

SECTION 307(b) ANALYSIS AND CERTIFICATIONS

On this date KM Radio of Independence, L.L.C. ("KM"), licensee of commercial radio station KQMG-FM, Independence, Iowa (Facility ID No. 42080, "KQMG"), is submitting a Petition for Rule Making (the "Petition") and this Form 301 application for minor change in the licensed facilities of KQMG (the "KQMG Application") proposing to:

(i) change the channel and community of license of KQMG from its present assignment of Channel 237A at Independence, Iowa to Channel 236A serving Solon, Iowa, by the KQMG Application;

(ii) to accommodate the KQMG channel and community of license change, the KQMG Application triggers the downgrade of Class C station KGGO(FM), Channel 235C, Des Moines, Iowa (Facility ID No. 12965, "KGGO"), to a Class C0 station;

(iii) to accommodate the KQMG channel and community of license change, this Petition and the KQMG Application also request a change in channel for station KMAQ-FM, Channel 236A, Maquoketa, Iowa (Facility ID No. 39857, "KMAQ") from Channel 236A to Channel 237A, and KM requests that the Commission issue an order to show cause to the licensee of KMAQ regarding same;

(iv) to accommodate the channel change for KMAQ, the Petition requests a change in channel for the vacant reserved Channel 238A allotment for Asbury, Iowa, to reserved Channel 254A at Asbury, Iowa; and

(v) the proposed change in the channel for the vacant reserved allotment for Asbury, Iowa, permits KM to also request in the Petition the allocation of a new nonreserved vacant allotment of Channel 238A for Mineral Point, Wisconsin, as that community's first local radio transmission service.

By this exhibit KM submits its analysis of the factors relevant under Section 307(b) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 307(b) ("Section 307(b)"), with respect to its proposals, and specifically its proposed change in channel and community of license for KQMG, as well as a "Tuck" analysis^{1/} with respect to Solon, Iowa, the proposed new community of license for KQMG. In support of this Section 307(b) analysis, KM submits the following:

^{1/} See Faye and Richard Tuck, 3 FCC Rcd 5374, 65 RR 2d 402 (1988) ("Tuck").

I. Introduction and Section 307(b) Analysis Criteria

Section 307(b) requires the Commission, when awarding broadcast station construction permits and licenses, to “make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.” See § 307(b). The Commission’s priorities when making a Section 307(b) determination are: (1) providing a first full-time aural service to a proposed community; (2) providing a second full-time aural service to a proposed community; (3) providing a first local service to a proposed community; and (4) other public interest matters. See FM Channel Policies/Procedures, 90 FCC 2d 88, 90-93, 51 RR 2d ___, (1982); Alessandro Broadcasting Co., 99 FCC 2d 1, 56 RR 2d 1568 (Review Board, 1984). Priorities (2) and (3) are given equal weight, id., and in such cases the Commission evaluates a proposed community’s need for a second “competitive” service under priority (2) to another proposed community’s need for a first local service under priority (3) based on other factors.

II. Solon, Iowa Is A “Community” For Section 307(b) Determination Purposes

The community of Solon, Iowa is listed in the 2000 U.S. Census as a city with a population of 1,177 persons; therefore, Solon is a “community” for allotment purposes.^{2/} Solon is an independent community which merits its own first local radio transmission service.^{3/} It has its own zip code (52333, which is only for Solon) and post office; it is governed by elected officials (a mayor and a five-member city council) and six city administration personnel (including a city administrator, a city clerk/treasurer, a public works director, utility specialist, and laborer, and a park and recreation coordinator); it has six authorized boards or commissions, four of which are currently active (a planning and zoning commission, a board of adjustments, a parks and recreation commission, and a library board of trustees); and is governed by its own municipal code. Solon provides municipal services including police protection services (under a contract between the City of Solon with the Johnson County Sheriff’s Department), a volunteer fire department (with over thirty members), its own water and sewer services, and a community public library. The city is served by a weekly newspaper (the *Solon Economist*). Recreational opportunities include a local park (Randall Park) and recreational sports leagues run by the city, and community events include the annual “Beef Days” celebration, which has been held for 35 years. Civic opportunities range from an athletic booster club to several civic service organizations, including an Optimists International #40103 and Knights of Columbus council #12129. Solon has own local public school system, with an elementary school, middle school and a high school, and at least two local churches

^{2/} A proposed community of license is considered a “community” for allotment purposes if it is incorporated or listed in the U.S. Census. See, e.g., FM Table of Allotments (Strattanville and Farmington Township, Pennsylvania), DA 00-2711 at ¶ 5 (Allocations Branch, released December 1, 2000).

