoma. See *Letter to Amy L. Van de Kerckhove, Esq. from Brian Butler, Supervisory Engineer, Audio Services Division, Mass Media Bureau* (reference 1800B3).<sup>2</sup> Finally, in response to the December 20, 2001 action, EMF filed a fourth minor amendment on January 24, 2002, therein reducing ERP and changing station class from C1 to C2. On November 14, 2001, Lighthouse indicated that, inasmuch as EMF's amended application would enable the grant of the Lighthouse application as originally filed, it requested withdrawal of its May 4, 2001 amendment.

An NCE applicant may submit a minor engineering amendment to achieve the grant of its proposal by removing itself from an MX group, provided the amendment would not affect the viability of other applicants to compete for a second station. See *Public Notice, "Supplements to Pending Closed Groups of Noncommercial Educational Broadcast Applications Due by June 4, 2001,"* 16 FCC Rcd 6893 (2001). Accordingly, we find good cause to accept EMF's January 24, 2002 amendment. We also determine that there is good cause to dismiss the May 4, 2001 amendment to Lighthouse's application.

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<sup>1</sup> EMF listed the site elevation as 336.8 meters. Since an existing tower was located at the identical coordinates at an elevation of 350.5 meters, the staff directed EMF to further amend to provide corrected site data and to correct all affected portions of its application.

<sup>2</sup> Specifically, the staff noted that the proposed facility was predicted to receive prohibited overlap from application No. BPED-19960412MA in violation of 47 C.F.R. § 73.509.

After careful consideration of the proposed settlement agreement and attached declarations, we determine that the agreement complies with Commission policy. Approval of the settlement proposal and grant of the Lighthouse application and of EMF's application, as amended, would conserve Commission and applicant resources and expedite the implementation of new NCE services to Stuart and Stigler, respectively. Further, it appears that neither party to the Joint Petition filed its application in order to reach or carry out a settlement. See 47 C.F.R. § 73.3525(a). Thus, the proposed settlement conforms to 47 C.F.R. § 73.3525.

*EMF main studio waiver request.* Pursuant to 47 C.F.R. § 73.1125(a), a main studio must be located either: (1) within a station's principal community contour; (2) within the principal community contour of any other station licensed to its community; or (3) within 25 miles of the reference coordinates for 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 15,691 (1998); *recon. granted in part*, 14 FCC Rcd 11,113 (1999) ("*Reconsideration Order*"). Pursuant to subsection (b)(2) of the rule, however, an FM main studio may be located outside the areas prescribed in subsection (a) "when good cause exists . . . and when doing so would be consistent with the operation of the station in the public interest." Waiver requests by applicants seeking to operate stations as satellites of other NCE facilities are considered on a case-by-case basis. 47 C.F.R. § 73.1125(d)(2). The Commission recognizes that NCE stations have limited funding and, thus, has found "good cause" to waive its main studio location requirements where satellite operations are proposed. See *Amendment of Sections 73.1125 and 73.1130*, 3 FCC Rcd 5024, 5027 (1998). An applicant proposing a satellite operation must, however, demonstrate that it will meet its local service obligation in order to satisfy the "public interest" standard of the rule. *Id.*

EMF requests a main studio waiver to operate the proposed Stigler station as a satellite of co-owned Station KLVR(FM), Santa Rosa, California.<sup>3</sup> EMF asserts that that the proposed station will be a part of its Air-1 Radio Network ("Air-1"). It maintains that co-location of the Stigler station's main studio will enable it to realize "valuable economies of scale and cost savings" required to maintain Air-1's "high quality" NCE programming. According to EMF, as a listener-supported station, the proposed Stigler facility will face "severe financial constraints," and requiring separate staffs and studios would be a "serious financial burden," diverting limited financial resources from A-1 programming.

EMF pledges to fulfill its local service obligations by maintaining, within the Stigler facility's principal community contour, an auxiliary studio with the capability of originating local programming responsive to local needs. EMF states that a local public affairs representative will serve as a liaison between Stigler residents and its programming personnel. According to EMF, the representative will work with its Regional Managers<sup>4</sup> to, "at least quarterly," survey local community leaders and residents to determine listener concerns,

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<sup>3</sup> EMF initially sought to operate the proposed facility as a satellite of co-owned Station KLRD(FM), Yukaipa, California. It specified KLVR(FM) in its November 13, 2001 amendment.

<sup>4</sup> According to EMF, its Regional Managers oversee a number of stations with main studio waivers within defined geographic areas.


problems, and needs which will be addressed in news and public affairs programs. EMF also pledges to maintain a toll-free telephone number and a local public inspection file.

EMF's waiver request is premised on potential economies of scale. We agree that, given the circumstances, EMF will meet its local service obligations to Stigler and that there is good cause to waive Section 73.1125. Where, as here, there is a significant distance between parent and proposed satellite stations,<sup>5</sup> and where they are situated in different states, we are particularly concerned that a proposed licensee adequately acts to maintain its awareness of the needs and interests of the satellite community. To that end, we credit EMF's pledges to utilize a local public affairs representative to, at least quarterly, conduct community and resident surveys and to address the ascertained broadcast needs and interests of Stigler. We also credit its pledge to maintain a Stigler studio with local programming capability. Further, we determine that EMF's pledge to maintain a local public inspection file will satisfy its obligation to reasonable accommodate Stigler listeners wishing to examine the file's contents. *See 47 C.F.R. § 73.3527(c); Reconsideration Order*, 14 FCC Rcd at 11,129, ¶ 45. We do not, however, credit its toll-free telephone commitment, inasmuch as it is otherwise mandated by Section 73.1125(e). We remind EMF that, notwithstanding grant of its main studio location request, the public inspection file for its proposed facility must contain the quarterly issues and programs list for Stigler as required by 47 C.F.R. Section 73.3527(e)(8).

*Conclusion/orders.* An examination of the Lighthouse and EMF applications reveals that each party is qualified to be a Commission NCE licensee. The examination further reveals that grants of the applications would benefit the public interest, convenience, and necessity.

In light of the above, and pursuant to 47 C.F.R. § 0.283: the May 4, 2001 "Joint Request for Approval of Settlement" filed by Lighthouse of Prayer, Inc. and by Educational Media Foundation IS APPROVED; the November 14, 2001 request of Lighthouse of Prayer, Inc. to dismiss the May 4, 2001 amendment to its application for a new noncommercial educational station at Stuart, Oklahoma IS GRANTED, and its application (File No. BPED-19990420MF) IS GRANTED. Additionally, the January 24, 2002 amendment to the application of Educational Media Foundation for a new noncommercial educational station at Stigler, Oklahoma IS ACCEPTED, its request for a waiver of 47 C.F.R. Section 73.1125 IS GRANTED, and the application (File No. BNPED-19991004AAH) IS GRANTED. The authorizations will follow under separate cover.

Sincerely,

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

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<sup>5</sup> EMF indicates that the KLVR(FM)'s studio is situated approximately 1,506.7 miles outside the proposed Stigler principal community contour.