

STAMP & RETURN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FILED/ACCEPTED
NOV 21 2007
Federal Communications Commission
Office of the Secretary

In the Matter of the Application of)
)
University of Massachusetts)
Channel 218, Gloucester, MA)
)
Application for Original Construction Permit)
)

File No. BNPED-20071019AUQ
FCC Facility ID No. 174558

JTG

To: Marlene H. Dortch, Secretary, Federal Communications Commission
To the Attention of the Chief, Media Bureau

PETITION FOR RECONSIDERATION

The University of Massachusetts, by its attorneys, pursuant to Section 1.106 of the Commission's rules, hereby respectfully seeks reconsideration of the Commission's letter on November 8, 2007 (a copy of FCC letter is attached) dismissing the above referenced application.¹ As will be shown below, the dismissal resulted from a typographical error the application. The Commission can confidently and reliably resolve the inaccuracy in the data based upon the remaining information given in Section VII, Item 5 (Tech Box) of the application. Accordingly, acceptance of the corrected application *Nunc Pro Tunc* is warranted. In support thereof, the following is submitted:

1. The Commission's November 8, 2007 letter dismissing the application was based on noncompliance with Section 73.515 of the Commission's rules which is an acceptance defect. The Commission stated that the proposed 60 dBu contour failed to cover at least 50% of the proposed community of the license of Gloucester, Massachusetts. From the existing specified tower with FCC Antenna Structure Registration ("ASR") No. 1005284 as stated in Section VII,

¹ *Public Notice* of the dismissal was given in FCC Report No. 46613, released November 15, 2007. Accordingly, this Petition for Reconsideration is timely filed.

Item 5 (Tech Box) of the application, however, the proposed University of Massachusetts facility does cover the proposed community of Gloucester, Massachusetts with a 60 dBu contour.

2. The discrepancy results from an obvious typographical error in the geographic coordinates entered into the CDBS application. The Director of Engineering of the University of Massachusetts Boston Public Radio Stations, in entering the geographical coordinates into the electronic version of the application in CDBS, entered the North Latitude as 47° rather than 42°, thus resulting in an error of 556 kilometers, an error that placed the proposed transmitter site somewhat northwest of Baie-Saint-Paul, Quebec, Canada. An FCC application that contains geographic coordinates located in the middle of Canada in excess of 550 kilometers from the proposed city license – geographic coordinates that are completely disparate to every other aspect of the location information in the application – is without question an application that contains a typographical error in the coordinates.²

3. The application should be accepted *Nunc Pro Tunc* with corrected geographic coordinates as the geographic coordinates of this proposed facility can be reliably determined from the information contained in the application itself. Section VII, Item 5, states the ASR as No. 1005284. This ASR has unique geographic coordinates associated with it. From the FCC data associated with this ASR, the Commission may take official notice of the correct geographic coordinates. In addition, on this antenna structure are other FCC licensed facilities including the licensed FM translator W268AM (FCC Facility ID No. 138772), and CMRS facilities WPPK987 and WPOF374.

² The coordinates specified the application were 47° 37' 28" North Latitude, 70° 39' 13" West Longitude (NAD 83). The correct coordinates are 42° 37' 28" North Latitude, 70° 39' 13" West Longitude (NAD 83) which results in the correct NAD 27 coordinates being 42° 37' 28" North Latitude, 70° 39' 15" West Longitude.

4. It is settled FCC law that the Commission will look to information in an application to resolve a discrepancy in coordinates when the applicant intended to use an existing tower with licensed facilities on it. See *JEM Broadcast Company, Inc. v. FCC*, 22 F3d 320 (D.C. Cir. 1994). As explained in *JEM Broadcasting Company, Inc. v. FCC*, the Commission can take official notice of the information in its records to verify the coordinates for a tower and thus resolve the question of where the applicant proposed to locate the tower. This settled law has been applied in a number of cases and is regarded as “longstanding Commission policy”. See *Lehigh Valley Community Broadcasters*, 8 FCC Rcd 1643(HDO 1992) at Paragraph 11 which states:

It has been longstanding Commission Policy that if an applicant has specified inconsistent data, but clearly proposes to locate its antenna on an existing tower to which specific reference is made in its application, the staff takes official notice of data specified in Commission records for the licensed facilities, and thus often can confidently and reliably resolve the inaccuracy or inconsistency in the data given for the proposed tower location or height.

5. This situation of confidently and reliably resolving the accuracy of the geographic coordinates is exactly the situation presented by the subject application. There is an inconsistency between the geographic coordinates specified in Section VII, Item 3, and the location of the tower in the Commission’s ASR record specified in Section VII, Item 5. The Commission is faced with the question as to: (a) whether the applicant intended to locate the transmitter site for its new NCE station in the middle of Quebec, Canada at a distance greater than 550 kilometers from the proposed community of license; or (b) whether the applicant intended to locate its transmitter site on the antenna structure which is ASR No. 1005284 on Blackburn Drive, Gloucester, Massachusetts,³ the proposed community of license. In this

³ Data from ASR No. 1005284.

situation, the Commission can confidently and reliably resolve that the applicant intended to specify the existing tower with ASR No. 1005284 on Blackburn Drive, Gloucester, Massachusetts, and did not intend to specify a new tower more than 550 kilometers from the community of license in the middle of Quebec, Canada.

