

2-B450

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

MAR 14 2005

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

Margaret L. Miller, Esquire
1200 New Hampshire Ave. N.W.
Suite 800
Washington, D. C. 20036

In Re: KQVO(FM, Calexico, CA
State of California, San Diego State University
Facility ID No. 8175
Application for Assignment of License
File No. BALH-20041110AAB

File No. BMLED-20041217AAJ
To Convert to Noncommercial Educational
Status

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

Dear Ms Miller:

The staff has under consideration the captioned applications to: (1) assign the license of station KQVO(FM), Calexico, California, from Hanson Broadcasting Company of California ("Hanson") to State of California, San Diego State University ("SDSU"); and (2) modify the KQVO(FM) license by converting it from commercial to noncommercial educational status.¹ The modification of license application also contains a request for a waiver of the Commission's Main Studio Rule, Section 73.1125, in order to operate station KQVO(FM) as a "satellite" of commonly owned noncommercial

¹ SDSU is proposing to reclassify KQVO(FM) from commercial to noncommercial educational status pursuant to 73.1690(c)(9).

educational ("NCE") station KPBS(FM), San Diego, California.² For the reasons set forth below, we shall grant the assignment application, the modification of license application, and the waiver request. The latter grants will become effective upon notification of consummation of the assignment application.

Main Studio Waiver. Pursuant to Section 73.1125(a), a broadcast station's 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.³ 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 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.⁴ A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard.⁵

SDSU'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 KQVO(FM), Calexico, California, as a satellite station of KPBS-FM, San Diego, California, approximately 96 miles from Calexico. 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, SDSU has pledged to: (1) maintain a satellite repeater station that complies with Section 73.1125 and that is capable of providing an active listener comment line; (2) utilize SDSU's outreach department and its ties to the community and its ongoing ascertainment efforts to help ensure that the programming will serve the needs of the Calexico residents and to determine the concerns, problems and needs of Calexico listeners, which will be covered in Calexico's news and public affairs programming broadcast by KQVO(FM); (3) maintain an up-to-date web site which will enable listeners of Calexico to view SDSU's programming and provide opportunity for listener comment and reaction via e-mail; (4) maintain its public

² 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 RR2d 1554, 1562 (1964).

³ 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").

⁴ *Id*

⁵ *Id*

inspection file within the Calexico community; and (5) maintain a toll-free telephone number, as required by Section 73.1125(d) of the rules.

In these circumstances, we are persuaded that SDSU will meet its local service obligation and thus, that grant of the requested waiver is consistent with the public interest. We remind SDSU, however, of the requirement that it maintain a public file for the Calexico station at the main studio of the "parent" station, KPBS-FM, San Diego, California. It must also make reasonable accommodation for listeners wishing to examine the file's contents.⁶ We further remind SDSU that, notwithstanding the grant of the waiver requested here, the public file for KQVO(FM) must contain the quarterly issues and programs list for Calexico, California, required by 47 C.F.R. Section 73.3527(e)(8).

Assignment application. We have examined the application and find that it comports with all statutory and regulatory requirements, that SDSU is qualified to operate KQVO(FM), and that routine approval of the application would further the public interest, convenience and necessity.

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*,⁷ EMF may apply to convert the KQVO(FM) commercial authorization to noncommercial educational FM status. It may do so by filing a license application and 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 SDSU's educational program.⁸ We will accept the instant showing. An examination of SDSU's proposal reveals that EMF is qualified to operate KQVO(FM) as a noncommercial educational facility and that grant thereof would serve the public interest, convenience, and necessity. We will therefore convert KQVO(FM) to noncommercial educational FM status with the effective date of the grant being the date that SDSU notifies the Commission of the consummation of the acquisition of the station.⁹

Actions. Accordingly, in light of the above discussion, the application (File No. BALH-20041110AAB) to assign KQVO(FM) from Hanson Broadcasting Company of California to State of California, San Diego State University IS HEREBY GRANTED. Additionally, the application (File No. BMLH-20041217AAJ) to convert the KQVO(FM) license from commercial to noncommercial educational status, and the concomitant request for waiver of 47 C.F.R. Section 73.1125, ARE GRANTED. The effective date of the latter two actions will be the date on which the Commission is notified that State of California, San Diego State University has consummated its acquisition of the station.¹⁰ The authorization to operate the station as a noncommercial educational facility will be

⁶ See *Reconsideration Order*, 14 FCC Rcd at 11129, Paragraph 45.

⁷ 12 FCC Rcd 12,371 (1997).

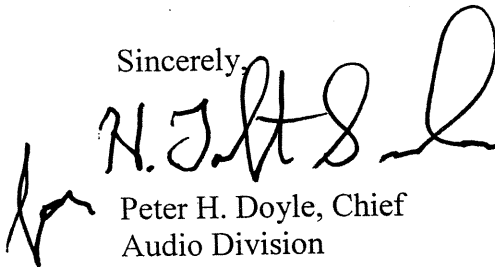
⁸ See 47 C.F.R. §73.1690(c)(9).

⁹ See 47 C.F.R. § 1.102.

¹⁰ *Id.*

sent at that time. In order to facilitate the transmission of the authorization, State of California, San Diego State University and counsel are requested to send a copy of the consummation notification to both Andree Ellis, Room 2-A165, and Druscilla Smalls, Room 2-A140, at the Federal Communications Commission, 445 12th Street, S.W., Washington, D. C. 20554.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle", written over the typed name.

Peter H. Doyle, Chief
Audio Division
Media Bureau

Enclosure