

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.
WASHINGTON DC 20554

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MEDIA BUREAU

AUDIO DIVISION

APPLICATION STATUS: (202) 418-2730

HOME PAGE: www.fcc.gov/mb/audio/

PROCESSING ENGINEER: Harding Chism

TELEPHONE: (202) 418-2700

FACSIMILE: (202) 418-1411

MAIL STOP: 1800B3

INTERNET ADDRESS: Harding.Chism@fcc.gov

Calvary Chapel of Costa Mesa, Inc.
3000 W. MacArthur Boulevard, Suite 500
Santa Ana, CA 92704-7947

In re: Calvary Chapel of Costa Mesa, Inc.
WCJL(FM), Morgantown, IN
Facility I.D. No.: 91951
BPED-20090422AAD

Dear Applicant:

This letter refers to (1) the above-captioned minor change non-commercial educational application that proposes to change the community of license of WCJL(FM), Morgantown, IN to Paragon, IN, and (2) the Petition to Deny filed May 26, 2009 by Martin Hensley.¹ For the reasons discussed below the application will be dismissed.

Background. This application was filed pursuant to Section 73.3573(g) of the Commission's rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. Any reallocation proposal must result in a preferential arrangement of allotments.² We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.³ This application would provide a first local service to Paragon under Priority (3).

Discussion. We cannot approve the proposed city of license modification of FM Station WCJL from Morgantown, to Paragon, Indiana. Specifically, we cannot make the requisite finding that this reallocation would result in a preferential arrangement of allotments as required by *Community of License*. One must compare the existing arrangement of allotments versus the proposed arrangement of allotments. In comparing a first local service at Morgantown versus a first local service at Paragon, a

¹ Opposition to the Petition to Deny filed May 29, 2009 by Calvary Chapel of Costa Mesa, Inc.

² See *Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License")*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

³ *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

first local service at Morgantown, as the community with the larger population, would be the preferred allotment.⁴ In this instance, Morgantown has a 2000 U.S. Census population of 964 persons while Paragon has a 2000 U.S. Census population of 663 persons. In addition, the proposed reallocation would be removing the sole local service assigned to Morgantown since FM Station WCJL is the only station licensed to that community. In *Community of License*, the Commission stated that removing a sole local service from a community presumptively disserves the public interest and only in “rare circumstances” that such a removal would be warranted.⁵ Your proposal would remove the sole authorized local service to Patterson, Georgia. In this instance, removing a sole local service from Morgantown in order to provide a first local service to the smaller community of Paragon would not qualify as a rare circumstance.

In light of the foregoing, Calvary Chapel of Costa Mesa, Inc.’s Opposition and Martin Hensley’s Petition to Deny ARE HEREBY DISMISSED AS MOOT and Calvary Chapel of Costa Mesa, Inc.’s Application BPED-20090422AAD is unacceptable for filing and IS HEREBY DISMISSED pursuant to Section 73.3566(a).⁶ This action is taken pursuant to 47 C.F.R. Section 0.283 of the Rules.

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Lauren A. Colby, Esq.
Martin Hensley

⁴ See *West Liberty and Richwood, Ohio*, Report and Order, 6 FCC Rcd 6084 (MMB 1991); *Three Oaks and Bridgman, Michigan*, Report and Order, 5 FCC Rcd 1004 (MMB 1990); *Clarksville and Lanesville, Indiana*, Report and Order, 4 FCC Rcd 4968 (MMB 1989).

⁵ *Community of License*, 5 FCC Rcd at 7096.

⁶ 47 CFR § 73.3566.