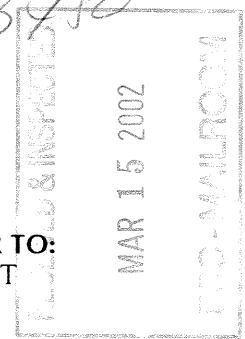


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**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

IN REPLY REFER TO:
1800B3-MAT

MAR 6 2002



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In Re: **NEW(FM), Sugar Grove, IL**
Educational Media Foundation
File No. BPED-19990628MG
Facility ID No. 93787

NEW(FM), Bristol, IL
Best Media, Inc.
File No. BPED-19981211MF
Facility ID No. 92329

Joint Request for Approval of Settlement
Agreement
MX Group 981207

Dear Counsel:

This is in reference to the above-captioned mutually exclusive construction permit applications for a new noncommercial educational FM station in Sugar Grove, Illinois and Bristol, Illinois and the Joint Request for Approval of Settlement Agreement ("Joint Request") filed on July 18, 2001 by Educational Media Foundation ("EMF") and Best Media, Inc. ("BMI").

In consideration for BMI's agreement to dismiss its application for Bristol, Illinois, EMF shall dismiss its application for Whitesburg, Georgia (File No. BNPED-19991101ABN) and secure the dismissal of the Belcher Santa Maria Broadcasting, Inc. application for Whitesburg (File No. BNPED-19991102AAM), and pay any consideration necessary for such dismissal.¹ This will allow for the grant

¹ EMF will pay Belcher Santa Maria Broadcasting, Inc. \$5,000 to dismiss its application.

of BMI's application for Yates, Georgia (File No. BPED-19990520ME) and resolve MX Group 990505. The Joint Request notes that the Commission has waived its settlement payment restrictions for certain settlements filed on or before July 19, 2001. *See Supplements and Settlements to Pending Closed Groups of Noncommercial Educational Broadcast Applications Due By June 4, 2001, Public Notice*, DA 01-729 (released March 22, 2001), as extended by Public Notice, DA 01-1245 (released May 24, 2001). Accordingly, the parties to the Joint Request do not make certifications regarding whether the consideration to be paid or received will exceed the recipient's expenses. All parties to the Joint Request have provided declarations attesting that none of the applications was filed for the purpose of reaching or carrying out the agreement, to demonstrate compliance with the provisions of 47 U.S.C. § 311(c) and 47 C.F.R. § 73.3525.

We have examined the Joint Request, Settlement Agreement and declarations attached thereto. Based on this examination, we find that approval of the Joint Request would serve the public interest and that the BMI application was not filed for the purpose of reaching or carrying out the agreement. Accordingly, the applicants have complied with the provisions of 47 U.S.C. § 311(c)(3) and 47 C.F.R. § 73.3525.

Section 307(b). The Commission is charged with the responsibility "to provide a fair, efficient and equitable distribution of radio service...." 47 U.S.C. § 307(b). We have analyzed the effect of the dismissal of the BMI application on the distribution of noncommercial radio stations in the above-referenced communities. The EMF application proposes a first local noncommercial educational broadcast service to the city of Sugar Grove, which has a significantly larger population than Bristol. As a result, the dismissal of the BMI application will enable the grant of EMF's proposal, which would provide a first local noncommercial service to a much larger service area. When the choice is between the first local noncommercial service, awarding the channel to the larger community advances, rather than impedes, the goals of the statute. *See, e.g. Calico Rock and Leslie, Arkansas*, 12 FCC Rcd 20174 (1997). Therefore, approval of the Joint Request and dismissal of the BMI application does not trigger the need for republication under 47 C.F.R. § 73.3525(b). Furthermore, we find that EMF is fully qualified and that a grant of the application would serve the public interest by expediting a new noncommercial educational FM service to Sugar Grove, Illinois.

Main Studio Waiver Request. EMF has requested a waiver of the main studio requirement, *see* 47 C.F.R. § 73.1125, in order to operate the Sugar Grove, Illinois station as a satellite² of its commonly-owned NCE station KLVR(FM), Santa Rosa, California. The proposed station will be part of a network of radio broadcast stations operated by EMF known as the "K-LOVE Radio Network." For the reasons set forth below, we will waive Section 73.1125.

Section 73.1125(a) requires each broadcast station to maintain a main studio within the station's principal community contour to ensure that the station will serve the needs and interests of the residents of the community of license. *Amendment of Sections 73.1125 and 73.1130*, 3 FCC Rcd 5024, 5027 (1988). However, under Section 73.1125(b)(2), the Commission will waive this requirement 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 a satellite

²A "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 RR 2d 1554, 1562 (1964).

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. *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.*

EMF's request is based on the economies of scale which would be realized by a 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. EMF proposes to operate the Sugar Grove, Illinois station as a satellite of KLVR(FM), Santa Rosa, California, approximately 1120 miles from Sugar Grove, Illinois. Where there is a great distance between parent and satellite stations, as here, we are particularly concerned that the licensee takes adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, EMF has pledged to: (1) maintain an auxiliary studio within the proposed station's city grade contour capable of originating local programming that is responsive to local community needs; (2) engage the services of a local Sugar Grove public affairs representative to conduct regular ascertainment surveys of local community leaders and other residents to determine the concerns, problems, and needs of Sugar Grove listeners, which will be covered in K-LOVE's news and public affairs programming; and (3) maintain a toll-free telephone number, as required by Section 73.1125(d) of the rules, and maintain a public inspection file in Sugar Grove, as required by Section 73.3527 of the Commission's rules. Moreover, EMF's local representative will further serve as a liaison between the residents of Sugar Grove and EMF's programming personnel.

Under these circumstances, we are persuaded that EMF will meet its local service obligations and thus, 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 station at the main studio of the station at which its programming is originated, and it must provide the accommodation to listeners or residents as required under the amended rules. *See Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 14 FCC Rcd 11113, 11129, ¶45 (1999). Thus, in the instant case, EMF must maintain the public file at the main studio of parent station KLVR(FM), Santa Rosa, California.

Accordingly, pursuant to 47 C.F.R. § 0.283, the Joint Request for Approval of Settlement Agreement and its request for waiver of 47 C.F.R. § 73.1125 ARE GRANTED. The application filed by Best Media, Inc. (File No. BPED-19981211MF) IS HEREBY DISMISSED and the application filed by

Educational Media Foundation (File No. BPED-19990628MG) IS HEREBY GRANTED. The construction permit authorization will follow under separate cover.

Sincerely,

Lisa Scanlon
for

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