FCC Violations

Word Radio Educational Foundation ("Word"), became the licensee of WWPC, New Durham, NH (Facility ID No. 43801) ("WWPC") in December 2016, when it formally acquired WWPC's license from Morning Star Academy Corporation ("Morning Star") pursuant to a *proforma* assignment application.[1]

Prior to the transfer of the station's license, Word's predecessor in interest, Morning Star, was administered the attached admonishment for violation of the Commission's public file rules. Specifically, the Commission found that Morning Star violated Section 73.3527 of the Rules from January 5, 1993, until August of 1998 and was admonished for its failure to make the WWPC(FM)'s public inspection file available to members of the public. Although Word has certified "yes" to the question in the immediate license renewal application for WWPC that there have been no violations by it of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term, it is also submitting this explanatory exhibit, given the prior admonishment to Word's predecessor in interest during the preceding license term.

To the best of Word's knowledge, no further inquiry has been made, or action taken, by the Commission in regards to this violation.

[1] *See* Consummation Notice that was filed through CDBS, for Lead Station File No. BALED - 20161114ACE.

Federal Communications Commission
Washington, D.C. 20554

February 12, 2016

In reply refer to:
1800B3-MFW

Morning Star Academy
P.O. Box 398
New Durham, NH 03855

In re: **WWPC(FM), New Durham, NH**
Facility ID No. 93801
Morning Star Academy
File No. BLED-19930105KA
File No. BMPED-19930326IC
Request for Permanent Waiver of 47 C.F.R. Section 73.1125
Request for Extension of Special Temporary Authorization

Dear Applicant:

We have before us the following filings by Morning Star Academy Corporation ("Morning Star"), permittee of noncommercial educational ("NCE") FM station WWPC(FM), New Durham, New Hampshire, including (1) an application for an initial covering license for WWPC(FM) (the "License Application");[1] (2) an application for minor modification of the WWPC(FM) construction permit,[2] which includes a request for waiver of the Section 73.1125 of the Commission's Rules (the "Rules")[3] to permit Morning Star to operate WWPC(FM) (the "Station") as a "satellite" of WSEW(FM), Sanford, Maine (the "Modification Application"); and (3) Morning Star's November 30, 1993, request to extend special temporary authority originally granted on July 19, 1993, to operate with a main studio in Rochester, New Hampshire (the "STA Extension Request"). Former New Hampshire State Representative Julie Brown ("Brown") opposes each of the applications.[4] This letter also addresses the

[1] File No. BLED-19930105KA. The application addresses facilities constructed pursuant to Construction Permit BPED-19880406MO, granted on August 9, 1991.

[2] File No. BMPED-19930326IC.

[3] 47 C.F.R. § 73.1125.

[4] Brown filed pleadings against the Morning Star proposals on March 1, 1993, January 31, 1994, and March 7, 1994. The latter two filings were styled "Petition to Deny." On January 31, 1994, Brown also filed a petition to deny an application (BMPED-19940927MA) by Word Radio Educational Foundation ("Word Radio") for a major change in the facilities of its Station WSEW(FM), Sanford, Maine. Word and Morning Star filed a unified opposition on April 28, 1994. Brown filed a reply and an "amendment" to her filing on July 1, 1994.

The Word Radio application was dismissed at Word Radio's request on February 18, 2009. *See Broadcast Actions*, Public Notice, Report No. 46927 (Feb. 23, 2009). Accordingly, to the extent that Brown's pleadings address the Word Radio application, we will dismiss them as moot. Additionally, because a petition to deny does not lie against either a minor modification or a license application, *see* 47 U.S.C. § 309(c) and 47 C.F.R. § 73.3584, Brown's pleadings will be considered to be informal objections under 47 C.F.R. § 73.3587 with respect to the Morning Star applications and denoted here the "License Objection" and the "Modification Objection."