^{3/} The facts regarding the City of Solon presented herein generally were obtained from its official website, <http://www.solon-iowa.com>, or other sites linked thereto, unless otherwise cited.

(including Solon United Methodist Church and a catholic church). The city has a wide variety of local businesses, ranging from health care providers (several doctors and the Solon Family Practice Clinic, and about ten dentists), other professionals (an accountant and over a dozen attorneys), several restaurants, a bank (Solon State Bank), a florist, several realtors, and several barbers and beauty salons, among other businesses too numerous to list.

III. Existing and Proposed Service To The Communities

Well more than 5 existing commercial AM or FM stations provide protected contour service to each of Independence and Solon, Iowa, and there are no “white” or “gray” or “underserved” areas^{4/} within KQMG’s existing or proposed protected service contours. Therefore, Section 307(b) allotment priorities (1) and (2) do not apply to either KQMG’s existing or proposed facilities. According to the Commission’s electronic Consolidated Data Base System (“CDBS”), no other radio or other broadcast station is licensed or allocated to Solon; therefore, the proposed changes for KQMG falls Section 307(b) allotment priority (3), first local transmission service. In contrast, KQMG’s present community of license of Independence, Iowa (2000 U.S. Census population of 6,014 persons) is served by another radio station, KQMG(AM), 1220 kilohertz, Independence, Iowa (Facility ID No. 42077), an unlimited time station which is also licensed to KM, and therefore KQMG’s existing service to Independence falls under only lesser allotment priority (4), other public interest factors. As a result, the proposed changes would result in a preferential arrangement of allotments, since the proposed change to serve Solon would fall under allotment priority (3), a first local radio transmission service for Solon, and result in a net gain of service to 254,100 persons, whereas retaining KQMG’s current community of license of Independence would fall under lower allotment priority (4), other public interest factors, since Independence would still be served by a local radio transmission service, by KQMG(AM), and the current service area of KQMG would

^{4/} A “white” area is defined as an area within which no full-time aural service is received, and a “gray” area is defined as an area within which only 1 full-time aural service is received. See FM Table of Allotments (Meeker and Craig, Colorado), DA 00-2714 at n.4 (Allocations Branch, released December 1, 2000). An “underserved” area is defined as an area within which less than 5 full-time aural services are received. See Kevin C. Boyle, Esq., 11 FCC Rcd 2348, 2 CR 665 at n.4 (Audio Services Division, 1996).

remain well-served by other aural reception services.^{5/} KM hereby certifies that it will file the KQMG Application for the use of Channel 236A at Solon, and construct the facility of that application is granted.

IV. Tuck Analysis For Solon

In determining whether to attribute the radio stations of an adjacent urbanized area to a proposed community of license (such as attributing Cedar Rapids radio stations to Solon, in this case) under a Tuck analysis, the Commission considers the following three criteria: (i) signal coverage of the population in the adjacent urbanized area; (ii) the relative size of the populations and the proximity of the suburban community to the adjacent urbanized area; and (iii) the interdependence of the suburban community with the adjacent urbanized area.^{6/} In evaluating the third criteria, the independence or interdependence of the proposed suburban community to the urbanized area, “the required showing of interdependence between the specified community and the central city will vary depending on the degree to which the second criteria - relative size and proximity [-] suggests that the community license [sic] is simply an appendage of a large central city.” See Pinetops at ¶ 12. KM addresses each of these criteria in turn:

A. First Tuck Criteria: Signal Population Coverage Over Cedar Rapids

This criteria considers “the degree to which the proposed station could provide service not only to the suburban community, but to the adjacent metropolis [i.e., urbanized area] as well.” See Norwood at ¶ 7. In this case, the principal community contour proposed in the KQMG Application encompass about 55 % of the population and about 62 % of the geographic area of the Cedar Rapids urbanized area, see Technical Exhibit at 4, so well less than all of the urbanized area.