6. Because the application at issue is a noncommercial application on the reserved band, the application acceptance standard in *Public Notice – Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, 49 Fed. Reg. 47331, released August 2, 1984, is controlling. In that *Public Notice*, the Commission states that when a cut-off date could preclude the re-filing of a dismissed incomplete or patently defective application, the Commission has “not instituted draconian procedures with respect to [such] incomplete or defective applications”. The Commission states in the *Public Notice* that it grants reconsideration of an action dismissing or returning an application when the applicant submits corrected information within 30 days after dismissal along with a petition of reconsideration. The Commission states that in contested proceedings, such applications are accepted *Nunc Pro Tunc*, which the Commission defines as an applicant being reinstated in the processing line with the filing date of the original submission. The Commission states in the *Public Notice* that it will continue to act favorably on such requests after an initial dismissal or return of an application as unacceptable for filing. In a *Memorandum Opinion and Order*⁴ in which a petition asking for reconsideration of the *Public Notice* was addressed, the Commission agreed that there is a “public interest benefit in permitting an applicant in a comparative proceeding to amend its application in order to maintain its basic qualifications and thereby afford the Commission a choice among the greatest number of applicants”.

⁴ See *Incomplete and Defective AM and FM Applications*, 5 RR 2d 1603 (1985) at Paragraph 5.

7. Attached to this petition for reconsideration is the declaration of Grady Moates, Chief Engineer for University of Massachusetts Boston Public Radio Stations. Mr. Moates explains the reason for the typographical error in the application. Mr. Moates observes that his eyesight (Mr. Moates just passed his landmark birthday of 60 years) combined with a computer screen and the use of the "Tab" key led him to believe that he typed the number "42" into the Latitude "Degrees" box, after which he pressed the "Tab" key to move to the "Minutes" box and enter the number "37". Rather than performing this action accurately, he found he had overwritten the number "42" with the number "37" in the "Degrees" box. Mr. Moates attempted to make the correction back to the number "42" in the "Degrees" box and believed he had done so, but apparently with his blurry eyesight he believed he saw the number "2" and did not realize that it was a "7" resulting in the number "47" rather than the number "42" being in the "Degrees" box. Mr. Moates notes that he supplied the correct ASR number for the existing monopole at the proposed location, and verified that all of the studies performed by the engineering firm SpectreTech were based on the coordinates associated with this ASR.

8. Also attached to this Petition for Reconsideration is a copy of the application with corrected geographic coordinates. The FCC's CDBS will not presently allow for the electronic filing of this correction. Because an acceptance *Nunc Pro Tunc* of this application is merited, neither the Commission's rule governing minor amendments in Section 73.3573(a)(1), nor the Commission's rule governing amendments in Section 73.3522(b), is applicable. Rather, since this typographical correction to the application is sought on a *Nunc Pro Tunc* basis (i.e. "now for then") with no change in the transmitter site or the facilities specified whatsoever, there is neither an amendment of the application nor the creation of any new mutual exclusivity. Rather, the application facilities remain as specified in the application. In accord with existing case law and policy, the Commission's database and copy of the application as filed should be corrected to

reflect the geographic coordinates in accord with ASR No. 1005284 as: 42° 37' 28" North Latitude, 70° 39' 15" West Longitude (NAD 27).

9. In conclusion, the Commission can reliably determine that the University of Massachusetts intended to locate its facility on an existing specified tower in the proposed community of license. This is an application in which the geographic coordinates of the proposed radio facility can be confidently and reliably resolved with the data given in the application for the proposed antenna structure and the licensed facilities on that antenna structure. The Commission's staff may take official notice of the data specified in the Commission's ASR record, including the geographic coordinates of the licensed facilities associated with that ASR on that existing tower, and confidently and reliably ascertain the correct geographic coordinates.

WHEREFORE, for the reasons above, reconsideration of the Commission's November 8, 2007 letter dismissing the University of Massachusetts application seeking an original construction permit for new station on Channel 218 in Gloucester, Massachusetts (FCC File No. BNPED-20071019AUQ), and an acceptance for tender *Nunc Pro Tunc* of the corrected application, is respectfully requested.

Respectfully submitted,

UNIVERSITY OF MASSACHUSETTS

By  _____
John F. Garziglia
Its Attorney

Womble Carlyle Sandridge & Rice, PLLC
1401 I Street, N.W. 7th Floor
Washington, DC 20005
(202) 857-4455

November 21, 2007

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: WWW.FCC.GOV/MB/AUDIO/

NOV 08 2007

PROCESSING ENGINEER: Khoa Tran
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University of Massachusetts
100 Morrissey Boulevard
Boston, MA 02125

In re: NEW(FM), Gloucester, MA
University of Massachusetts
Facility ID # 174558
BNPED-20071019AUQ

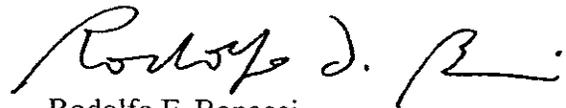
Dear Applicant:

This letter refers to the above-captioned application for a new non-commercial educational FM facility to serve Gloucester, MA.

