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William K. Keane, Esq.  
Arter & Hadden LLP  
1801 K Street, N.W., Suite 400K  
Washington, D.C. 20006

Jerrold D. Miller, Esq.  
Miller & Miller P.C.  
1990 M Street, N.W., Suite 760  
Washington, D.C. 20036

Lee J. Peltzman, Esq.  
Shainis & Peltzman, Chartered  
1850 M Street, N.W., Suite 240  
Washington, D.C. 20036-3506

Henry A. Solomon, Esq.  
Garvey, Schubert & Barer  
1000 Potomac Street, N.W., 5<sup>th</sup> Floor  
Washington, D.C. 20007

In re: **New FM, Glenwood Springs, CO**  
Public Broadcasting of Colorado, Inc.  
Facility ID No. 88445  
File No. BPED-19970924MH

**New FM, Aspen, CO**  
Aspen Public Radio, Inc.  
Facility ID No. 91395  
File No. BPED-19980812MI

**New FM, New Castle, CO**  
Educational Communications of  
Colorado Springs, Inc.  
Facility ID No. 91467  
File No. BPED-19980813MD

**New FM, Glenwood Springs, CO**  
Pitkin County  
Facility ID No. 91484  
File No. BPED-19980814MH

Joint Request for Approval of  
Settlement  
MX Group 970940

Dear Counsel:

This is in reference to the above-captioned mutually exclusive construction permit applications for a new noncommercial FM station in Glenwood Springs, Aspen and New Castle, Colorado and the Joint Request for Approval of Universal Settlement ("Joint Request") filed on July 18, 2001 by Public Broadcasting of Colorado, Inc. ("PBC"), Aspen Public Radio, Inc. ("APR"), Educational Communications of Colorado Springs, Inc. ("ECCS") and Pitkin County ("Pitkin").

Under the terms of the Settlement Agreement, APR, ECCS and Pitkin request dismissal of their applications. PBC will pay APR \$12,000 in exchange for the dismissal of its application. The Agreement notes that PBC has made arrangements for undertakings in other groups of mutually exclusive applications with ECCS and Pitkin, and that none of these undertakings are contingent on the instant settlement of MX Group 970940.

We have examined the Joint Request and the Settlement Agreement and affidavits attached thereto. Based on this examination, we find that approval of the Joint Request would serve the public interest and that the APR, ECCS and Pitkin applications were 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 examined the effect of the dismissal of the APR, ECCS and Pitkin applications on the distribution of noncommercial radio stations in the above-referenced communities. The proposed 60 dBu contours of ECCS and Pitkin are wholly within PBC's proposed 60 dBu contour. Only APR among the applicants proposes service to areas not encompassed by PBC's service area (Aspen vs. PBC's proposal for Glenwood Springs). APR is not eligible for a first service preference and the population differential between the APR and PBC proposals is less than 5,000. Thus, APR and PBC are considered to provide an equivalent service overall and no Section 307(b) preference exists within this mutually exclusive group. In light of the above, the Joint Request would not unduly impede the objectives of 47 U.S.C. § 307(b) and republication is not required pursuant to 47 C.F.R. § 73.3525(b). Furthermore, we find that PBC is fully qualified and that a grant of the application would serve the public interest by expediting a new noncommercial FM service to Glenwood Springs, Colorado.

*Main Studio Waiver Request.* PBC has requested a waiver of the Commission's main studio requirement, see 47 C.F.R. § 73.1125, in order to operate the Glenwood Springs station as a satellite<sup>1</sup> of its commonly-owned NCE station KVOD(FM) (formerly KCFR(FM)), Denver, Colorado. 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

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<sup>1</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 RR 2d 1554, 1562 (1964).

station in the public interest.” Each waiver request by an NCE station seeking to operate as a 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 proposed. *Id.* A satellite station must, however, demonstrate that it will meet its local service obligations to satisfy the Section 73.1125 public interest standard. *Id.*

PBC’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. PBC proposes to operate the Glenwood Springs station as a satellite of KVOD(FM), Denver, Colorado, approximately 115 miles from Glenwood Springs, Colorado. Where there is a great distance between parent and satellite station, 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, PBC has pledged to ascertain the problems, needs and interests of Glenwood Springs on a regular, periodic basis, devoting a portion of Colorado Public Radio’s news, public affairs and informational programming to the problems, needs and interests of Glenwood Springs and environs. Moreover, PBC pledges to assign its news personnel and/or to retain local reporters to cover local issues. Finally, PBC will maintain a toll-free telephone number for the use of residents of Glenwood Springs and will maintain a local public inspection file.

Under these circumstances, we are persuaded that PBC will meet its local service obligations and thus, grant of the requested waiver is consistent with the public interest. We remind PBC, 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, PBC must maintain the public file at the main studio of parent station KVOD(FM), Denver, Colorado.

Accordingly, pursuant to 47 C.F.R. § 0.283, the Joint Request for Approval of Universal Settlement and the request for waiver of 47 C.F.R. § 73.1125 ARE GRANTED; the applications filed by Aspen Public Radio, Inc. (File No. BPED-19980812MI), Educational Communications of Colorado Springs, Inc. (File No. BPED-19980813MD) and Pitkin County (File No. BPED-19980814MH) ARE HEREBY DISMISSED and the application filed by Public Broadcasting of Colorado, Inc. (File No. BPED-19970924MH) IS HEREBY GRANTED. The construction permit authorization will follow under separate cover.

Sincerely,



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