^{5/} Although Solon is not located within any urbanized area, the principal community contour for the proposed Channel 236A facilities would encompass about 55 % of the population and about 62 % of the geographic area of the Cedar Rapids urbanized area, see Technical Exhibit at 4, therefore KM is submitting the required Tuck analysis with this exhibit, demonstrating the independence of Solon from the Cedar Rapids urbanized area. However, KM notes that even under allotment priority (4) the change of KQMG’s community of license to Solon is still in the public interest, since Independence would still be served by KQMG(AM) and the arrangement of allotments proposed by this Petition and the KQMG Application also includes a new vacant allotment for Mineral Point, Wisconsin, as that community’s first local radio transmission service under allotment priority (3).

^{6/} See FM Table of Allotments (Anniston and Ashland, Alabama), 15 FCC Rcd 9971 at ¶ 7 (Allocations Branch, 2000)(“Anniston/Ashland”); FM Table of Allotments (Clovis and Madera, California), 11 FCC Rcd 5219 at ¶ 17 and n.14 (Allocations Branch, 1996)(“Clovis”); FM Table of Allotments (Scotland Neck and Pinetops, North Carolina), 10 FCC Rcd 11066 at ¶¶ 9-11 (Policy and Rules Division, 1995)(“Pinetops”); and FM Table of Allotments (Fairfield and Norwood, Ohio), 7 FCC Rcd 2377 at ¶ 7 (Allocations Branch, 1992)(“Norwood”).

B. Second Tuck Criteria: Relative Population Size And Proximity

The Cedar Rapids urbanized area had a reported 2000 U.S. Census population of 155,334 persons, so Solon, with a 2000 Census population of 1,177 persons, has about 1% as much population as Cedar Rapids. Solon is not located within the Cedar Rapids urbanized area, but several miles outside of it.

C. Third Tuck Criteria: Interdependence With Cedar Rapids

In evaluating the independence or interdependence of a proposed community with an urbanized area, the Commission looks at a “wide range of evidence concerning work patterns, media services, opinions of suburban residents, community institutions, and community services.” Id. There are eight specific factors considered:^{7/}

1) Work/Commuting Patterns. Detailed or comprehensive information was not readily available on work and commuting patterns in Solon, but anecdotal evidence suggests that some Solon residents do commute into Cedar Rapids for work.

2) Newspapers or Other Media. Solon has a weekly newspaper, the *Solon Economist*, published from offices located in Solon; therefore, this factor favors finding Solon is independent from Cedar Rapids.

3) Perception as “Community” by Local Leaders and Residents. Solon clearly has a local “community” perception, based on the civic and cultural activities discussed above, as well as based on its local government, schools, community library, and website touting its features; therefore, this factor favors finding Solon is independent from Cedar Rapids.

4) Local Government or Elected Officials. Solon has elected officials (a mayor and a five-member city council), six city administration personnel (including a city administrator, a city clerk/treasurer, a public works director, utility specialist, and laborer, and a park and recreation coordinator), six authorized boards or commissions, four of which are currently active (a planning and zoning commission, a board of adjustments, a parks and recreation commission, and a library board of trustees), and is governed by its own municipal code; therefore, this factor favors finding Solon is independent from Cedar Rapids.

5) Telephone Book and Zip Codes/Post Office. KM does not have information on whether a local telephone book specific to Solon is published, but Solon does have its own zip code (52333, which is only for Solon) and post office; therefore, this factor favors finding Solon is independent from Cedar Rapids.

^{7/} See, e.g., Anniston/Ashland at n.5. The Commission has considered a community independent when “a majority of these factors” demonstrate independence. Id.