An engineering study of the application reveals that the proposed facility fails to provide adequate community coverage as required by 47 C.F.R. § 73.515. Specifically, the proposed 60 dBu contour fails to cover at least 50 percent of the community of license of Gloucester, MA. This constitutes an acceptance defect.

In light of the above, Application BNPED-20071019AUQ is unacceptable for filing pursuant to 47 C.F.R. § 73.3566(a) and is HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: John F. Garziglia, Esq.

DECLARATION

I, Grady Moates, do hereby declare and state:

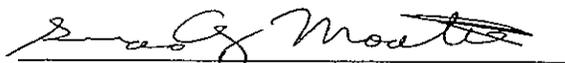
1. I am Director of Engineering of the University of Massachusetts Boston Public Radio Stations. With this Declaration, I am respectfully requesting that the FCC reconsider its decision to dismiss the new NCE application of the University of Massachusetts for Gloucester, Massachusetts (FCC File No. BNPED-20071019AUQ).

2. I have determined that the reason for the dismissal stems from a typographical error I made while entering the geographic coordinates into Section VII, Item 3, of the on-line application form. I remember it clearly - depending upon the "tab key" functionality used on other FCC web-pages such as FMQuery, asrRegistrationSearch and TowAir, and while entering the coordinates into the on-line form 340, I typed "42" into the Latitude-Degrees box, pressed the "tab" key to move to the next box, and entered "37" minutes. Before "tabbing" into the seconds box, I looked at the screen and discovered that the "tab" key had not moved my cursor into the Minutes (as it would have on other FCC web-pages), and that I had overwritten "42" with "37" in the Degrees box. I attempted to make the correction back to "42" in the Degrees box, and believed that I had done so, but apparently my blurry eyesight (I recently celebrated my 60th birthday) saw "42" when in fact the Degrees box at that point contained an entry of "47", retaining the "7" from the erroneous entry. This grievous error is completely my fault and I regret having made it. I am most contrite about my typographical error and plead that the Commission allow the error to be corrected.

3. The antenna is proposed to be side-mounted on an existing monopole tower located in Gloucester, Massachusetts with FCC Antenna Structure Registration Number 1005284 ("ASRN"). This tower contains other existing FCC licensed facilities including FM translator station W268AM, and CMRS stations WPPK987 and WPOF374. I correctly typed the ASRN for the existing monopole tower at our proposed location into the on-line application form at Section VII, Item 5. The correct geographic coordinates are: 42° 37' 28" North Latitude, 70° 39' 15" West Longitude (NAD 27). All of the studies performed by the engineering firm SpectreTec were based upon the coordinates associated with this ASRN. This can be verified by viewing the exhibit maps demonstrating all contour clearances between our proposed facility and all other existing facilities requiring consideration. I also now see that, leaving aside the typographical error above, I entered the remainder of the geographic coordinates into the application form in NAD 83, the coordinates in the ASRN, rather than converting to NAD 27 as asked for by the application.

4. I have corrected the geographic coordinates in Section VII, Item 3, of the application form to the intended and correct coordinates for the existing tower which the University of Massachusetts proposed to use for its new Gloucester, Massachusetts radio station.

Executed this 20th day of November, 2007 under penalty of perjury.


Grady Moates

Federal Communications Commission Washington, D.C. 20554 FCC 340	Approved by OMB 3060-0029 (February 2007)	FOR FCC USE ONLY
APPLICATION FOR CONSTRUCTION PERMIT FOR RESERVED CHANNEL NONCOMMERCIAL EDUCATIONAL BROADCAST STATION		FOR COMMISSION USE ONLY FILE NO.
Read INSTRUCTIONS Before Filling Out Form		

Section I - General Information

1.	Legal Name of the Licensee/Permittee UNIVERSITY OF MASSACHUSETTS		
	Mailing Address 100 MORRISSEY BOULEVARD		
	City BOSTON	State or Country (if foreign address) MA	Zip Code 02125 - 3393
	Telephone Number (include area code) 6172876905	E-Mail Address (if available)	
	FCC Registration Number:	Call Sign NEW	Facility Identifier 174558
2.	Contact Representative (if other than licensee/Permittee) JOHN F. GARZIGLIA, ESQ.		Firm or Company Name WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
	Telephone Number (include area code) 2028574455		E-Mail Address (if available) JGARZIGLIA@WCSR.COM
3.	Is this application being filed in response to a window? If Yes, specify closing date 10/19/2007 and/or window number:		<input checked="" type="radio"/> Yes <input type="radio"/> No
4.	Application Purpose <input type="radio"/> New station <input type="radio"/> Major Change in licensed facility <input type="radio"/> Minor Change in licensed facility <input type="radio"/> Major Modification of construction permit <input type="radio"/> Minor Modification of construction permit <input type="radio"/> Major Amendment to pending application <input checked="" type="radio"/> Minor Amendment to pending application (a) File number of original construction permit: - (b) Service Type: <input checked="" type="radio"/> FM <input type="radio"/> TV <input type="radio"/> DTV (c) Community of License: City: GLOUCESTER State: MA (d) Facility Type <input checked="" type="radio"/> Main <input type="radio"/> Auxiliary If an amendment, submit as an Exhibit a listing by Section and Question Number the portions of the pending application that are being revised.		
			[Exhibit I]

NOTE: The failure to include an explanatory providing full particulars in connection with a "No" response may

result in dismissal of the application. See Instructions, paragraph I for additional information regarding completion of explanatory exhibits.

