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**FEDERAL COMMUNICATIONS COMMISSION**  
**WASHINGTON, DC 20554**  
OCT 20 2004

**IN REPLY REFER TO:**  
**1800B3-ARE**

Amy L. Van de Kerkhove, Esquire  
ShawPittman LLP  
2300 N Street N.W.  
Washington, D.C. 20037

In Re: **WXKY-FM, Stanford, Kentucky**  
Educational Media Foundation  
Facility ID No. 37560

File No. BALH-20040805ABH  
File No. BMLH-20040907ABM  
To Convert to Noncommercial Educational Status

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

Dear Ms. Van de Kerchove:

This is in reference to the captioned application to: (1) assign the license of WXKY-FM, Stanford, Kentucky, from Lincoln-Garrard Broadcasting Company, Inc., ("Lincoln-Garrard"), to Educational Media Foundation ("EMF"), and (2) modify the WXKY-FM license by converting it from commercial to noncommercial educational status.<sup>1</sup> The modification of license application also contains a request for a waiver of the Commission's main studio requirement, 47 C.F.R. Section 73.1125, to permit EMF to operate WXKY-FM, as a "satellite" of its noncommercial educational "NCE" FM station, KLVR(FM), Santa Rosa, California.<sup>2</sup> For the reasons set forth below, we will grant the assignment application and the modification of license application, and will grant the waiver request. The license modification grant will become effective upon notification of consummation of the assignment application.

Assignment Application. We have reviewed the application to assign the license of station WXKY-FM from Lincoln-Garrard to EMF. We find that Lincoln-Garrard and EMF are fully qualified to sell and acquire, respectively, the license for WXKY-FM. We also find that EMF is fully qualified to be the licensee of WXKY-FM and that the grant of the application

<sup>1</sup> EMF is proposing to reclassify WXKY-FM from commercial to noncommercial educational status pursuant to Section 73.1690(c)(9).

<sup>2</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, 3RR2d 1554, 1562 (1964).

would further the public interest, convenience and necessity. We will, therefore, grant the application below.

Modification of License application. Pursuant to *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit*,<sup>3</sup> EMF may apply to convert the WXY-FM commercial authorization to noncommercial educational FM status. It may do so by filing a license application accompanied by a demonstration that it is a qualified educational organization pursuant to 47.C.F.R. Section 73.503(a) and that the station will be used to advance EMF's educational program.<sup>4</sup> We will accept the instant showing. An examination of EMF's proposal reveals that EMF is qualified to operate WXY-FM as a noncommercial educational facility and that grant thereof would serve the public interest, convenience and necessity. We will, therefore, convert WXY-FM to noncommercial educational status with the effective date of the grant being the date that EMF notifies the Commission of the consummation of its acquisition of the station.<sup>5</sup>

Main Studio Rule Waiver. Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.<sup>6</sup> 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."<sup>7</sup> While the provisions of Section 73.1125 apply to both commercial and noncommercial educational ("NCE") stations, the Commission has recognized the benefits of centralized operation for NCE stations, given their generally limited funding, and thus found that "good cause" exists to waive the main studio location requirement where satellite operations are proposed.<sup>8</sup>

EMF'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.

EMF proposes to operate WXY-FM as a satellite station of KLVF(FM), Santa Rosa, California, approximately 2053 miles from Stanford, Kentucky. 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, EMF has pledged to: (1) engage the services of a local Stanford public

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<sup>3</sup> 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 11112(1999) ("Reconsideration Order").

<sup>4</sup> See *Reconsideration Order*, 14 FCC Rcd at 11129, Paragraph 45.

<sup>5</sup> 12 FCC Rcd 12,371 (1997).

<sup>6</sup> See *Amendment of Section 73.1125*, 3 FCC Rcd 5024 (1980).

<sup>7</sup> *Id.*

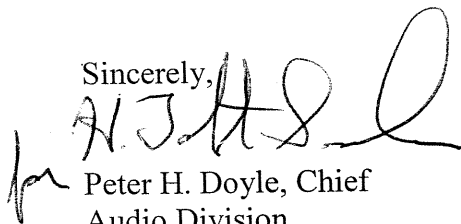
<sup>8</sup> *Id.*

affairs representative, who may be a volunteer, to conduct quarterly ascertainment surveys of local community leaders and other residents to determine the concerns, problems and needs of Stanford listeners, which will then be covered in EMF's news and public affairs programming; (2) have a separate Regional Manager available in the community of Stanford; (3) have the local representative work with EMF's Regional Manager to address the concerns, problems and needs of Stanford; and (4) maintain a toll-free telephone number, as required by Section 73.1125(d) of the rules, and will maintain a public inspection file for the station as required by Section 73.3527 of the rules.

In these circumstances, we are persuaded that EMF will meet its local service obligation and that the grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain the WXKY-FM public inspection file at the main studio of the "parent" station KLVR(FM), Santa Rosa, California. It must also make reasonable accommodation to listeners wishing to examine the file's contents.<sup>9</sup> We further remind EMF that notwithstanding the grant of the waiver requested here, the public file for WXKY-FM must contain the quarterly issues and program list for Stanford, Kentucky, as required by 47 C.F.R. §73.3527(e)(8).

Accordingly, in light of the above discussion, the application (File No. BALH-2004805ABH) to assign WXKY-FM) from Lincoln-Garrard Broadcasting Company, Inc. to Educational Media Foundation, and the application BMLH-20040907ABM to convert the WXKY-FM license from commercial to noncommercial educational status, ARE HEREBY GRANTED, and the request for waiver of 47 C.F.R. Section 73.1125, IS HEREBY GRANTED. The effective date of the license modification will be the date on which the Commission is notified that EMF has consummated the acquisition of the station. The authorization to operate the station as a noncommercial educational facility will be sent at that time. In order to facilitate transmission of the authorization, EMF and counsel are requested to send a copy of the consummation notification to both Andree Ellis, Room 2-A165, and Druscilla Smalls, Room 2A140, at the Federal Communications Commission, 445 12<sup>th</sup> Street S.W., Washington, D.C. 20554.

Sincerely,

  
Peter H. Doyle, Chief  
Audio Division  
Media Bureau

cc: Educational Media Foundation

<sup>9</sup> See *Reconsideration Order*, 14 FCC Rcd at 11129, ¶ 45.