

FEDERAL COMMUNICATIONS COMMISSION
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MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
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MAY 28 2013

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CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Entercom Wichita License, LLC
401 City Avenue
Bala Cynwyd, PA 19004

Community Broadcasting, Inc.
10550 Barkley
Suite 108
Overland Park, KS 66212

In re: KDGS(FM), Andover, KS
Facility ID # 48789
Entercom Wichita License, LLC
BLH-19931108KC

KCVW(FM), Kingman, KS
Facility ID # 6506
Community Broadcasting, Inc.
BPED-20111214ABT

Dear licensee:

This letter is in reference to: (1) the above caption license for KDGS, Andover, KS; (2) the above caption minor change application for KCVW, Kingman, KS, as last amended September 11, 2012; (3) the February 3, 2012 and September 17, 2012 Informal Objections filed by Entercom Wichita License, LLC ("Entercom"), licensee of KDGS, Andover, KS; (4) the March 20, 2013 Response to Order to Show Cause; and (5) all other related pleadings. For the reasons set forth below, we deny both Informal Objections, modify Entercom's license (BLH-19931108KC) to specify Channel 228C3, and grant the application for KCVW.

Background

On December 14, 2011, Community Broadcasting, Inc. ("CBI"), licensee of proposed station at Kingman, KS filed a minor change construction permit application (BPED-20111214ABT) requesting the substitution of Channel 228C3 for Channel 230C3 at Andover, KS and the

modification of the above captioned license.¹ Section 316(a) of the Communications Act of 1934, as amended,² permits us to modify the license or construction permit if such action is in the public interest. The Act requires that we notify the affected station of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. Accordingly, by staff letter dated February 19, 2013, Entercom was directed to show cause why its license should not be modified to specify Channel 228C3 in lieu of Channel 230C3. On March 20, 2013, Entercom filed a response to the Order to Show Cause letter requesting that its license not be modified.

Informal Objections and Response to Order to Show Cause

The Informal Objections and Response to Order to Show Cause filed by Entercom present similar arguments. Entercom states that CBI's proposal does not comply with 47 C.F.R. § 73.315. Entercom affirms that CBI's calculations are based on Point-to-Point methodology and thus, fails to take into account the local terrain obstructions outside of Kingman. Entercom alleges that by using the Longley-Rice methodology, the proposed coverage is well below the required 80 percent. Entercom further argues that the change of channel will not only disrupt and confuse their audience, but also change the station's identity and brand.

Discussion

We referred the application to our propagation expert at the Office of Engineering and Technology ("OET") to perform an independent study. The evaluation confirmed that there is no major terrain obstruction and the application, as amended, demonstrates compliance with 47 C.F.R. § 73.315. Furthermore, our engineering review of the application, as amended, reveals that CBI's application demonstrates compliance with all necessary rules. Therefore, Entercom's Informal Objections will be denied.

We have reviewed the Response to Order to Show Cause submitted by Entercom and find that the public interest would be served by the substitution of Channel 228C3 for Channel 230C3 at Andover, KS and the modification of the license for Station KDGS to specify operation on Channel 228C3 at Andover, KS. This channel change will accommodate the grant of CBI's application. In addition, Entercom has not raised a substantial or material question of fact or demonstrated that Station KDGS would be harmed by modification of its license to specify operation on the alternate Class C3 channel. Furthermore, with advanced notice and proper planning, KDGS will minimize any disruption to its audience. Finally, CBI has stated its willingness to reimburse Entercom the reasonable costs incurred in connection with the proposed channel change consistent with the *Circleville* policy.³

Conclusion

In light of the above, the Informal Objections filed by Entercom on February 3, 2012 and September 17, 2012, and all other related pleadings ARE HEREBY DENIED.

¹ The license at Andover, Kansas can be modified to specify operation on Channel 228C3 in lieu of Channel 230C3 at the station's current authorized transmitter site (BLH-19931108KC). The authorized coordinates for the license at Andover, KS are 37-37-00 NL and 97-20-11 WL.

² 47 U.S.C. § 316(a) (the "Act").

³ See *Circleville, Ohio*, 8 FCC 2d 159 (1967).

Furthermore, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective the date of this letter, the FM assignment IS MODIFIED as follows:

Community
Andover, KS

Channel No.
Add 228C3, Delete 230C3

Pursuant to Section 316(a) of the Communications Act of 1934, as amended, license BLH-19931108KC IS MODIFIED to specify operation on Channel 228C3 in lieu of Channel 230C3.⁴

IT IS FURTHER ORDERED, that application BPED-20111214ABT filed by CBI IS HEREBY GRANTED.

Within 30 days of the effective date of this letter, Entercom shall submit to the Commission a minor change application for construction permit (Form 301). Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules. Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

Sincerely,



Edna V. Prado
Supervisory Engineer
Audio Division
Media Bureau

cc: Harry C. Martin, Esq.
Carrie Ward
Niemeyer Communications, LLC

⁴ License and assignment for KOTE(FM), Eureka, KS is concurrently modified to specify operation on Channel 230A.