SECTION II - Legal and Financial

1.	<p>Certification. Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
2.	<p>Eligibility. Each application must answer "Yes" to one and "No" to two of the three following certifications. An applicant should not submit an explanatory exhibit in connection with these Question 2 "No" responses.</p> <p>The applicant certifies that it is:</p> <p>a. a nonprofit educational institution; or</p> <p>b. a governmental entity other than a school; or</p> <p>c. a nonprofit educational organization, other than described in a. or b.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
3.	<p>For applicants checking "Yes" to question 2(c) and applying for a new noncommercial educational television station only, the applicant certifies that the applicant's officers, directors and members of its governing board are broadly representative of the educational, cultural, and civic segments of the principal community to be served.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p><input checked="" type="radio"/> N/A</p>
4.	<p>a. The applicant certifies that the Commission has previously granted a broadcast application identified here by file number that found this applicant qualified as a noncommercial educational entity with a qualifying educational program, and that the applicant will use the proposed station to advance a program similar to that the Commission has found qualifying in applicant's previous application.</p> <p>b. Applicants who answered "No" to Question 4(a), must include an exhibit that describes the applicant's educational objective and how the proposed station will be used to advance an educational program that will further that objective according to 47 C.F.R. Section 73.503 (for radio applicants) and 47 C.F.R. Section 73.621 (for television applicants).</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>FCC FileNumber BPED- 2125</p> <p>[Exhibit 2]</p>
5.	<p>The applicant certifies that its governing documents (e.g., articles of incorporation, by-laws, charter, enabling statute, and/or other pertinent organizational document) permit the applicant to advance an educational program and that there is no provision in any of those documents that would restrict the applicant from advancing an educational program or complying with any Commission rule, policy, or provision of the Communications Act of 1934, as amended.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
6.	<p>a. Parties to the Application. List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If another entity hold an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.</p> <p>[Enter Parties/Owners Information]</p> <hr/> <p style="text-align: center;">Parties to the Application</p> <p>List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If another entity hold an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders,</p>	

non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.

(a) Name and Residence Address (es)	(b) Citizen-ship	(c) Positional Interest: Officer, director, investor/creditor attributable under the Commission's equity/debt plus standard, etc	(d) Director or Member of Governing Board	(e)% of: Ownership(O) or Voting Stock(VS) or Membership (M)			(f) % of: Total Assets (equity plus debt)
				Owner-ship (O) or	Voting Stock (VS) or	Member-ship (M)	
STATE OF MASSACHUSETTS PUBLIC INSTITUTION OF HIGHER LEARNING - SEE EXHIBIT 3			<input checked="" type="radio"/> Yes <input type="radio"/> No				

b. Applicant certifies that equity and financial interests not set forth above are non-attributable pursuant to 47 C.F.R. Section 73.3555 and that there are no agreements or understandings with any non-party that would give influence over the applicant's programming, personnel, or finances to that non-party. Yes No [Exhibit 3]

7. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest pursuant to the notes to 47 C.F.R. Section 73.3555. N/A [Exhibit 4]

8. **Character Issues.** Applicant certifies that neither applicant nor any party to the application has or has had any interest in or connection with:
 a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or
 b. any pending broadcast application in which character issues have been raised. Yes No See Explanation in [Exhibit 5]

9. **Adverse Findings.** Applicant certifies that, with respect to the applicant, any party to the application, and any non-party equity owner in the applicant, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another government unit; or discrimination.

 If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter. Yes No See Explanation in [Exhibit 6]

10. **Alien Ownership and Control.** Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. Yes No See Explanation in [Exhibit 7]

11. **Program Service Certification.** Applicant certifies that it is cognizant of and will comply

