

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 TWELFTH STREET SW**  
**WASHINGTON DC 20554**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
**APPLICATION STATUS:** (202) 418-2730  
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April 18, 2007

Mark N. Lipp, Esq.  
Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006

Re: WBAR-FM, Lake Luzerne, New York  
Facility Identification Number: 8678  
Capital Media Corporation  
Special Temporary Authorization

Dear Counsel:

This is in reference to the request filed April 4, 2007, on behalf of Capital Media Corporation ("CMC"). CMC requests special temporary authority ("STA") to operate Station WBAR-FM with temporary facilities.<sup>1</sup> In support of the request, CMC states that it is in the process of implementing modified facilities for Station WBAR-FM as authorized by Construction Permit BPH-20070116ACF, and that it proposes to use the currently licensed antenna at the permit site during construction, and as a backup antenna following completion of construction pending the licensing of the new facility and the filing of an application for a new auxiliary antenna.

Section 73.1615, which governs operation during modification of facilities, provides that licensees holding construction permits for modification of directional or nondirectional FM and TV or nondirectional AM facilities may discontinue operation, may operate with temporary facilities to maintain, as nearly as possible, but not exceed, the size of the currently licensed coverage area. Our review indicates that, with the exception of some minor extensions due to terrain anomalies, the proposed 60 dBu contour does not extend significantly beyond the licensed contour.

Accordingly, the request for STA IS HEREBY GRANTED. Station WBAR-FM may operate with the following facilities, as necessary to facilitate construction and for auxiliary purposes:

Geographic coordinates:	43° 18' 17" N, 73° 45' 07" W (NAD 1927)
Channel	234 (94.7 MHz)
Effective radiated power:	0.32 kilowatt (H&V)
Antenna height:	
above ground:	63 meters
above mean sea level:	465 meters

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<sup>1</sup> WBAR-FM is licensed for operation on Channel 234A (94.7 MHz) with effective radiated power of 0.3 kilowatt (H&V) and antenna height above average terrain of 272 meters.

Above average terrain: 250 meters

CMC must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **October 18, 2007**.

**STA Advisory:** Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,



Charles N. Miller, Engineer  
Audio Division  
Media Bureau

cc: Capital Media Corporation