



**Federal Communications Commission  
Washington, D.C. 20554**

December 18, 2014

*In Reply Refer to:*  
1800B-IB

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Ms. Jennifer Logan  
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Mr. Colin Innes  
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In re: **Calvary Chapel of Twin Falls, Inc.**  
Applications to Renew Licenses of  
30 Oregon Broadcast Stations

**Educational Media Foundation**  
Applications to Renew Licenses of  
23 Oregon Broadcast Stations

Dear Objectors and Counsel:

We have before us timely-filed license renewal applications (the "Applications") for 53 noncommercial educational ("NCE") FM and FM translator stations (the "Stations") in Oregon, each licensed to Calvary Chapel of Twin Falls, Inc. ("Calvary") or Educational Media Foundation ("EMF"). Also before us are objections filed by four Oregon residents (collectively the "Objections" and the "Objectors")<sup>1</sup> each raising virtually identical program-related concerns to applications for a subset of the

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<sup>1</sup> Each of the Objections was styled as a "Petition to Deny." We will, however, treat each as an informal objection because none is supported by an affidavit, signed, and verified, as required of petitions. 47 C.F.R. § 73.3587.

Stations: Emily French (“French”) to six EMF stations near Eugene; Jennifer Logan (“Logan”) to five EMF stations near Medford; Dave Rivard (“Rivard”) to four EMF stations near Klamath Falls; and Colin Innes (“Innes”) to eight EMF stations in the Portland region and also to 30 Calvary stations throughout the state.<sup>2</sup> The Appendix to this order identifies each station, its respective objector, and licensee. EMF and Calvary each filed oppositions. The Objectors filed a consolidated reply. For the reasons below, we deny the Objections and grant the Applications.

**Background.** Informal objections to license renewal applications must provide properly supported allegations of fact that, if true, would establish a substantial and material question whether grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act.<sup>3</sup> We must grant a renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.<sup>4</sup> The Commission cannot consider whether licensing another party might be preferable.<sup>5</sup>

Objectors allege that the Stations have not served the public interest due to a lack of local programming on the Stations, which are licensed to communities in Oregon but operate within networks that rebroadcast distant stations. In particular, each of the Oregon primary stations at issue has a condition on its authorization waiving the “Main Studio Rule,”<sup>6</sup> thereby allowing each to operate as a “satellite” of co-owned NCE stations in California (EMF) or Idaho (Calvary). The programming is further distributed over FM translators within each network. Objectors allege that this structure has resulted in automated facilities that are “neglecting to cover issues pertinent to the community”<sup>7</sup> because they have “no local public affairs coverage.”<sup>8</sup> Objectors argue that the concept of service to a local community is “meaningless” if it can be met without any “local-specific” programs.<sup>9</sup> Objectors further argue that it is an abuse of the Commission’s processes for EMF and Calvary to have received main

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<sup>2</sup> Innes attempted to challenge the applications of three more Calvary translator stations: K206EH, Sprague River, K291BL, Powell Butte, and K238AL, Reedsport. The Bureau, however, granted those applications in January 2014, believing them uncontested, in part due to a typographical error in call sign. The Bureau’s action was harmless error given our finding herein that the same allegations are insufficient against other Calvary stations.

<sup>3</sup> 47 U.S.C. §§ 309(e) and (k).

<sup>4</sup> 47 U.S.C. § 309(k)(1).

<sup>5</sup> *Id.* at § 309(k)(4).

<sup>6</sup> 47 C.F.R. § 73.1125(a).

<sup>7</sup> French/Logan/Rivard Objections at 1.

<sup>8</sup> Innes Calvary Objection at 3; Innes EMF Objection at 4. Innes further alleges that the Stations emulate commercial stations in that they “merely play music, provide biased editorials, [and] promote calls to action” and have thus “abused their noncommercial educational status.” *Id.* The primary limitation on NCE stations is that they cannot air promotional announcements for for-profit entities in exchange for remuneration, something Objectors have not demonstrated for any of the Stations. *See* 47 U.S.C. § 399B; 47 C.F.R. § 73.503(d). Moreover, while there is no prohibition on an NCE licensee airing music in furtherance of its non-profit purpose, Innes’s unsworn contention that Calvary broadcasts only music appears incorrect. Calvary submits a sworn declaration from its CEO that none of its programs are musical. Calvary Opposition at 4; Exhibit 1.