	with its obligations as a commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.	<input checked="" type="radio"/> Yes <input type="radio"/> No
12.	Local Public Notice. Applicant certifies compliance with the public notice requirements of 47 C.F.R. Section 73.3580.	<input checked="" type="radio"/> Yes <input type="radio"/> No
13.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No
14.	Equal Employment Opportunity (EEO). If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A.	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
QUESTIONS 15, 16 AND 17 APPLY ONLY TO APPLICANTS FOR NEW STATIONS. OTHER APPLICANTS CAN PROCEED TO QUESTION 18.		
15.	Financial. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue. If "No" to 15., answer question 16. and 17.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 8]
16.	Is this application contingent upon receipt of a grant from the National Telecommunications and Information Administration?	<input type="radio"/> Yes <input type="radio"/> No
17.	Is this application contingent upon receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political subdivision?	<input type="radio"/> Yes <input type="radio"/> No
NOTE: If Yes to 16. or 17., the application cannot be granted unconditionally until all of the necessary funds are committed or appropriated. In the case of grants from the National Telecommunications and Information Administration, no further action on the applicant's part is required. If the applicant relies on funds from a source specified in Question 17., the applicant must advise the Commission when the funds are committed or appropriated. This should be accomplished by letter amendment to the application. Applicants should take note that the Commission's construction period is not considered "tolled" by funding difficulties and that any permit granted conditionally on funding will expire if the station is not constructed for any reason, including lack of funding.		
QUESTIONS 18 AND 19 DO NOT APPLY TO APPLICATIONS FOR NEW STATIONS. APPLICANTS FOR NEW FM STATIONS CAN PROCEED TO SECTION III. APPLICANTS FOR NEW TV STATIONS CAN PROCEED TO SECTION IV.		
Holding Period.		
18.	Applicant certifies that this application does not propose a modification to an authorization that was awarded on the basis of a preference for fair distribution of service pursuant to 47 U.S.C. Section 307(b). If "No," answer a. and b. below. If applicant answers "No" to 18. above and cannot answer "Yes" to either a. or b. below, the application is unacceptable. a. Applicant certifies that the proposed modification will not downgrade service to the area on which the Section 307(b) preference was based. b. Applicant certifies that although it proposes to downgrade service to the area on which the Section 307(b) preference was based, applicant has provided full service to that area for a period of four years of on-air operations.	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No
19.	Applicant certifies that this application does not propose a modification to an authorized station that received a credit for superior technical parameters under the point system selection method in 47 C.F.R. Section 73.7003. If "No," applicant must be able to answer "Yes" to a. below or provide an exhibit that makes a compelling showing that the downgrade would be in the public interest. a. Applicant certifies that the population and area within the proposed service contour (60 dBu (FM) or grade B (TV)) are greater than or equivalent to those authorized.	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No [Exhibit 9]

Section III

Fair Distribution of Service Pursuant to 47 U.S.C. Section 307(b) (New and Major Changes to FM Radio Only) (Other applicants can proceed to Section IV).

1.	Applicant certifies that the proposed station will provide a first noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and (b) to a minimum of 2,000 people. Applicants answering "Yes" must provide an Exhibit.	<input type="radio"/> Yes <input checked="" type="radio"/> No [Exhibit 10]
2.	Applicant certifies that the proposed station will provide a second noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and (b) to a minimum of 2,000 people. Applicants answering "Yes" must provide an Exhibit.	<input checked="" type="radio"/> Yes <input type="radio"/> No [Exhibit 11]

Section IV Point System Factors - New and Major Change Applications Only (used to select among mutually exclusive radio and television applications for new stations and major modifications) **NOTE:** Applicants will not receive any additional points for amendments made after the close of the application filing window.

1.	Established Local Applicant: Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 C.F.R. Section 73.7000, that its governing documents require that such localism be maintained, and that it has placed documentation of its qualifications as an established local applicant in a local public inspection file and has submitted to the Commission copies of the documentation.	<input checked="" type="radio"/> Yes <input type="radio"/> No
2.	Diversity of Ownership: (a) Applicant certifies that the principal community (city grade) contour of the proposed station does not overlap the principal community contour of any other authorized station (comparing radio and television to television, including non-fill-in translator stations other than those identified in 2(b) below) in which any party to the application has an attributable interest as defined in 47 C.F.R. Section 73.3555, that its governing documents require that such diversity be maintained, and that it has placed documentation of its diversity qualification in a local public inspection file and has submitted to the Commission copies of the documentation. (b) Is the application's certification to 2(a) based on its exclusion of translator station(s) that will be replaced with a full service station pursuant to the authorization requested here? If Yes, applicant must include an exhibit identifying the translator station authorization for which it will request cancellation upon commencement of operation of the proposed full service station (i.e., upon its filing of a license application and receipt of program test authority).	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Yes <input checked="" type="radio"/> No [Exhibit 12]
3.	State-wide Network: Applicant certifies that (a) it has NOT claimed a credit for diversity of ownership above; (b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and (c) it has placed documentation of its qualifications in a local public inspection file and has submitted to the Commission copies of the documentation.	<input type="radio"/> Yes <input checked="" type="radio"/> No
4.	Technical Parameters: Applicant certifies that the numbers in the boxes below accurately reflect the new area and population that its proposal would serve with a 60 dBu (FM) or Grade B (TV) signal measured in accordance with the standard predicted contours in 47 C.F.R. Section 73.713(c) (FM) and 73.683(TV) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include the area of proposed increase only (exclude any area already within the station's existing service area). (Points, if any, will be determined by FCC)	<input checked="" type="radio"/> Yes <input type="radio"/> No
	New area served in square kilometers (excluding areas of water):	871
	Population served based on the most recent census block data from the United States Bureau of Census using the centroid method:	45355

SECTION V - Tie Breakers - New and Major Change Applications Only (used to choose among competing radio and television applications receiving the same number of points in Section IV)

