



Federal Communications Commission
Washington, D.C. 20554
March 11, 2024

In Reply Refer to:
1800B3-CEG

Family Stations, Inc.
c/o Kathleen Victory, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th St, Ste 1100
Arlington, VA 22209
victory@fhhlaw.com

Albert Adam David
2632 Kenilworth Ave
Berwyn, IL 60402
albert.a.david@hotmail.com

In re: Family Stations, Inc.
WFME(AM), New York, NY
Facility ID No. 29024
STA Application File No. 234382

Informal Objection

Dear Counsel and Objector:

We have before us the above-referenced request for an extension of special temporary authority (STA), filed by Family Stations, Inc. (Family) on December 29, 2023 (STA Extension Request). Family seeks an extension of an engineering STA originally granted on June 21, 2021, to operate AM station WFME(AM), New York, New York (WFME or Station), at variance from its licensed parameters.¹ We also have an informal objection to the STA Extension Request, filed on January 9, 2024, by Albert Adam David (David) (Informal Objection).² For the reasons set out below, we deny the Informal Objection and grant the STA Extension Request. However, we remind Family that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously.³ We also direct Family to submit a detailed narrative describing the efforts that it has made to resume licensed operations with any further STA extension requests.

Background. WFME is a Class A clear channel station licensed to operate at 50 kW day and night. On February 24, 2021, Family notified the Audio Division, Media Bureau (Bureau) that it had taken the Station silent on February 15, 2021, because it had sold the land on which its transmitter site was located and was “considering its options with respect to moving the Station to another site as soon as

¹ See File No. BSTA-20210604AAC (filed June 4, 2021, and granted June 21, 2021).

² Pleading File No. 235086. On January 29, 2024, Family filed an opposition to the Informal Objection (Opposition) (Pleading File No. 237282). On February 2, 2024, David filed a reply to the Opposition (Reply) (Pleading File No. 238118).

³ See, e.g., *R&M Broadcasting Company*, Memorandum Opinion and Order, 26 FCC Rcd 10336, 10344, n.52 (MB 2011) (*R&M*).

possible.”⁴ On June 4, 2021, Family requested an engineering STA to operate the Station at 12.5 kW power at a shared antenna site with several other Family-owned stations (STA Site).⁵ On October 21, 2021, Family requested to reduce the Station’s operating power to 1 kW “to avoid potential compatibility issues” with other communications facilities near the STA site.⁶ On April 19, 2022, Family explained that it was in the process of “exploring its options and ways to best provide service to its community of license” and requested an extension of its STA to operate at 1 kW.⁷ On June 24, 2022, Family requested a further extension of its STA at an increased power of 10 kW.⁸ On November 21, 2022, Family reported problems with blanketing interference with electronic systems at nearby Goddard School and requested authority to operate at the reduced power of 2.5 kW from 6am – 7pm while “considering its possibilities.”⁹ On May 22, 2023, Family requested a further STA extension at a reduced power of 500 watts during all hours of operation to reduce the blanketing interference to Goddard School, asserting that “efforts are ongoing to investigate other tower locations or means to eliminate the ongoing interference issues preventing operation at full licensed power and preparing the subsequent required FCC Form application(s).”¹⁰ On December 29, 2023, Family filed the current STA Extension Request, reiterating that “ongoing efforts have continued to investigate other permanent tower locations or means to eliminate the ongoing interference issues with the Goddard school preventing operation at full licensed power. Once options have been finalized, [Family] will prepare and submit the required FCC application(s).”¹¹

In the Informal Objection, David urges that Family should not receive an “unlimited number of extensions of their STA,” especially since the sale of the Station’s license transmitter site was voluntary.¹² David further argues that as long as the Station is operating at a reduced power, it is “failing to provide the levels of secondary service that clear-channel status is intended to protect and is not prov[id]ing the public service that a Class A station is intended to provide,” thus preventing other stations from adding nighttime service or increasing power to make up for the loss of WFME’s nighttime skywave service.¹³

In the Opposition, Family responds that David lacks standing to file an informal objection,¹⁴ that the “Commission’s rules contain no restrictions on the sale or alienability of property owned by licensees and used for the operation of stations,”¹⁵ and that Family has demonstrated that it has taken “good faith steps to resume normal operation” in a “complex and congested” market.¹⁶

⁴ See File No. BLSTA-20210224AAC (filed February 24, 2021, and granted April 20, 2021).

⁵ See File No. BSTA-20210604AAC, Attach. entitled “WFME STA Engineering” at 2 (filed June 4, 2021, granted June 21, 2021).

⁶ File No. BSTA-20211021AAE, Attach. entitled “WFME AM New York, NY Engineering STA Request_Eng EXH 10-21-2021” at 2 (filed October 21, 2021, and granted October 22, 2021).

⁷ File No. BESTA-20220419AAF (filed April 19, 2022, and granted April 20, 2022).

⁸ File No. BESTA-20220624AAA (filed June 24, 2022, and granted June 27, 2022).

⁹ File No. BESTA-20221121AAI (filed November 21, 2022, and granted November 23, 2022).

¹⁰ File No. BESTA-20230522AAH, Engineering Exh. at 5 (filed May 22, 2023, and granted June 26, 2023).

¹¹ STA Extension Request, STA Application File No. 234382, Attachment entitled “WFME New York, NY Engineering STA Request_Exh_December 2023.pdf” at 1.

¹² Informal Objection at 1-2.

¹³ *Id.* at 2.

¹⁴ Opposition at 1-2.

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 2-3.