January 17, 1995, response, submitted jointly by Word Radio and Morning Star, to the staff's October 14, 1994, inquiry regarding each organization's qualifications to operate an NCE FM station pursuant to Section 397(6) of the Communications Act of 1934, as amended (the "Act"),[5] and Section 73.503 of the Commission's Rules (the "Rules"),[6] as well as the parties' June 13, 2000, joint response to an additional (May 9, 2000) staff inquiry letter. For the reasons discussed here, we grant in part and deny in all other respects Brown's Informal Objections, admonish Morning Star for its apparent violation of the Commission's public file rules, and grant the WWPC(FM) License Application and Modification Application. We also dismiss as moot Word Radio's request for waiver of Section 73.1125 of the Rules[7] and the STA Extension Request.

Background. The staff granted Morning Star's uncontested application for a new NCE FM construction permit at New Durham, New Hampshire, on August 9, 1991. Morning Star then constructed the Station and commenced operation, filing the License Application on January 5, 1993. The License Application disclosed construction at variance to the construction permit: the listed radiation center height was 20 meters lower than that specified in the construction permit. Therefore, Morning Star filed the Modification Application requesting a change in radiation center height and a corresponding slight power increase. Subsequently, on April 7, 1993, Morning Star filed a main studio waiver request; the staff treated that filing as an amendment to the Modification Application.

On October 20, 1999, in response to a staff request, Morning Star filed a License Application amendment ("License Application Amendment") and also requested dismissal of the Modification Application. In the License Application amendment, Morning Star announced that the WWPC(FM) studio had been relocated to 2 Ridge Road, New Durham, New Hampshire, within WWPC(FM)'s community of license, and thus the waiver request was no longer necessary. Morning Star subsequently rescinded its request to dismiss the Modification Application by letter dated January 18, 2000. At that same time, Morning Star submitted a technical amendment to the Modification Application, proposing an increase in vertical effective radiated power and antenna radiation center height. Morning Star submitted another amendment to its technical proposal on January 19, 2001.

In her License Objection and Modification Objection, Brown argues, *inter alia*, that: (1) Morning Star did not comply with New Hampshire corporation law;[8] (2); Morning Star is not qualified to operate an NCE station;[9] (3) Morning Star violated Section 73.1125 of the Rules by originating programming from the home of Morning Star principal Ronald Malone,[10] which location is outside WWPC(FM)'s service contour; and (4) Morning Star violated Section 73.3527 of the Rules by failing to establish a public inspection file for the Station.[11]

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[5] 47 U.S.C. § 397(6).

[6] 47 C.F.R. § 73.503.

[7] 47 C.F.R. § 73.1125.

[8] License Objection at 2; Modification Objection at 3 and Affidavit of Laren Whaley.

[9] *Id.* and Exhibits containing Letters from Philip S. Rader, Esq. (Mar. 13, 1992), Dr. Judith D. Fillion, Division Director, Division of Standards and Certification, New Hampshire Department of Education (Aug. 12, 1991), and Terry M. Knowles, Registrar, Charitable Trusts Unit, New Hampshire Department of Justice (Oct. 16, 1991); Modification Objection at 1, 2, and Exhibits containing the same Letters.

[10] License Objection at 1-2, Modification Objection at 3, 5.

[11] "Amendment" to Modification Objection at 2, 11.

Discussion. Initially with respect to Brown's License Objection, we stress the stringent standard of Section 319(c) of the Communications Act of 1934, as amended,[12] by which the challenge to the License Application must be judged. Upon grant of the underlying construction permit application, Morning Star has a protected interest in grant of the License Application. Under Section 319(c), Morning Star is entitled to a presumption that the Section 309 public interest determination made during the entire construction permit proceeding continues in effect unless "extraordinary circumstances"[13] have arisen that would make operation of the Station against the public interest.[14]

Additionally, with respect to Brown's Modification Objection, pursuant to Section 309(e) of the Communications Act of 1934, as amended (the "Act"), informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest, convenience, and necessity.[15] For the reasons discussed below, Brown does not satisfy these burdens.

Brown Objections. Compliance with New Hampshire Corporation Law. In support of her contention that Morning Star did not comply with the requirements of New Hampshire law, Brown submits a December 5, 1991, letter from Mr. Laren Whaley, who was listed as a director on Morning Star's original 1988 construction permit application, to the effect that: (1) the purported Morning Star board of directors neither met nor filed annual reports, nor did Morning Star engage in other corporate formalities required by New Hampshire state law; (2) he never met Jon Dabrowski, also listed as a director in that application; (3) he did not authorize the filing of that application; and (4) he desired that his name be removed from Morning Star's board, effective immediately.