1.	Existing Authorizations. By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of relevant broadcast station authorizations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those
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	identified in IV (2)(b) above. TV applicants should count all attributable full service TV stations, commercial and noncommercial and TV translator stations other than fill-in stations or those identified in IV(2)(b) above. 16 (number of commercial and non-commercial licenses and construction permits)
2.	Pending Applications. By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of pending applications for new or major changes to relevant broadcast stations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in IV(2)(b) above. TV applicants should count all attributable full service TV stations, commercial and noncommercial, and TV translator stations other than fill-in stations or those identified in IV(2)(b) above. 7 (number of pending commercial and non-commercial applications)

Section VI – Certification

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing ELLEN O'CONNOR	Typed or Printed Title of Person Signing VICE CHANCELLOR ADMINISTRATION AND FINANCE
Signature	Date 10/18/2007

Section VII Preparer's Certification

I certify that I have prepared Section VII (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name DAVID MAXSON, CBRE	Relationship to Applicant (e.g., Consulting Engineer) CONSULTING ENGINEER	
Signature	Date 10/17/2007	
Mailing Address SPECTRETEC 503 MAIN STREET		
City MEDFIELD	State or Country (if foreign address) MA	Zip Code 02052-
Telephone Number (include area code) 5083598833	E-Mail Address (if available) DMAXSON@COMCAST.NET	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section VII - FM Engineering	
TECHNICAL SPECIFICATIONS	
Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.	
TECH BOX	
1.	Channel Number: 218
2.	Class (select one):

D A B1 B C3 C2 C1 C0 C

3. Antenna Location Coordinates: (NAD 27)
 Latitude:
 Degrees 42 Minutes 37 Seconds 28 North South
 Longitude:
 Degrees 70 Minutes 39 Seconds 15 West East

4. Proposed Assignment Coordinates: (NAD 27) - RESERVED CHANNELS ABOVE 220 ONLY Not Applicable
 Latitude:
 Degrees Minutes Seconds North South
 Longitude:
 Degrees Minutes Seconds West East

5. Antenna Structure Registration Number: 1005284
 Not Applicable Notification filed with FAA

6. Overall Tower Height Above Ground Level: 56.4 meters

7. Height of Radiation Center Above Mean Sea Level: 72 meters(H) 72 meters(V)

8. Height of Radiation Center Above Ground Level: 29 meters(H) 29 meters(V)

9. Height of Radiation Center Above Average Terrain: 97.06 meters(H) 97.06 meters(V)

10. Effective Radiated Power: 1.9 kW(H) 1.9 kW(V)

11. Maximum Effective Radiated Power: (Beam-Tilt Antenna ONLY) Not Applicable kW(H) kW(V)

12. Directional Antenna Relative Field Values: Not applicable (Nondirectional)
 Rotation (Degrees): No Rotation

Degrees	Value										
0	1	10	1	20	1	30	1	40	1	50	1
60	1	70	1	80	1	90	1	100	1	110	1
120	1	130	1	140	1	150	1	160	1	170	1
180	1	190	1	200	1	210	0.783	220	0.433	230	0.367
240	0.406	250	0.645	260	0.649	270	0.616	280	0.575	290	0.606
300	0.586	310	0.428	320	0.425	330	0.461	340	0.844	350	1

Additional Azimuths

Relative Field Polar Plot

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

CERTIFICATION

AUXILIARY ANTENNA APPLICANTS ARE NOT REQUIRED TO RESPOND TO ITEMS 12-15.

13. **Main Studio Location.** The proposed main studio location complies with 47 C.F.R. Section 73.1125. Yes No
 See Explanation in [Exhibit 13]

14. **Community Coverage.** The proposed facility complies with 47 C.F.R. Section 73.315 (Channels 221 and above) or 47 C.F.R. Section 73.515 (Channels 220 and below). Yes No
 See Explanation in

15.	<p>Interference. The proposed facility complies with all of the following applicable rule sections. Check all that apply:</p>	<p>[Exhibit 14] <input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 15]</p>
<p>Contour Overlap Requirements. a. <input checked="" type="checkbox"/> 47 C.F.R. Section 73.509 Exhibit Required.</p>		<p>[Exhibit 16]</p>
<p>Spacing Requirements. b. <input checked="" type="checkbox"/> 47 C.F.R. Section 73.207 with respect to station(s)</p>		
<p>Grandfathered Short-Spaced. c. <input type="checkbox"/> 47 C.F.R. Section 73.213(a) with respect to station(s) Exhibit Required.</p>		<p>[Exhibit 17]</p>
<p>Contour Protection. d. <input type="checkbox"/> 47 C.F.R. Section 73.215(a) with respect to station(s) Exhibit Required.</p>		<p>[Exhibit 18]</p>
<p>Television Channel 6 Protection. e. <input checked="" type="checkbox"/> 47 C.F.R. Section 73.525 with respect to station(s) Exhibit Required.</p>		<p>[Exhibit 19]</p>
16.	<p>Reserved Channels Above 220. a. Availability of Channels. The proposed facility complies with the assignment requirements of 47 C.F.R. Section 73.203.</p>	<p><input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 20]</p>
17.	<p>International Borders. The proposed antenna location is not within 320 kilometers of the common border between the United States and Canada or Mexico. If "No," specify the country and provide an exhibit of compliance with all provisions of the relevant International Agreement.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input checked="" type="radio"/> Canada <input type="radio"/> Mexico [Exhibit 21]</p>
18.	<p>Environmental Protection Act. The proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306 (i.e., The facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the RF worksheets in Worksheet #7, an Exhibit is required. By checking "Yes" above, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 22]</p>
19.	<p>Community of License Change - Section 307(b). If the application is being submitted to change the facility's community of license, then the applicant certifies that it has attached an exhibit containing information demonstrating that the proposed community of license change comports with the fair distribution of service policies underlying Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 307(b)). An exhibit is required unless this question is not applicable.</p>	<p><input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A [Exhibit 23]</p>
<p>PREPARER'S CERTIFICATION ON PAGE 8 MUST BE COMPLETED AND SIGNED.</p>		