In his Reply, David contends that Family could have applied to operate at a lower power level rather than engaging in “frequency warehousing” by applying for multiple STA extensions while retaining Class A protections.¹⁷ According to David, if Family is ultimately successful in its search for a site that would allow it to operate at full power, it could then apply for an upgrade.¹⁸ In this situation, David urges, the Commission should “enforce the limit on extending STAs” and deny the STA Extension Request.”¹⁹

Discussion. An informal objection must provide properly supported allegations of fact which, if true, would establish a substantial and material question of fact regarding whether grant of the application in question would be consistent with the public interest, convenience and necessity.²⁰ David has failed to meet this burden.

Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of “extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest.”²¹ STA may not be used to circumvent established modification procedures, enhance the facility or make operation more convenient for the broadcaster.²² As a general public interest matter, a station operating for a prolonged period at significantly lower than its authorized power is not providing the public service for which it is intended. Class A clear-channel stations, in particular, are designed to ensure primary and secondary coverage over an extended area.²³ Therefore, unlike other AM stations, Class A stations are entitled to secondary protection—that is, protection from interference to their nighttime skywave signals—as well as protection to the primary service area covered by their groundwave signal.²⁴ A Class A station operating with less than licensed facilities under temporary authorities is therefore receiving the benefit of a potentially much larger protection area than that in which it is currently providing service. In this case, the Station has been either silent or operating at a small fraction of its authorized power for more than three years. The record does not indicate that at the time it sold the Station’s transmitter site, Family had a strategy for returning the Station to licensed operation, nor does it contain any information regarding specific potential sites for permanent, licensed facilities.

STA is by definition temporary and not intended for extended use. Therefore, any request for

¹⁷ Reply at 1.

¹⁸ *Id.* at 2.

¹⁹ *Id.*

²⁰ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986).

²¹ 47 U.S.C. § 309(f).

²² See, e.g., *Rancho Palos Verdes Broadcasters, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 18 FCC Rcd 5043, 5048, para. 16 (2003).

²³ 47 CFR § 73.182(a)(1).

²⁴ *Id.*; 47 CFR § 73.21(a)(1). Most Class A AM stations assigned to clear channels must operate at 50 kW, as they are intended to provide wide-area service to remote rural areas. See *Review of the Technical Assignment Criteria for the AM Broadcast Service*, Memorandum Opinion and Order, 8 FCC Rcd 3250, 3258, paras. 61-63 (1993) (*Reconsideration Order*). Former Class 1-B clear channel stations that were reclassified at Class A in 1991 are grandfathered to operate from 10 – 50 kW, provided that the proposed power level is sufficient to generate a secondary service contour—i.e., a skywave signal of at least 0.5 mV/m for 50% of the time that extends beyond the groundwave service contour. See *Review of the Technical Assignment Criteria for the AM Broadcast Service*, Memorandum Opinion and Order, 8 FCC Rcd 3250, 3258, para. 63 (1993).

extension of special temporary authorities carries an increased burden with each subsequent request.²⁵ Section 73.1635(a)(4) provides, “A limited number of extensions of such authorizations may be granted for additional periods not exceeding 180 days per extension . . . The permittee or licensee must demonstrate that any further extensions requested are necessary and that all steps to resume normal operation are being undertaken in an expeditious and timely fashion.”²⁶ Therefore, under our established processing procedures, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.²⁷

In this case, we accept Family’s assertion that it has taken “good faith steps to resume normal operation” for the purpose of considering the STA Extension Request. However, in keeping with the above policy, any future STA extension request will carry an increased burden to demonstrate one or more of the above STA criteria. Accordingly, if Family seeks a further STA extension in lieu of a modification application to operate at reduced power, it must include a detailed narrative describing all the steps it has taken to return the Station to licensed operation—including specific sites under consideration or negotiation—and, if needed, a demonstration that any lack of progress is due to circumstances outside of Family’s control. We remind Family that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously.²⁸

Conclusion/Actions. For the reasons set forth above, IT IS ORDERED that the informal objection filed by Albert Adam David on January 9, 2024 (Pleading File No. 235086) IS DENIED and the STA extension request for WFME(AM), New York, NY, filed by Family Stations, Inc. on December 29, 2023 (STA Application File No. 234382), IS GRANTED.

We authorize Family to operate with the following temporary facilities:

Geographic coordinates	40° 47’ 18” N, 74° 15’ 19” W (NAD 1927)
Frequency	1560 kHz
Hours of operation	Day and night
Operating power	0.50 kW (day and night)
Antenna type	Existing WNSH/WFMU tower with slant wire feed
ASRN	1045804
Overall height above ground	62 meters
Electrical height of radiator	116.1°
Antenna Efficiency	225 mV/m per kW at 1 km

Family must reduce power further or cease operations if additional complaints of blanketing

²⁵ See, e.g., *R&M*, 26 FCC Rcd at 10344, n.52.

²⁶ 47 CFR § 73.165(a)(4).

²⁷ See, e.g., *R&M*, 26 FCC Rcd at 10344, n.52.

²⁸ See *id.*

interference are received in the upcoming months, and use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines.²⁹

This authority expires on **July 29, 2024**.³⁰

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

²⁹ See 47 CFR § 1.1310.

³⁰ Periods of operation pursuant to this STA shall be recorded in the station's records. 47 CFR § 73.1820. The records shall include start/stop dates and times of such operation. These log entries must be maintained for a minimum of two years as specified in 47 CFR § 73.1840(a) unless a longer retention period is requested by the staff. Periods of operation may be subject to independent verification that they in fact occurred.