

Media Ownership Study

This application proposes a minor change in facilities for WMXR (FM) (Facility Id. No.57002). This application complies with Section 73.3555(a)(1)(ii) of the Commission's Rules either: (1) as a grandfathered cluster held by an eligible entity; or (2) because WEEY(FM) and WKKN(FM) no longer are part of the Lebanon-Rutland-White River Junction market, thereby reducing the number of stations in the rated market.

WMXR is located in the BIA Rated market, Lebanon-Rutland-White River Junction. Great Eastern Radio is the licensee of the following relevant radio stations:

WGXL(FM), Hanover, NH, Facility Id. No. 56621
WTSL(AM), Hanover, NH, Facility Id. No. 12083
WXXK(FM), Lebanon, NH, Facility Id. No. 54790
WMXR(FM), Woodstock, NH, Facility Id. No. 57002
WEEY(FM), Swanzey, New Hampshire, Facility Id. No. 4910
WKKN(FM), Westminster, Vermont, Facility Id. No. 46334¹

The first four stations are located in the BIA Rated market, Lebanon-Rutland-White River Junction. The last two stations were located in the Lebanon-Rutland-White River market until recently. BIA lists 41 radio stations licensed to the Lebanon-Rutland-White River Junction market.

Section 73.3555(a)(1)(ii) states that in a market with between 30 and 44 full-power commercial and noncommercial radio stations, one person or single entity may not own more than seven commercial stations in the market, no more than four of which are in the same service. Great Eastern presently owns four commercial radio stations in the Lebanon-Rutland-White River Junction market, three of which are in the same service. The instant application complies with Section 73.3555(a)(1)(ii) because as discussed further below Great Eastern will hold FCC licenses for three FM stations and one AM station in the same market, for a total of four radio stations.

The instant application complies with the FCC's rules because the FCC granted two applications for assignment of the above-referenced radio stations to Great Eastern Radio as an eligible entity on July 18, 2007 (lead file Nos. BALH-20070122ALG and BALH-20070122ALB), even though ownership of the above-referenced radio stations did not comply with the FCC's new media ownership rules effective September 2004. It follows that if Great Eastern can hold these licenses as an eligible entity, and the instant application does not implicate any new full power radio broadcast stations, then the FCC should approve the instant minor modification application.

Alternatively, the FCC may grant the instant application because WEEY(FM) and

¹ Great Easter is the licensee of FM translator station W272AU, Hanover-West Lebanon, NH, Facility Id. No. 63474. Because the Commission does not consider FM translator stations when determining compliance with the agency's media ownership rules, no further consideration of this authorization is required for this showing.
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WKKN(FM) should not longer be considered part of the Lebanon-Rutland-White River market. Great Eastern Radio submits that consistent with Commission precedent, these two radio stations ceased being part of the Lebanon-Rutland-White River market May 14, 2008 and September 30, 2008, respectively.

WKKN(FM) was licensed to the community of Newport, New Hampshire. On June 8, 2007, the Commission granted an application for construction permit to change the community of license for WKKN(FM) from Newport to Westminster, Vermont.² On April 15, 2008 the FCC granted the application for license for WKKN(FM) to operate from Westminster.³ Westminster is located in Windham County, which is not considered a home county for the Lebanon-Rutland-White River market. BIA delisted the station from the Lebanon-Rutland-White River market effective May 14, 2008.

WEEY(FM) was licensed to the community of Springfield, Vermont. On June 8, 2007, the Commission granted an application for construction permit to change the community of license for WEEY(FM) from Springfield to Swanzey, New Hampshire.⁴ On September 29, 2008, the FCC granted the application for license for WEEY(FM) to operate from Swanzey.⁵ Swanzey is located in Cheshire County, which is not considered a home county for the Lebanon-Rutland-White River market. BIA delisted the station from the Lebanon-Rutland-White River market effective September 30, 2008.

The FCC allows an applicant to rely upon the removal of their own stations from BIA's list of home stations in a metro if (i) such exclusion has been in effect for at least two years or (ii) the exclusion results from an FCC approved change in the community of license from within the metro to outside the metro. The instant application complies with the second prong of this test. The exclusion of WEEY(FM) and WKKN(FM) results from an FCC approved change in the community of licenses for these radio stations from within the Lebanon-Rutland-White River market to counties outside the market. The change in community of license for each station relocates the stations more than twenty miles away from the Lebanon-Rutland-White River market, further proving that the stations are no longer part of the Lebanon-Rutland-White River market. The Commission's concerns that applicants would use either Abritron or BIA to artificially change the definition of rated markets are not present in this instance. The Commission should grant the instant application as consistent with the Commission's media ownership rules and policies.

² File No. BPH-20070119AFN.

³ File No. BLH- 20080409AAH.

⁴ File Nos. BPH-2007019AFW and BMPH-20071221ABC.

⁵ File No. BLH-20080912AAG.