The Commission does not generally consider issues relative to a permittee/licensee's compliance with the requirements of state corporate law where no challenge has been made in state court.[16] Although the staff previously sought and received a response to an inquiry letter concerning Mr. Whaley's allegations,[17] we believe that no further action is warranted on this matter. Mr. Whaley has been removed from Morning Star's list of principals, both pending applications are properly executed by a Morning Star principal empowered to sign, and there is no relevant purpose to be served at this point

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[12] 47 U.S.C. § 319(c).

[13] *See Whidbey Broadcasting Service, Inc.*, Memorandum Opinion and Order, 4 FCC Rcd 8726, 8727 (1989).

[14] *See Focus Cable of Oakland, Inc.*, Memorandum Opinion and Order, 65 FCC 2d 35, 39-40 (1977).

[15] 47 U.S.C. § 309(e); *see also, 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), *reh'g denied* (1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

[16] *Fatima Response, Inc., Assignor*, Memorandum Opinion and Order, 14 FCC Rcd 18543, 18546 (1999); *Aspen FM, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 17852 (1997).

[17] *See Letter from Sharon E. Malone, Chairman, Morning Star Academy, to Ms. Donna Searcy* (Aug. 18, 1992). Among the responses set forth in that letter are: (1) "Mr. Whaley was in full consenting knowledge of the fact that Morning Star Academy planned to and had filed an application with his involvement [to] the FCC..."; and (2) Morning Star's business had been "performed informally in a consensus manner." These responses were not impeached. Additionally, as pointed out by Morning Star in its April 28, 1994 opposition, because he previously resigned from Morning Star's board, Mr. Whaley was in no position to comment on the corporate propriety of Morning Star's 1993 applications.

by launching an inquiry into Morning Star's board activity (or lack thereof) prior to Mr. Whaley's resignation in 1991.

Qualifications to Operate an NCE Station. Under our rules, NCE stations may only be licensed to "nonprofit educational organization[s] . . . upon a showing that the station will be used for the advancement of an educational program."[18] On October 14, 1994, the staff issued a letter to Word Radio denying its application for permanent waiver of Section 73.1125 of the Rules,[19] noting therein that Morning Star and Word Radio were affiliated organizations,[20] and requesting that both Word Radio and Morning Star to provide evidence of their respective qualifications to operate an NCE radio station. Word Radio and Morning Star responded on January 17, 1995.

Organizational applicants may qualify to hold an NCE licensing by demonstrating "that they have an educational goal and are committed to the advancement of an educational program."[21] In evaluating such an applicant, we may examine: (1) the applicant's Articles of Incorporation, to determine whether the applicant proposes an overall educational program; and (2) the applicant's proposed programming statement, to determine whether it furthers the organization's educational objectives.[22]

After examining the documentation provided by Morning Star in response to the staff letter, including certified copies of the corporation's Articles of Agreement, we are satisfied it is qualified to be an NCE station licensee pursuant to Section 397(6) of the Act and Section 73.503 of the Rules.[23] Morning Star's Articles of Agreement, filed with the New Hampshire Secretary of State on January 25, 1988, state that its purpose is to "instruct and train individuals in the basic skills, disciplines, and traditional values in preparation for life." Our conclusion is buttressed by the statement from the New Hampshire Director of Charitable Trusts that "it is our opinion that the principal purpose of [Morning Star] is educational. . . ."[24]

With respect to the programming proposed by Morning Star, we are satisfied that it meets our definition of a general educational program.[25] Brown has failed to demonstrate that Morning Star's

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[18] 47 C.F.R. § 73.503(a).

[19] *Letter to Mr. Michael Minnon*, reference 1800B3-AEH (MMB, Oct. 14, 1994) ("*October 1994 Staff Letter*"). Word Radio had requested permission to combine operations with Morning Star's WWPC(FM) to allow that station to share programming expenses with WWPC(FM) and completely rebroadcast WWPC(FM)'s programming from WWPC(FM)'s then studio facilities at the Malones' residence in Rochester, New Hampshire. The staff held that WSEW(FM) was not entitled to a "satellite" station waiver of Section 73.1125 and had not otherwise justified waiver of the rule.

