

Amendment Statement:

For the reasons stated in detail below, the applicant is requesting a minor change to the application on Channel 205 in Culbertson, NE.

- Changing the Frequency from Channel 205 to 208
- Changing the Power of the station from 300 watts to 10KW
- Changing the Class of station from A to C3
- Requesting Dismissal of its application FCC FILE#0000166099 on Channel 209
- Dismissal of a request for waiver of FCC rules 72.3520

Historically, there has been no Non-commercial FM service in the service area of this station, ever. Over the years no one has applied for any NCE stations in this area . Because of this the applicant was making an effort to bring the coverage area up to speed with a small Class A FM of 300 watts and a C2 channel each offering different formats by filing the following active applications:

NEW FM 89.7 mHz, Channel 209 FCC FILE#0000166099 Culbertson, NE (Class C2 50kw)

NEW FM 88.9 mHz, Channel 205 FCC FILE #0000165964 Culbertson, NE (The instant application) (Class A 300W)

In making these filings, it was believed that a Waiver of the rules 73.3520 was not necessary due to reliance on *Open Media Corporation, Memorandum Opinion and Order, 8 FCC Rcd 4070 (1993)* which states:

“As noted, Section 73.3555(f) of the Commission's Rules provides that the multiple ownership rules do not apply to NCE-FM stations. Accordingly, it is clear that both NIU and REBF may each have more than one noncommercial educational station in the Rockford market. With respect to the alleged violation of Section 73.3517 of the Commission's Rules, there are no contingent applications. If either NIU or REBF had filed individually for Channel 213, the application could have been granted. The only reason that neither the NIU nor REBF application for Channel 202 could have been granted was because they were mutually exclusive with one another for that channel. Thus, there is no violation of Section 73.3517. Furthermore, the purpose of Section 73.3518 “is to avoid the waste of Commission resources, prejudice to other applicants, and delay of service which arises when the Commission must process applications by the same person or entity.” Valley Broadcasting Co., 58 RR 2d

945, 948(1985). It is designed to prevent the filing of multiple applications “not all of which can be granted.” Id. Since we have before us NCE-FM applications, all of which may be granted, Section 73.3518 is simply inapplicable. Nor is there any violation of Section 73.3520 of our Rules. Rule 73.3520 is premised on there being a limit to the number of stations which may be owned by any one licensee in the same community. However, since the multiple ownership rules do not apply to NCE-FM operations, neither NIU nor REBF is precluded from owning and operating more than one NCE-FM facility in the market. Thus, it follows that each may have more than one application pending at the same time for a given market. Accordingly, the proposals of NIU and REBF do not violate Sections 73.3517, 73.3518 and 73.3520 of our Rules.”

Apparently, this is not the case after all, which resulted in an Informal Objection filed against these applications and those of many other applicants in other markets who also believed this was acceptable.

The first filed application in this window is the instant application FCC FILE #0000165964.

The applicant would still like to have the two broadcast facilities in this greatly underserved area but in the public interest to bring service where there is none and in order to eliminate delay and facilitate the granting of one facility we request these changes, the dismissal of the informal objection # 000179293 by Triangle Broadcasting as moot and the grant of the amended application expeditiously.

It is our hope that we have hereby addressed the concerns of Triangle and any that the FCC may have with respect to this application.