Exhibits**Exhibit 1****Description:** CORRECTION OF TYPOGRAPHICAL ERROR

THE APPLICATION WAS DISMISSED BY FCC LETTER DATED NOVEMBER 8, 2007 BASED UPON A FAILURE TO PROVIDE ADEQUATE COMMUNITY COVERAGE AS REQUIRED BY 47 C.F.R. SECTION 73.515. IN FACT, FROM THE PROPOSED ANTENNA STRUCTURE, ADEQUATE COMMUNITY COVERAGE AS REQUIRED BY 47 C.F.R. SECTION 73.515 IS PROVIDED. A PETITION FOR RECONSIDERATION OF THIS DISMISSAL IS BEING SUBMITTED. A TYPOGRAPHICAL ERROR IN THE GEOGRAPHIC COORDINATES STATED IN SECTION VII, ITEM 3, IS CORRECTED. NO CHANGE TO THE ANTENNA STRUCTURE IS PROPOSED. THE ANTENNA STRUCTURE REMAINS THE ANTENNA STRUCTURE STATED IN SECTION VII, ITEM 5 WITH ASR NUMBER 1005284. THIS PROPOSED FACILITY LOCATED ON THAT ANTENNA STRUCTURE EASILY PROVIDES ADEQUATE COMMUNITY COVERAGE AS REQUIRED BY 47 C.F.R. SECTION 73.515.

Attachment 1**Exhibit 3****Description:** BOARD OF TRUSTEES AND BASIS FOR POINT SYSTEM FACTORS

THE UNIVERSITY OF MASSACHUSETTS IS A PUBLIC INSTITUTION OF HIGHER LEARNING CREATED UNDER AND REGULATED BY THE PROVISIONS OF MASSACHUSETTS G.L.C. 75.

THE UNIVERSITY WAS ESTABLISHED IN 1863 AS THE MASSACHUSETTS AGRICULTURAL COLLEGE. IT BECAME KNOWN AS THE MASSACHUSETTS STATE COLLEGE IN 1932 AND IN 1947 BECAME THE UNIVERSITY OF MASSACHUSETTS.

THE UNIVERSITY OF MASSACHUSETTS IS GOVERNED BY ITS BOARD OF TRUSTEES. THE BOARD OF TRUSTEES HAS DELEGATED EXECUTIVE AUTHORITY TO THE PRESIDENT.

NO MEMBER OF THE BOARD OF TRUSTEES HAS AN ATTRIBUTABLE INTEREST IN ANY AM OR FM BROADCAST STATIONS HAVING A PRINCIPAL COMMUNITY CONTOUR THAT OVERLAPS THE PRINCIPAL COMMUNITY CONTOUR OF THE STATION PROPOSED IN THE SUBJECT APPLICATION.

THE UNIVERSITY OF MASSACHUSETTS WILL MAINTAIN THIS DIVERSITY OF OWNERSHIP OVER THE REQUIRED FOUR-YEAR OPERATION PERIOD. THE UNIVERSITY WILL NOTIFY THE GOVERNOR OF MASSACHUSETTS WHO IS THE APPOINTING AUTHORITY, AND BOARD MEMBERS, OF THE POLICY TO ACT CONSISTENTLY WITH THIS DIVERSITY REPRESENTATION TO THE FEDERAL COMMUNICATIONS COMMISSION.

ATTACHED IS THE POLICY FOR CONTINUATION OF DIVERSITY CLAIM EFFECTIVE JUNE 4, 2001 WHICH CHARGED THE PRESIDENT ON BEHALF OF THE BOARD OF TRUSTEES WITH EACH OF THE FOLLOWING OBLIGATIONS:

- TO NOTIFY THE GOVERNOR AND ALL CURRENT BOARD MEMBERS OF THE REQUIREMENT TO MAINTAIN FCC POINT SYSTEM DIVERSITY DURING THE REQUIRED FOUR- YEAR OWNERSHIP PERIOD.
- TO ASK ALL BOARD MEMBERS TO NOTIFY THE PRESIDENT OF ANY CHANGE IN THEIR OWNERSHIP STATUS OF ANY CLASS OF RADIO STATIONS.
- TO SCREEN ALL NEW APPOINTMENTS TO THE BOARD AND INCLUDE A SECTION IN EACH NEW MEMBERS ORIENTATION MATERIALS ON THE REQUIREMENT TO APPRISE THE PRESIDENT OF ANY CHANGES IN OWNERSHIP IN RADIO STATIONS THAT MAY AFFECT THE DIVERSITY POINTS CLAIMED.