[20] Sharon Malone is President/Chairman of Morning Star; her husband, Ronald Malone is both President of Word Radio and Vice President/Secretary of Morning Star Ronald Malone has also served as technical consultant for both stations.

[21] *Notice of Inquiry*, 43 Fed. Reg. at 30845.

[22] *Columbia Bible College Broadcasting Co.*, Hearing Designation Order, 6 FCC Rcd 516, 517 (MMB 1991).

[23] 47 U.S.C. §397(6); 47 C.F.R. § 73.503.

[24] *See April 6, 1993, Letter to Sharon E. Malone from William E. Cullimore*, appended to Brown's January 31, 1994 objection.

[25] The applicants have submitted a "summary of the noncommercial, educational programming broadcast by stations WSEW(FM) and WWPC(FM)." *Letter from Dan J. Alpert, Esq., to Linda Blair, Acting Chief, Audio Services Division, Mass Media Bureau*, filed January 18, 1995, Attachment 11. The summary appears to indicate

programming does not meet our standard for NCE programming.

Main Studio/Public File allegations. Brown claims that Morning Star violated Section 73.1125 of the Rules at WWPC(FM), because: (1) WWPC(FM) broadcast the same programming as Station WSEW(FM), originating from the home of Ronald Malone at 289 Portland Street, Rochester, New Hampshire; and (2) WWPC(FM) does not place even a 60 dBμ (1mV/m) contour over that location. Additionally Brown claims that Morning Star violated Section 73.3527 of the Rules, because neither station had established a public inspection file available for viewing by the public.

In its April 28, 1994, Opposition, Morning Star states that: (1) the WWPC(FM) public file was then maintained at its transmitter site at 66 Ridge Road in New Durham, within its community of license; (2) while the origination studio was at the Malone residence in Rochester, WWPC(FM) had a designated "main studio" that was capable of originating programming at any time; and (3) a "dedicated local exchange telephone number" for had been set up to allow members of the public to call the station locally and have the call forwarded to the Malones' residence (at the time) in Rochester, from which programming originated.[26]

WWPC(FM) Main Studio. When Brown filed her objections to the WWPC(FM) proposals, Section 73.1125(a) of the Rules required that a radio station's main studio be located anywhere within the station's principal community contour, so long as the public inspection file is located in the community of license.[27] In 1998, the Commission further relaxed its main studio rule to permit a station to locate its main studio at any location that is within either the principal community contour of any station, of any service, licensed to the community of license or 25 miles from the reference coordinates of the center of the community of license, whichever it chooses.[28]

The now-withdrawn request for waiver of the main studio rule for WWPC(FM) indicated that the Station operated as a "satellite" of station WSEW(FM). WWPC was granted special temporary authority to operate its studio from the Malones' Rochester residence on July 19, 1993, pending consideration of the permanent waiver request;[29] Morning Star timely filed the STA Extension Request to prolong that authority on November 30, 1993. The license application indicated that the designated "main studio" location for WWPC(FM) was at 66 Ridge Road, New Durham, and the April 28, 1994, opposition indicates that the designated New Durham studio facility "is equipped with local origination equipment,"

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that these programs are broadcast by both stations. The programming described consists primarily of religious education, which will further the educational goals of both Word Radio and Morning Star. In this regard, we have stated that, "[w]hile not all religious programs are educational in nature, it is clear that those programs which involve the teaching of matters relating to religion would qualify. In this regard, some programs will properly be considered . . . both general educational and religious. As in all matters related to programming, we will defer to the judgment of the broadcaster unless his categorization appears to be arbitrary or unreasonable." *Notice of Inquiry*, 43 Fed. Reg. at 30845. *See also Casa de Oracion Getsemani,* Memorandum Opinion and Order, 23 FCC Rcd 4118, 4121-23 (3008); *WQED Pittsburgh*, Memorandum Opinion and Order, 15 FCC Rcd 202, 224-25 (1999).

