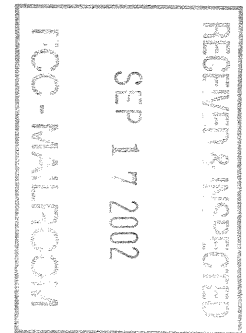


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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

SEP 12 2002

IN REPLY REFER TO:
1800B3-EB



Amy L. Van de Kerckhove, Esquire
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037-1128

In Re: NEW(FM), Scottsbluff, Nebraska
Facility No. 121887
Educational Media Foundation
File No. BPED-19991117ABM
Application for Construction Permit

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

Dear Counsel:

The staff has under consideration the above-referenced application for a new noncommercial educational ("NCE") FM station in Scottsbluff, Nebraska, filed by Educational Media Foundation ("EMF"). In the application, EMF also seeks a waiver of 47 C.F.R. § 73.1125, in order to operate the Scottsbluff facility as a satellite of its commonly owned NCE FM station KLVR(FM), Santa Rosa, California.¹ For the reasons set forth below, we will waive Section 73.1125.

Pursuant to Section 73.1125(a), a 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. *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"). 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 operation 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 grant of its waiver, e.g., avoiding the cost of equipping, staffing, and operating a studio in the Scottsbluff

¹ A "satellite" 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).

area. We agree and conclude that there is good cause to waive 47 C.F.R. §73.1125(a) under these circumstances. As noted above, EMF proposes to operate the Scottsbluff, Nebraska station as a satellite station of KLVN(FM), Santa Rosa, California, approximately 1,030 miles from Scottsbluff, Nebraska. Where there is considerable distance between the parent and the satellite station, 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 meet its local service obligations by: (1) conducting regular ascertainment surveys of Scottsbluff community leaders and residents, (2) having a local representative, who may be a volunteer, available in the community of Scottsbluff. The local representative will work with EMF's regional managers and conduct on a quarterly basis, interviews, surveys and other samplings of public opinion, in order to ascertain the interests and needs of the proposed service area in its news and public affairs programming.

Under 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, that, notwithstanding its commitment to maintain a public inspection file in Scottsbluff, it must also maintain a public file for the Scottsbluff, Nebraska station at the main studio of the parent station, KLVN(FM), Santa Rosa, California. It must also make reasonable accommodation for listeners wishing to examine the file's contents. *See Reconsideration Order*, 14 FCC Rcd at 11, 129, ¶45. We further remind EMF that, notwithstanding the grant of the waiver requested here, the public file for the station must contain the quarterly issues and programs list, as required by 47 C.F.R. § 73.3527(e)(8).

We have reviewed EMF's application and find that it complies with all pertinent statutory and regulatory requirements. Additionally, our evaluation reveals that grant of the application will further the public interest, convenience and necessity. Accordingly, the application (File No. BPED-199901117ABM) of Educational Media Foundation for a new noncommercial educational FM station in Scottsbluff, Nebraska, as well as its request for waiver of 47 C.F.R. § 73.1125, IS GRANTED.

Sincerely,



Peter H. Doyle, Chief
Audio Division
Media Bureau