<sup>9</sup> Innes Calvary Objection at 4; Innes EMF Objection at 5; French/Logan/Rivard Objections at 5.

studio waivers based on limited funding when EMF and Calvary each has millions of dollars in revenue and assets.<sup>10</sup> Objectors further contend that the Stations are “redundant,” “taking channels that could be used for LPFM service.”<sup>11</sup> They suggest that we either deny renewal or renew without the existing waivers. EMF and Calvary each responds that it is fully compliant with Commission requirements and has met its obligation to air programs responsive to important local issues.<sup>12</sup>

**Discussion.** The Commission’s role in programming matters is quite limited due to First Amendment principles affording freedom of speech without government intervention. A licensee of a full service broadcast station must air non-entertainment programming of its own choosing in response to issues and problems of the community of license.<sup>13</sup> This obligation applies to each full service station regardless of whether it has obtained a main studio waiver.<sup>14</sup> Licensees have broad discretion to choose, in good faith, which issues to address and the type of responsive programming to air, and such programs need not be produced locally.<sup>15</sup> Full service NCE licensees must place lists of their most significant issue-responsive programming in a public inspection file every three months.<sup>16</sup> A full service station

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<sup>10</sup> Innes Calvary Objection at 6; Innes EMF Objection at 8; French Objection at 7; and Logan/Rivard Objections at 8, *each citing* [www.charitynavigator.org](http://www.charitynavigator.org).

<sup>11</sup> Innes Calvary Objection at 2, 7. Objectors also criticize Commission policies. They allege that the public interest standard is not adequately defined (Innes Calvary Objection at 4; Innes EMF/French/Logan/Rivard Objections at 5); that FM translators operate inconsistently with the original intent of the service (Innes Calvary Objection at 8; Rivard Objection at 7; French Objection at 8-9; and Innes EMF /Logan Objection at 9); that the Commission does not adequately verify compliance by stations with main studio waivers (Innes/EMF /French/Logan/Rivard Objections at 6), and that main studio waivers have outlived their usefulness (Innes Calvary Objection at 3; Innes EMF/French/Logan/Rivard Objections at 4). Such arguments do not address a particular station’s compliance with existing rules, advocating instead for rule changes applicable to all. Such matters would be more appropriately raised and considered in a rulemaking proceeding.

<sup>12</sup> EMF states that its local public affairs managers conduct quarterly local interviews and surveys, that it incorporates the results in news and public affairs programming, and airs spots featuring local non-profits and ministries. EMF Opposition at 6, n.20. EMF also relies upon a 30-minute program “Closer Look” aired on Sunday evenings, daily live news programming, and an hourly, 60-second spot “Teacher Feature.” EMF states it has covered such issues as at-risk local youth, crime prevention by senior citizens, the role of volunteer firefighters, and animal safety. *Id.* at 5. Similarly, Calvary states that its local representatives hold local meetings and advise Calvary on local issues as well as community and church local events which are announced on air. Calvary Opposition at 5. Calvary further states that it airs two daily weekday shows that originate from Oregon: “Searchlight” from Applegate and “the Way, The Life, The Truth” from Coos Bay. *Id.* at 4. Calvary also relies upon its coverage of topics such as marriage, counseling, anti-abortion, raising children, health, and mental illness.

<sup>13</sup> Issue-responsive programming may include, but is not limited to, public affairs, public service announcements, editorials, free speech messages, community bulletin boards, and religious programs. *See Commercial TV Stations*, Memorandum Opinion and Order, 98 FCC 2d 1076, 1087 n.35 (1984). It may also include, although not primarily, news. *See Alianza Federal de Mercedes v. FCC*, 539 F.2d 732, 735 n. 25 (D.C.Cir.1976).