[26] *See* April 24, 1994 Opposition to Petitions to Deny, Attachment 1, Declaration of Ronald and Sharon Malone at 8.

[27] *Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Report and Order, 2 FCC Rcd 3215 (1987), *clarified*, 3 FCC Rcd 5024 (1988) ("*Main Studio and Program Origination Rules*").

[28] *See Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, Report and Order, 13 FCC Rcd 15691 (1998).

[29] *See Letter to Dan J. Alpert (WWPC(FM))*, Reference 1800B3-SJK/JB (MMB July 19, 1993).

although it was controlled principally by an Automatic Transmission System. Morning Star's October 20, 1999, amendment, indicating that the main studio rule waiver was no longer necessary, also states that the new WWPC(FM) studio location is at 2 Ridge Road, New Durham, New Hampshire. In response to a later staff inquiry letter,[30] Morning Star indicates that all WWPC(FM) operations take place at the 2 Ridge Road location, adding for the first time that this is the Malones' residential address.

No further action is warranted *vis-à-vis* the WWPC(FM) main studio allegation. Morning Star received STA to operate from the Malones' Rochester residence in 1993, sought extension of that STA, and subsequently relocated the WWPC(FM) "studio" facilities to a location – the Malones' residence at 2 Ridge Road in New Durham – that complies with Section 73.1125 of the Rules. In light of the dismissal of the waiver request, we will dismiss the STA Extension Request as moot.

WWPC(FM) Public Inspection File. Section 73.3527 of the Rules[31] requires all NCE licensees to maintain a public inspection file for each station containing certain designated information. Section 73.3527(b) currently requires that the public inspection file be maintained at the station's main studio. Prior to October 30, 1998, a station whose main studio was located outside the community of license was required, with one exception not pertinent here, to maintain its public inspection file at an accessible location in its community of license. The purpose of the public inspection file requirement is to provide the public with timely information at regular intervals throughout a station's license period, so that concerned individuals may participate effectively in Commission procedures concerning a broadcast licensee, including the assessment of its performance.[32] Section 73.3527(d) also requires that a licensee make the station's public inspection file available to any member of the public for inspection at any time during regular business hours.[33] The file must be available to the public at any time during the licensee's regular business hours.[34]

In response to the May 9, 2000, Staff Inquiry Letter requesting detailed information about the location of the WWPC(FM) public inspection files, Morning Star indicated, initially, that the public inspection files for both stations had been relocated to the current studio/transmission facilities at the Malones' residence at 2 Ridge Road, New Durham, New Hampshire.[35] In this document, the Malones also indicate for the first time that a copy of the complete WWPC(FM) public file had at all times, until the public file was relocated to 2 Ridge Road in August of 1998, been maintained at the New Durham Town Offices. However, they note that "[the location was] chosen solely to fulfill the FCC's public access requirements" and that they "did not consider that town and city officials would meet with members of the public on behalf of WWPC"[36]; for that reason, these locations for the stations' public

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[30] *Letter to Morning Star Academy and Word Radio Educational Foundation*, reference 1800B3 (MMB May 9, 2000) ("May 9 Staff Inquiry Letter").

[31] 47 C.F.R. § 73.3527.

[32] *See, e.g., Liability of KLDT-TV 55, Inc.*, Letter, 8 FCC Rcd 6316, *forfeiture reduced*, 10 FCC Rcd 3198 (1995).

[33] *See Morton L. Berfield, Esq.*, Letter, 7 FCC Rcd 3972 (FOB 1992) (the file must be *immediately* available for inspection by members of the public, not through appointments or at times most convenient to the licensee.)

[34] *Id.; Public Notice,* "Availability of Locally Maintained Records for Inspection by Members of the Public," 13 FCC Rcd 17959 (1998), *citing WBRN, Inc.*, 32 FCC 2d 729 (1971).

[35] This location complies with Section 73.3527(b), which requires that the public inspection file of an NCE station be maintained at the station's main studio site. *Memorandum Opinion and Order* in MM Docket No. 97-138, 14 FCC Rcd 11,113 (released May 28, 1999), 64 Fed. Reg. 35,941 (July 2, 1999).

