

**FEDERAL COMMUNICATIONS COMMISSION**  
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**WASHINGTON DC 20554**

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February 22, 2019

Victoria Theatre Project  
4601 30<sup>th</sup> Avenue South  
Minneapolis, MN 55406

Re: WVIC-LP (FL), St. Paul, MN  
Victoria Theatre Project  
Facility Identification Number: 196635  
Request for Special Temporary Authority (STA)  
BSTA-20190221AAB

Dear Licensee:

This letter is in reference to your request for Special Temporary Authority (STA) filed February 21, 2019 for WVIC-LP. You seek to increase the effective radiated power of the current STA operation to permit this low power station to cover a larger area. For the reasons set forth below, we deny the request.

*Background.* WVIC-FM has been operating on Special Temporary Authority at 15 watts effective radiated power (ERP) since November 29, 2018. That STA (BSTA-20181120AAF) was granted to allow this silent station to return to the air, thereby avoiding loss of the station's license.<sup>1</sup>

On February 4, 2019, Victoria Theatre Project filed a construction permit application for a new, permanent location (BPL-20190204AAR). That application was found acceptable and the construction permit was granted February 15, 2019.<sup>2</sup>

Just two days ago (February 20), and one day before the filing of the current STA request, the licensee filed a license application (BLL-20190220AAK) to cover that construction permit. The license application is awaiting review at this time.

*Discussion.* In the license application, the licensee certified that (1) that the station was constructed in accordance with the construction permit and (2) that the station is operating pursuant to automatic program test authority [Section 73.1620 of the FCC's rules]. Taking these statements at face value, we point out that WVIC-LP provides greater coverage while operating under program test authority than could be attained through the requested STA operation. Additionally, the STA request does not explain why the operation under program test authority from the permit site cannot be maintained. We see no reason why an STA is still required for WVIC-FM.

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<sup>1</sup> WVIC-LP went silent on February 11, 2018, and so was required to return to operation no later than February 11, 2019. Failure to do so would have resulted in the automatic cancellation of the station's license as a matter of law, pursuant to Section 312(g) of the Communications Act.

<sup>2</sup> The construction permit coordinates map to a location at the intersection of Geranium Ave. and Weide Street, St. Paul, MN.

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 a construction permit application, nor is it a means by which a broadcaster may enhance a facility or make operation more convenient for the broadcaster.

In the present case, it seems that Victoria Theatre Project would prefer to remain at the STA site indefinitely because it is convenient for the licensee. But the STA site cannot now be authorized as a permanent site, and might never be so licensable. We decline to issue STA authorizations for perpetual "temporary" operations. That principle is reinforced by the observation that, by having obtained a construction permit as well as filing a license application, Victoria Theatre Project has established that suitable licensable alternatives do exist, even though they may not be the preferred option of the licensee.

Accordingly, the February 21, 2019 request for Special Temporary Authority IS DENIED. WVIC-LP may continue operating under program test authority using the facilities authorized by construction permit BPL-20190204AAR.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dale Bickel", written in a cursive style.

Dale Bickel  
Senior Engineer  
Audio Division  
Media Bureau

cc: Jeff Siebert (via e-mail only)