<sup>14</sup> Issue-responsive programming is not part of the Commission’s renewal analysis for FM translator stations because translators have neither the authority to originate programming nor any associated obligation.

<sup>15</sup> *Commercial TV Stations*, 98 FCC 2d at 1085 n. 28.

<sup>16</sup> 47 C.F.R. § 73.3527(e)(8)(i).

without a local studio must assist the public to access that information by mail and telephone,<sup>17</sup> and maintain a local or toll-free telephone number.<sup>18</sup> The Commission will not intervene absent a showing that the broadcaster was unreasonable or discriminatory in its selection of issues or offered such nominal levels as to have effectively defaulted on its obligation.<sup>19</sup>

We find that the Objectors do not make a *prima facie* case that EMF's or Calvary's program judgments were unreasonable. As EMF and Calvary correctly observe, the Objections are insufficient because they consist largely of conclusory allegations without underlying factual evidence.<sup>20</sup> For example, while Objectors' initial filings allege a lack of programming responsive to local issues, they do not acknowledge specific issues/programs that each licensee has listed in the Stations' public files, or explain why that programming is inadequate. Objectors, in a consolidated reply pleading ("Reply"), explain for the first time that they listened "over several days," "on a daily basis in December 2013 at different times to sample programming and heard no public affairs coverage," and further enunciate the type of desired programming for which they were monitoring.<sup>21</sup> Even if we were to consider this new information which, as EMF points out, should have been raised in the initial pleadings, the information does not establish that the licensee abused its discretion. A station might, for example, meet its obligation in a manner other than public affairs programming because, as noted earlier, issues of public importance may also be addressed in many other types of programs. Also, Objectors do not provide adequate details about their brief study from which the Bureau or the licensees might determine whether their sample was adequate and representative of offerings during the license term. The alleged Oregon listener sample is far less detailed than one previously conducted in Pennsylvania which the Commission nevertheless found inadequate to demonstrate abuse of discretion.<sup>22</sup> Further, Objectors in referencing their desire for "local-specific" programming similar to that one might find on LPFM stations, seem to believe incorrectly that only hyper-local programming is responsive to local issues.<sup>23</sup>

For similar reasons, we reject Objectors' position that the licenses should not be renewed because the Stations are "redundant" or "excessive." Objectors allege that Calvary and EMF each owns hundreds of stations nationwide, many with overlapping contours.<sup>24</sup> The Commission does not, however, limit the

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<sup>17</sup> *Id.* at § 73.3527(c)(2).

<sup>18</sup> *Id.* at § 73.1125(e).

<sup>19</sup> *Commercial TV Stations*, 98 FCC 2d at 1092-94. *Deregulation of Radio*, 84 FCC2d at 990-991. Petitioning parties thus have a heavy burden to show that a licensee has abused its discretion over programming matters. *Commercial TV Stations*, 98 FCC 2d at 1093-94.

<sup>20</sup> See Calvary Opposition at 4. EMF Opposition at 3-4. See also *North Idaho Broadcasting Co*, Memorandum Opinion and Order, 18 FCC Rcd 1637, 1638 (1993).

<sup>21</sup> See Reply at 3-4. EMF argues that we should strike the Reply because it makes new arguments that could have been raised earlier. EMF Motion to Strike at 3, n.4 citing *Lee G. Petro*, Letter, 25 FCC Rcd 4486, 4488 (MB 2010).

<sup>22</sup> See *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401 (1993).

<sup>23</sup> See *KGAN License, LLC*, Memorandum Opinion and Order, 25 FCC Rcd 2549 (MB 2010) citing *In the Matter of Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd 12425, 12431 (2004) (programming not specifically produced in or targeted at a local community may nonetheless serve the needs and interests of the community).