[36] June 13, 2000, joint response to staff inquiry letter, Attachment 1, Letter from Ronald and Sharon Malone, at 4.

inspection files were never publicized, and no member of the public would expect to find the file there.

The Malones further indicated that "[w]hen the Julie Brown controversies began, they considered the transmitter location at [66 Ridge Road] to be the 'official' studio location," notwithstanding that the transmitter "main studio" building was locked and unmanned.[37] They admit that, to view the WWPC(FM) public inspection file, an individual would first need to contact them by calling the telephone number established for that purpose, which number was posted on the door of the transmitter building. They would then arrange to let the individual see the file.

It is apparent from the responses to the staff's May 9, 2000, inquiry letter and from other information in the record, that the Malones did not maintain a public inspection file for WWPC(FM) in accordance with Section 73.3527 prior to August of 1998. In fact, it appears that the Malones attempted to *discourage* access to the public file. This was done partly by failing to publicize public file locations,[38] and partly by requiring members of the public to phone them and arrange to view the file. Notwithstanding the physical location of requisite materials in public buildings within the WWPC community of license, we cannot find that Morning Star complied with Section 73.3527 if members of the public did not know the location of the public inspection file and could not view the file without telephoning for an appointment.

In light of the above, we find that Morning Star willfully and repeatedly violated Section 73.3527 of the Rules from January 5, 1993, until August of 1998. In this case, the existence of multiple violations, the duration of the violations, and the Malones' apparent disregard for the requirement that they maintain a public inspection file for each station that members of the public could view at their convenience, each are aggravating factors. The only possible mitigating factors are that Morning Star may have maintained a public file at public buildings in WWPC(FM)'s community of license, although these locations were not communicated to the public, and there is no claim or evidence in the record that the public files for the stations was incomplete. The Commission's *Forfeiture Policy Statement* sets a base forfeiture amount of $10,000 for public file violations.

With respect to Morning Star's violation of Section 73.3527, Section 503(b) also states that no forfeiture shall be imposed against any person "if such person does not hold a broadcast station license . . . and if the violation charged occurred more than one year prior to the date of the issuance of the required notice or notice of apparent liability."[39] Because we have not yet issued a license to Morning Star for WWPC(FM), and because the public file violation ceased upon the effective date of the amendment of Section 73.3527 more than one year ago, we are statutorily precluded from issuing a Notice of Apparent Liability to Morning Star for the public file violation.[40] We do not condone this

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[37] Brown includes a photograph of a sign affixed to the door of the transmitter building informing readers that the building was the studio for WWPC and that interested persons could either write the station at the 66 Ridge Road address or call a specified local telephone number. In their letter replying to the staff's May 9 inquiry, the Malones state that they "were not aware of any requirement to inform the public by signs or public notices as to the location of the public files prior to contacting us." *Id.*

[38] There is no evidence in the record until the June 13, 2000 response to a staff inquiry that WWPC(FM) and WSEW(FM) files were maintained in public buildings in New Durham and Sanford, respectively.

[39] 47 U.S.C. § 503(b)(6).

[40] *See, e.g., White Park Broadcasting, Inc.,* Memorandum Opinion and Order, 24 FCC Rcd 3549, 3568 (MB 2009); *California State University at Sacramento*, Memorandum Opinion and Order, 14 FCC Rcd 10,018 (MMB 1999) (cancellation of NAL for unauthorized construction because more than one year had elapsed between date of

conduct, however, and we hereby admonish Morning Star for its failure to make the WWPC(FM) public inspection file available to members of the public prior to August of 1998.