6) Commercial Establishments, Health Facilities and Transportation Systems. Solon has a wide variety of businesses and health care facilities or providers, ranging from health care providers (several doctors and the Solon Family Practice Clinic, and about ten dentists), other professionals (an accountant and over a dozen attorneys), several restaurants, a bank (Solon State Bank), a florist, several realtors, and several barbers and beauty salons, among other businesses to numerous to list; therefore, this factor favors finding Solon is independent from Cedar Rapids.

7) Advertising Market. Advertisers can reach Solon specifically through its weekly local newspaper; therefore, this factor favors finding Solon is independent from Cedar Rapids.

8) Municipal Services (Police, Fire Protection, Schools and Libraries). Solon provides municipal services including police protection services (under a contract between the City of Solon with the Johnson County Sheriff's Department), a volunteer fire department (with over thirty members), and its own water and sewer services, has a community public library, and its own local public school system (with an elementary school, middle school and a high school); therefore, this factor favors finding Solon is independent from Cedar Rapids.

D. Summary Of Tuck Analysis

Although Solon may not not fare well under the second of the three Tuck criteria (relative population size and proximity to the Cedar Rapids urbanized area), KM's proposal would provide principal community contour service to only about half of the population of Cedar Rapids, so the first criteria (signal population coverage) is fairly ambiguous. However, Solon clearly satisfies the majority of the 8 factors for demonstrating independence under the third - - and most important - - criteria. See, e.g., Clovis at ¶ 20 (evidence of independence under third Tuck criteria more significant than the first two Tuck criteria that favored attribution). With regard to the third criteria, the Commission has "considered a community as independent when a majority of these [8] factors demonstrates that the community is distinct from the urbanized area", see Anniston/Ashland at n.5, or even when only half (4 out of 8) of the factors for demonstrating independence are satisfied. See FM Table of Allotments (Ankeny and West Des Moines, Iowa), 15 FCC Rcd 4413 at ¶ 5 (Allocations Branch, 2000) ("Ankeny") (showings of independence on factors 3, 4, 5 and 8 found sufficient). In this case, Solon has satisfied at least 7 of the 8 factors, either completely or to some substantial extent; specifically, KM has demonstrated the independence of Solon Hill under factors 2 (other media), 3 (community perception), 4 (local government and elected officials), 5 (zip code and post office), 6 (businesses and health establishments) 7 (advertising market), and 8 (police protection, fire protection, education and libraries). Therefore, the radio stations licensed to Cedar Rapids should not be attributed to Solon for Section 307(b) purposes, since Solon satisfies the Tuck criteria for being an independent community, and the KQMG Application should be considered as providing a first local radio transmission service under Section 307(b) allotment priority (3).

V. Other Issues

KM hereby certifies that it will serve a copy of the Petition and the KQMG Application on the licensees of KGGO and KMAQ, which may have an interest in this matter (the former due to the proposed downgrade of KGGO to a Class C0 station, and the latter due to the proposed change in channel for KMAQ). KM certifies that no alternate channel is available for its proposed service on Channel 236A at Solon, Iowa at its specified site in compliance with the required minimum distance separation requirements, as required by the Commission's rules to propose the downgrade of KGGO.

KM certifies that it will timely complete the required publication of local public notice of its proposed community of license change for KQMG in its current community of license of Independence, Iowa and its proposed new community of license of Solon, Iowa. KM also certifies that all of changes proposed in the Petition and/or in the KQMG Application may be made in compliance with the Commission's technical rules, and allotment and separation requirements.

KM hereby certifies that it will file the KQMG Application for the use of Channel 236A at Solon, and construct the facility of that application is granted. KM also certifies that if the proposed new allotment of Channel 238A to Mineral Point is made as requested herein and in the Petition, KM intends to apply for Commission authorization to construct the station (and indeed, is filing a Form 301 application for a construction permit for the proposed allotment and paying the required application filing fee simultaneous with the filing of the Petition and the KQMG Application, as required by recent changes in the Commission's rules) and will file and qualify to bid for the construction permit at the Commission auction for same, and if successful in acquiring the permit to promptly construct the new facility.