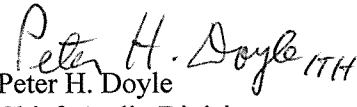
<sup>24</sup> Innes EMF and Calvary Objections at 2; French/Logan/Rivard Objections at 2-3.

number of full service NCE or FM translator stations that a single organization can own.<sup>25</sup> If by “redundant” Objectors mean that networked translator stations are retransmitting identical programming whereas individual LPFM stations could originate a wider variety of programs, such matters would not be cognizable in a license renewal challenge. The FCC designed the LPFM service to co-exist with existing translator stations, not to replace them.<sup>26</sup> The Commission will not take adverse action on a license renewal application based on subjective determinations by listeners of what is good programming or whether the offerings of another licensee might be better.<sup>27</sup>

We likewise find no merit in Objectors’ position that EMF and Calvary have abused their waivers. While Objectors are correct that the Commission has based main studio waivers on the limited funding of NCE stations, this does not mean that licensees receiving waivers must be in abject poverty. The Commission has recognized that NCE stations can benefit from centralized operations because they generally have fewer resources available to them because NCE stations operate under a statutory prohibition on selling commercial advertising.<sup>28</sup> While Objectors briefly attempt to distinguish EMF and Calvary from universities that have received main studio waivers, stating that the latter have lower overhead, the distinction is not meaningful; the Commission has never granted or denied a main studio waiver based on the size of a university’s endowment or budget.<sup>29</sup>

**Conclusion.** Having found no evidence of rule violations by EMF or Calvary, and further finding that the Stations have served the public interest, convenience, and necessity during the subject license term, the Objections filed by Emily French, Jennifer Logan, Dave Rivard, and Colin Innes ARE DENIED. IT IS ORDERED that, pursuant to Section 309(k) of the Communications Act of 1934, as amended, the license renewal applications listed in the Appendix to this letter ARE GRANTED.

Sincerely,

  
Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>25</sup> With respect translators, the Rules provide that “more than one translator may be licensed to the same applicant, whether or not such translators serve substantially the same area, upon an appropriate showing of technical need.” See 47 C.F.R. § 74.1232(b). Objectors have not shown that any of the co-owned translator stations at issue overlap to such a degree as to serve “substantially the same area” and require a showing of technical need.

<sup>26</sup> See generally *Creation of Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205 (2005).

<sup>27</sup> See *WGBH Educational Foundation*, Memorandum Opinion and Order, 69 FCC 2d 1250, 1251 (1978).

<sup>28</sup> See *Main Studio and Local Public Inspection File of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691 (1998), *recon. granted in part*, 14 FCC Rcd 11113 (1999); *Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5027 (1988); *Board of Visitors of James Madison University*, Hearing Designation Order, 8 FCC Rcd 1751, 1752 (MMB 1993).

<sup>29</sup> See Innes EMF Objection at 8; French Objection at 8; Rivard Objection at 7. Nor is it an abuse, as Objectors allege, for a studio-waived facility to insert station identification and other content at its local transmitter site. Obtaining a waiver is not, as Objectors believe, an all-or-nothing proposition that prevents any local origination.

