



Federal Communications Commission
Washington, D.C. 20554

September 24, 2020

In Reply Refer To:
1800B3-DB

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In re: Station KCPH-LP, Corpus Christi, TX
Facility ID No. 197525
File No. BLL-20190813ABP

Informal Objection

Counsel and Ms. Bradley,

We have before us the referenced application (Application) filed by South Corpus Christi Hispanic Education Family Foundation (Corpus Christi) for a license to cover a construction permit for station KCPH-LP (Station), Corpus Christi, Texas.¹ Also before us is an Informal Objection (Objection) filed by REC Networks (REC) and related responsive pleadings.² For the reasons set forth below, we dismiss the Objection and grant the Application.

¹ See File No. BLL-20190813ABP (filed Aug. 12, 2019). The Application was accepted for filing on August 14, 2019. See *Broadcast Applications*, Public Notice, Report No. 29552 (MB Aug. 16, 2019). The Station is authorized to broadcast on channel 258 (99.5 MHz).

² Informal Objection, REC Networks, File No. BLL-20190813ABP (filed Aug. 26, 2019); Supplement to Informal Objection, REC Networks, File No. BLL-20190813ABP (filed Sept. 5, 2019) (Supplement); Supplement to Informal Objection, REC Networks, File No. BLL-20190813ABP (filed Sept. 16, 2019); Supplement to Informal Objection, REC Networks, File No. BLL-20190813ABP (filed Sept. 24, 2019); Opposition to Informal Objection, South

Background. In the Objection, REC states that the Application should be dismissed, and the construction permit forfeited, because the Station was not constructed as described in the construction permit.³ Specifically, REC alleges that there is no evidence of the authorized antenna at the construction permit site.⁴ REC also alleges that, based on audio recordings made at the construction permit site, a Spanish station on channel 258 (99.5 MHz) is detected but at a weak signal strength which suggests that the Station is not broadcasting from the construction permit Site.⁵ REC attaches photographs to support these allegations.⁶ REC argues that a letter of inquiry should be issued to confirm, among other things, that the facilities have been constructed as described in the underlying construction permit.⁷

In its Opposition, Corpus Christi states that the Station was constructed before the permit expiration date and therefore complies with section 73.3598 of the Commission's rules (Rules).⁸ Corpus Christi maintains that the photographs submitted by REC are taken from an angle that fails to capture the authorized antenna.⁹ Corpus Christi submits photographs taken from the proper direction, which show the mounted antenna.¹⁰ Corpus Christi also disputes REC's contention that the Station is not broadcasting from the construction permit site because its signal strength is weak. Corpus Christi states that the Station is operating and staying on the air with music and local programming.¹¹ Additionally, Corpus Christi argues that REC provides no evidence justifying a denial of the Application but rather uses the Objection as a vehicle to continue its crusade against Hispanic low-power FM operators utilizing the services of Cesar Guel (Guel).¹² Corpus Christi asserts that it controls the Station's operation and staffing and is not affiliated with Guel in any way.¹³

Discussion. Section 309(d)(1) of the Communications Act of 1934, as amended (Act), authorizes any party in interest to file a petition to deny any application as long as the petition "contain[s] specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with [the public interest]."¹⁴ Informal objections, like

Corpus Christi Hispanic Education Family Foundation, File No. BLL-20190813ABP (filed Nov. 7, 2019) (Opposition).

³ Objection at 4; Supplement at 1.

⁴ Supplement at 1.

⁵ *Id.*

⁶ *Id.* at Attachment 1.

⁷ Objection at 3.

⁸ Opposition at 2. *See also* 47 CFR § 73.3598 ("[e]ach original construction permit for the construction of a new LPFM station shall specify a period of eighteen months from the date of issuance of the construction permit within which construction shall be completed and application for license filed.").

⁹ Opposition at 2.

¹⁰ *Id.* at Attachment 1.

¹¹ *Id.* at 2, 6, and Attachment 1.

¹² *Id.* at 4. Corpus Christi states that the supplements filed on September 16 and 24, 2019, in support of REC's Objection are not relevant to the Application at issue.

¹³ *Id.* at 5.

¹⁴ 47 U.S.C. § 309(d)(1).

petitions to deny, also must allege properly supported facts that, if true, would establish a substantial and material question of fact that grant of the application would be inconsistent with the public interest.¹⁵ After reviewing the record, we find that REC has failed to meet this burden.

Section 319(c) of the Act¹⁶ imposes a stringent standard on challenges to license applications. So long as “all the terms, conditions, and obligations set forth in the application and permit have been fully met,” a permittee is entitled, as an applicant for a license to cover a construction permit, to a high degree of protection and a presumption that the public interest determination made during the underlying construction permit proceedings continues in effect unless circumstances have arisen that would make operation of the station against the public interest.¹⁷ The Commission traditionally is reluctant to designate license applications for hearing in these circumstances and, in most instances, considers the grant of such application to follow almost automatically from the issuance of a construction permit and the completion of construction in accordance therewith.¹⁸

REC has failed to raise any specific violations pertaining to the construction of the authorized facilities.¹⁹ Furthermore, in its response, Corpus Christi has provided photographic evidence and a declaration, under penalty of perjury, from Freddy Garcia attesting to the Station’s timely construction and operation in accordance with the terms of its authorization.²⁰ REC has not responded to these assertions. We therefore find no basis for granting REC’s Objection, which rests solely on unsupported allegations that Corpus Christi’s facilities have not been constructed. Because REC has not raised any substantial or material questions of fact and has otherwise failed to demonstrate how grant of the Application would make operation of the Station inconsistent with the public interest, we dismiss the Objection.

¹⁵ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197, n.10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections, like petitions to deny, must also contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹⁶ 47 U.S.C. § 319(c).

¹⁷ *Id.* (requiring the Commission to issue a license where a construction permit has been granted and it appears that the terms of such permit have been met, and “that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest...”).

¹⁸ See, e.g., *Meyer Broadcasting Company*, Memorandum Opinion and Order, 65 FCC 2d 438, 441 (1977).

¹⁹ Indeed, the Objection contains information concerning other license to cover applications that are unrelated to the Application at issue here.

²⁰ Opposition at Attachment 1.

Conclusion/Action. For the reasons stated above, IT IS ORDERED that the Informal Objection filed by REC Networks on August 26, 2019, IS DISMISSED and the application for a license to cover filed by South Corpus Christi Hispanic Education Family Foundation (File No. BLL-20190813ABP) IS GRANTED.

Sincerely,

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