Other allegations. In her various pleadings, Brown raises a number of other allegations against Morning Star and the station. The majority of these allegations require no further discussion. For example, Brown's claim (in her March 1, 1993, objection) that the Malones possessed insufficient assets to construct the stations is belied by the fact that both stations have been operational since 1993. Her charges that Word Radio and Morning Star lacked candor and committed fraud to obtain their authorizations are unsupported. Brown's related charge, in the January 31, 1994, pleading, that Word Radio and Morning Star violated state law by soliciting contributions without first registering as a "charitable trust" under state law is unsupported by any adjudication from a court or state agency of competent jurisdiction; it therefore is not probative in our consideration of the WWPC(FM) applications.[41] Likewise, her claim that Morning Star is not a tax-exempt organization is not a relevant factor in the Commission's licensing determination, which is concerned with whether the applicant is a not-for-profit entity with a primarily educational purpose.[42] There is no Commission requirement that an entity must have received an exemption under Section 501(c)(3) of the Internal Revenue Code[43] to qualify for an NCE-FM license.

Finally, Brown provides no probative support for her claim that Morning Star principal Ronald Malone engaged in unlawful operation of several FM translator stations in 1989. We decline to investigate further charges that the two translators in question – W219AV, Berwick, Maine and W280AG, Milford, Maine – unlawfully originated programming rather than simply rebroadcasting the designated parent station, WHCF(FM), Bangor, Maine, because the authorizations for those facilities were cancelled on August 16, 1990 (W280AG), and May 15, 1991 (W219AV), respectively. We see no relevance in examining the operation of those long-defunct FM translators.

Conclusion/Actions. We have examined the Modification Application, and we find that, the application complies with all pertinent statutory and regulatory requirements. We have also examined the License Application, and we find that it matches the WWPC(FM) permit, as modified. While, as discussed below the record here establishes that Morning Star violated Section 73.3527 of the Commission's Rules[44] regarding maintenance of a broadcast station's public inspection file, that violation, subsequently corrected, neither constitutes "extraordinary circumstances" making operation of the Station against the public interest nor raises a substantial and material question of fact calling for further inquiry.[45] Accordingly, we believe that grant of these applications will further the public interest,

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unauthorized construction and date of NAL).

[41] *See Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179 (1986), *recon. denied*, 1 FCC Rcd 421 (1986), *modified in pertinent part*, 5 FCC Rcd 3252 (1990).

[42] In her July 1, 1984, pleading, Brown also claims that Word violated 47 C.F.R. § 73.3580 by failing to publish local notice of the filing of its new and major change applications. In their January 18, 2000 response to an informal staff inquiry, Word and Morning Star submit photocopies of newspaper "classified" announcements that conclusively demonstrate compliance with Section 73.3580.

[43] 26 U.S.C. § 501(c)(3).

[44] 47 C.F.R. § 73.3527.

[45] *See Catoctin Broadcasting Corp. of New York*, Decision, 2 FCC Rcd 2126, 2137 (Rev. Bd 1987), *aff'd,* 4 FCC Rcd 2553 (1989), *recon. denied*, 4 FCC Rcd 6312 (1989); *Kaye-Smith Enterprises,* Memorandum Opinion and Order, 71 FCC 2d 1402, 1413 (1979), *aff'd,* 90 FCC 2d 27 (1982).

convenience, and necessity.

Actions. In light of the above discussion, IT IS ORDERED, that, the Informal Objections filed by Julie Brown ARE GRANTED to the extent indicated and ARE DENIED in all other respects with respect to the WWPC(FM) License Application (BLED-19930105KA) and Modification Application (BMPED-19940326IC).

IT IS FURTHER ORDERED, that the Informal Objections filed by Julie Brown ARE DISMISSED AS MOOT with respect to Word Radio Educational Foundation's application (BMPED-19940927MA) for Station WSEW(FM), Sanford, Maine.

It IS FURTHER ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's rules,[46] Morning Star Academy Corporation IS ADMONISHED for willfully and repeatedly violating Section 73.3527 of the Commission's Rules.

IT IS FURTHER ORDERED that the applications of Morning Star Academy Corporation for covering license for, and for minor modification of, the technical facilities of, station WWPC(FM), New Durham, New Hampshire (File Nos. BLED-19930105KA and BMPED-19930326IC, respectively), as amended, ARE GRANTED, and its requests for waiver of Section 73.1125 of the Commission's Rules and for extension of special temporary authorization ARE DISMISSED AS MOOT.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

cc: Dan J. Alpert, Esq.
Ms. Julie Brown

[46] *See* 47 C.F.R. §§. 0.111, 0.311 and 1.80.