## APPENDIX

Objector	Call Sign	Oregon City	Facility ID	File Number	Licensee
Emily French	KGRI(FM)	Lebanon	91560	BRED-20130927AFN	Educational Media Foundation
Emily French	K212BF	Eugene	18844	BRFT-20130927AKT	Educational Media Foundation
Emily French	K214CI	Eugene	60146	BRFT-20130927AKT	Educational Media Foundation
Emily French	K265DF	Eugene	33071	BRED-20130927AEE	Educational Media Foundation
Emily French	KLVB(FM)	Sweet Home	23030	BRED-20130927AEE	Educational Media Foundation
Emily French	K297AJ	Coburg	156460	BRED-20130927AEE	Educational Media Foundation
Jennifer Logan	K204CY	Medford	86453	BRED-20130927AEV	Educational Media Foundation
Jennifer Logan	KJKL(FM)	Selma	89860	BRED-20130927AFL	Educational Media Foundation
Jennifer Logan	K216DR	Central Point	88012	BRFT-20130927AKT	Educational Media Foundation
Jennifer Logan	K243AF	Jacksonville	19556	BRED-20130927AFL	Educational Media Foundation
Jennifer Logan	KLMD(FM)	Talent	166023	BRH-20130927ANS	Educational Media Foundation
Colin Innes	KZRI(FM)	Sandy	79245	BRED-20130927AEH	Educational Media Foundation
Colin Innes	KXPC(FM)	Welches	91542	BRED-20130927ADZ	Educational Media Foundation
Colin Innes	K224DL	Portland	60136	BRFT-20130927AFO	Educational Media Foundation
Colin Innes	K240CZ	Tigard	144196	BRED-20130927AEH	Educational Media Foundation
Colin Innes	K242AF	Portland	60141	BRED-20130927AEH	Educational Media Foundation
Colin Innes	K248BS	Newburg	84930	BRED-20130927AEH	Educational Media Foundation
Colin Innes	KLVP(FM)	Aloha	12501	BRH-20130927CDJ	Educational Media Foundation
Colin Innes	K274AR	Gresham	60147	BRED-20130927ADZ	Educational Media Foundation
Dave Rivard	KYSF(FM)	Bonanza	3462	BRED-20130927ADU	Educational Media Foundation
Dave Rivard	K280BW	Klamath Falls	28779	BRFT-20130927ADV	Educational Media Foundation
Dave Rivard	K218EX	Klamath Falls	18853	BRFT-20130927AKT	Educational Media Foundation
Dave Rivard	KKLJ(FM)	Klamath Falls	79135	BRED-20130927AFF	Educational Media Foundation
Colin Innes	K247AQ	Ashland	139138	BRFT-20130926AQD	Calvary Chapel of Twin Falls, Inc.
Colin Innes	KDJC(FM)	Baker	121839	BRED-20130926AMU	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K203DY	Baker City	88518	BRFT-20130926AQC	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K201DV	Brookings	77718	BRFT-20130926AQA	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K202DT	Canyonville	91875	BRFT-20130926APZ	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K218DP	Cave Junction	90439	BRFT-20130926APY	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K258AR	Cloverdale	139549	BRFT-20130926ANH	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K216EH	Colton	91971	BRFT-20130926APX	Calvary Chapel of Twin Falls, Inc.
Colin Innes	KJCH(FM)	Coos Bay	90263	BRED-20130926AMV	Calvary Chapel of Twin Falls, Inc.

Colin Innes	K271AR	Coos Bay	143727	BRFT-20130926AMW	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K212AK	Corvallis	72002	BRFT-20130926APU	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K273AJ	Elwood	91973	BRFT-20130926APS	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K207DQ	Florence	93077	BRFT-20130926APR	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K205DM	Glide	92498	BRFT-20130926APQ	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K202EH	Gold Beach	90256	BRFT-20130926APP	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K213CF	Grants Pass	82789	BRFT-20130926APO	Calvary Chapel of Twin Falls, Inc.
Colin Innes	KQDL(FM)	Hines	174458	BRED-20130926AMY	Calvary Chapel of Twin Falls, Inc.
Colin Innes	KPIJ(FM)	Junction City	92491	BRED-20130926ANG	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K246BB	Keno	139146	BRFT-20130926APL	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K220II	Lakeview	122157	BRFT-20130926APJ	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K296BS	Medford	71972	BRFT-20130926APH	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K276EO	Merlin	139145	BRFT-20130926APG	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K201DH	Pendleton	77128	BRFT-20130926APE	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K288FT	Portland	138942	BRFT-20130926AOX	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K220IN	Portland	121763	BRFT-20130926APD	Calvary Chapel of Twin Falls, Inc.
Colin Innes	KKJA(FM)	Redmond	92285	BRFT-20130926ANA	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K214CM	Roseburg	77106	BRFT-20130926APC	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K290BK	Seaside	138665	BRFT-20130926APB	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K280BK	Selma	71989	BRFT-20130926APA	Calvary Chapel of Twin Falls, Inc.
Colin Innes	K205EG	The Dalles	91527	BRFT-20130926AOY	Calvary Chapel of Twin Falls, Inc.