



Federal Communications Commission
Washington, D.C. 20554

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In re: **Calvary Chapel South Houston**
KEPH-LP, Friendswood, TX
Facility ID No. 159276
File No. BLL-20150730ACT

Petition to Revoke License

Dear Counsel and Petitioner:

We have before us a Petition to Revoke License (Petition) filed by Siga Broadcasting Corporation (Siga) on July 24, 2017,¹ which requests that we revoke the license for LPFM station KEPH-LP, Friendswood, Texas (Station). Also before us is the Opposition to Petition to Revoke License (Opposition) that the Station's licensee—Calvary Chapel South Houston (CCSH)—filed on October 24, 2017.² We deny the Petition for the reasons discussed below.

At the outset, we address Siga's misconception that there is a general requirement that LPFM stations locally originate eight hours of programming per day.³ No such requirement exists. Rather, to incentivize LPFM applicants to locally originate programming, the Commission grants a comparative

¹ Siga Broad. Corp., Petition to Revoke License, Application File No. BLL-20150730ACT (filed July 24, 2017) (Petition). Section 312 of the Act provides the Commission with the discretion to institute revocation proceedings on its own motion, but does not specifically create rights in third parties, such as Siga, to file petitions to revoke licenses or permits. 47 U.S.C. § 312. However, the Commission has traditionally treated petitions to revoke as informal requests for Commission action pursuant to Section 1.41 of the Commission's rules and we will do so here. *See, e.g., Conn-2 RSA P'ship*, Memorandum Opinion and Order, 9 FCC Rcd 3295, 3298, n.7 (1994) ("Requests for revocation are treated as informal requests for Commission action pursuant to Section 1.41 of the Rules."); *Deletion of Noncommercial Reservation of Channel *16, 482-488 MHz, Pittsburgh, Pennsylvania*, Memorandum Opinion and Order, 11 FCC Rcd 11700, 11712, para. 26 (1996) (treating petition to revoke as informal request for Commission action pursuant to section 1.41 of the Commission's rules). *See also* 47 CFR § 1.41.

² Calvary Chapel South Houston, Opposition to Petition to Revoke License, Application File No. BLL-20150730ACT (filed Oct. 24, 2017) (Opposition).

³ Petition at 2 (asserting that LPFM stations are "expressly required" to provide eight hours of locally originated programming).

advantage—in the form of a point to be used if a point system analysis becomes necessary—to LPFM applicants that pledge to locally originate at least eight hours of programming per day.⁴

This advantage comes into play only if LPFM applications filed during the same filing window conflict with each other, and a decision must be made about which LPFM application to grant. In such instances, the FCC conducts a simplified comparative hearing in the form of a point system analysis to determine which application has the most points and should prevail. An applicant that prevails over another in a points system analysis must continue to satisfy the various points criterion for which it claimed points.⁵ An applicant awarded a construction permit without a points hearing need not.

It is true CCSH did pledge to locally originate programming in its application for the Station's construction permit (Permit Application).⁶ However, because the Permit Application was granted as a singleton and not after a point system analysis, CCSH was not required to honor that commitment. Given this, Siga's claim that CCSH misrepresented its intent to locally originate programming to the Commission must fail.⁷

Siga also misses the mark with its argument that CCSH is not providing the type of educational programming identified in the Permit Application.⁸ Based on the information in the record before us,⁹ we find CCSH is airing some of the programming described in the Permit Application.¹⁰ In any event, even if CCSH was not, the Commission has long recognized that Licensees are entitled to broad discretion in the scheduling, selection, and presentation of programming,¹¹ and has found that this is particularly true with regard to the programming decisions of noncommercial educational stations, such as LPFM stations.¹² Nothing in the Communications Act of 1934, as amended, or the Commission's rules bars CCSH—or any other LPFM station—from modifying its program offerings so long as those offerings continue to advance the educational objectives of its licensee.

⁴ 47 CFR § 73.872(b)(2). The FCC also awards one point to LPFM applicants for satisfying other criteria, such as having an established local presence, committing to maintain a main studio, holding no attributable interests in any other broadcast station, or being a Tribal applicant. 47 CFR § 73.872(b)(1), (3), (5).

⁵ See *Creation of Low Power Radio Service*, Report and Order, MM Docket 99-25, 15 FCC Rcd 2205, 2262, para. 145 (2000).

⁶ See Application File No. BNPL-20131112BTP at Section III (Point System Factors), Item 2 (Local program origination) (Permit Application).

⁷ Petition at 1, 2.

⁸ Petition at 1, 2.

⁹ Petition at Exhs. A and B; Opposition at Decl. of Adam Sylvester.

¹⁰ For instance, bible study programs comprise a large portion of the Station's broadcast line-up. See Petition at Exhs. A and B. CCSH discussed its intent to broadcast bible studies in the Statement of Educational Objectives (Statement) that accompanied the Permit Application. See Permit Application at Exh. 2 (explaining that CCSH intended to “broadcast our studies and seminars to those who cannot appear in person at the scheduled time or venue, and to repeat those lessons at various days and times, reaching others who would not otherwise be able to receive the benefit of the training sessions”). In addition, the Station also highlights upcoming community events on-air each day. This is akin to the “community bulletin board”-type programming discussed in the Statement. *Id.*

¹¹ See, e.g., *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401, para. 7 (MB 1993).

¹² *Pittsburg State Univ.*, Letter Order, 22 FCC Rcd 12983, 12985 (MB 2007).

We reject Siga's implied argument that the religious programming being broadcast by CCSH is not sufficiently educational. Not only has the Commission made clear that it defers to a licensee's editorial judgment as to what constitutes "educational" programming, unless that judgment is arbitrary or unreasonable,¹³ but the Commission also has expressly stated that bible study programs like those broadcast by the Station satisfy the requirement that programming advance an educational objective.¹⁴

For the reasons discussed above, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Petition to Revoke License filed by Siga Broadcasting Corporation on July 24, 2017, **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹³ *Enid Public Radio Ass'n*, Memorandum Opinion and Order and Notice of Apparent Liability, 25 FCC Rcd 9138, 9141, n.23 (MB 2010); *WQED Pittsburgh and Cornerstone Television, Inc.*, Order on Reconsideration, 15 FCC Rcd 2534, 3535 (2000).

¹⁴ *See Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, DA 23-642, at n. 30 (MB July 31, 2023), quoting *Comparative Standards for Noncommercial Educational Applicants*, Further Notice of Proposed Rulemaking, 13 FCC Rcd 21167, 21168, n. 2 (1998).