ALSO ATTACHED IS MAY 31, 2007 STATEMENT FROM LAWRENCE T. BENCH, INTERIM GENERAL COUNSEL, CONFIRMING THAT ANY AMENDMENT TO THE APPOINTMENT PROCESS WOULD REQUIRE LEGISLATIVE ENACTMENT.

Attachment 3

Description
Parties to Application
Policy for Continuation of Diversity Claim
Statement from Lawrence T. Bench, Interim General Counsel
University of Massachusetts Established in 1863

Exhibit 4

Description: OTHER AUTHORIZATIONS

THE UNIVERSITY OF MASSACHUSETTS IS THE LICENSEE OR PERMITTEE OF THE FOLLOWING BROADCAST STATIONS:

- WUMD, NORTH DARTMOUTH, MA, FCC FACILITY ID NO. 163899
- WBPR, WORCESTER, MA, FCC FACILITY ID NO. 69163
- WFCR, AMHERST, MA, FCC FACILITY ID NO. 69304
- WFPB, ORLEANS, MA, FCC FACILITY ID NO. 8591
- WFPB-FM, FALMOUTH, MA, FCC FACILITY ID NO. 69057
- WMUA, AMHERST, MA, FCC FACILITY ID NO. 69184
- WUML, LOWELL, MA, FCC FACILITY ID NO. 69410
- WUMB-FM, BOSTON, MA, FCC FACILITY ID NO. 66578
- WNEF, NEWBURYPORT, MA, FCC FACILITY ID NO. 93889
- NEW CONSTRUCTION PERMIT, MARSHFIELD, MA, FCC FACILITY ID NO. 122278
- NEW CONSTRUCTION PERMIT, STOW, MA, FCC FACILITY ID NO. 122279
- W230AU, PITTSFIELD, MA, FCC FACILITY ID NO. 141373
- W242AT, WILLIAMSTOWN, MA, FCC FACILITY ID NO. 142211
- W252BG, LEE, MA, FCC FACILITY ID NO. 142208
- W254AU, GREAT BARRINGTON, MA, FCC FACILITY ID NO. 142841
- W266AW, NORTH ADAMS, MA, FCC FACILITY ID NO. 142212

NONE OF THE PRINCIPAL COMMUNITY CONTOURS OF ANY OF THE ABOVE FACILITIES OVERLAPS THE PRINCIPAL COMMUNITY CONTOUR OF THIS PROPOSED STATION.

JAMES T. KARAM, A TRUSTEE, IS A PRINCIPAL IN BRISTOL COUNTY BROADCASTING, INC., THE LICENSEE OF WSAR(AM) FCC FACILITY ID NO. 6879, FALL RIVER, MA, AND SNE BROADCASTING, LTD., THE LICENSEE OF WHTB(AM), FCC FACILITY ID NO. 60701, FALL RIVER, MA. THE PRINCIPAL COMMUNITY CONTOUR OF THIS PROPOSED STATION DOES NOT COME WITHIN TEN MILES OF THE PRINCIPAL COMMUNITY CONTOUR OF EITHER WSAR OR WHTB.

Attachment 4

Description
University of Massachusetts FM Facilities and Gloucester Application - 70 dBu Contours

Attachment 11

Description
UMASSBOSTON-GLOUCESTER-III-11

Attachment 13

Description
Request for Main Studio Waiver

Attachment 16

Description
UMassBoston-Gloucester-VII-16

Attachment 19

Description
UMassBoston-Gloucester-VII-19

Attachment 21

Description
UMASSBOSTON-GLOUCESTER-VII-21

No Change to Application Attachments

CDBS Attachments Omitted

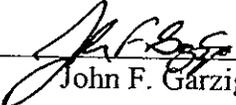
CERTIFICATE OF SERVICE

I, John F. Garziglia, hereby certify that a copy of the foregoing "Petition for Reconsideration" was mailed on this 21st day of November 2007, to the following:

Sean O'Brian
North Andover Community Access & Media, Inc.
430 Osgood Street
North Andover, Massachusetts 01845
(Applicant for Channel 218 at North Andover, Massachusetts)

James Riley, Esquire
Fletcher Heald & Hildreth PLC
1300 North 17th Street
11th Floor
Arlington, Virginia 22209
(Counsel to Light of Life Ministries, Inc., Applicant for Channel 218 at Rockport, Massachusetts)

David Goodman
Peace Abby/Life Experience School, Inc.
Two North Main
Sherborn, Massachusetts 01770
(Applicant for Channel 218 at Burrillville, Rhode Island)



John F. Garziglia

CERTIFICATE OF SERVICE

I, John F. Garziglia, do hereby certify that true copies of the foregoing "Petition to Deny" were sent this 10th day of October, 2008 via U.S. Mail, postage prepaid, to the following:

James P. Riley, Esq.
Fletcher Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209-3801
(Counsel to Light of Life Ministries, Inc.)



John F. Garziglia