

AMENDMENT TO ASSIGNMENT APPLICATION

Lane College, proposed assignee, amends its pending joint application for assignment of license in response to an informal request of the Commission staff.

This amendment includes:

- (A) A request for waiver of 47 CFR §73.865
- (B) The legal qualifications section of FCC Form 340

REQUEST FOR WAIVER

Lane College, the proposed assignee, requests that the Commission waive its rules, specifically rule 73.865 (which limits the assignability of low power licenses) in order to permit the assignment of the WJKR-LP license.

When the Commission established the current Low Power FM Service (47 CFR § 73.801, et seq.) its did so to further “Our goal in creating a new LPFM service is to create a class of radio stations designed to serve very localized communities or under represented groups within communities.” (See, Creation of Low Power Radio Service, 19 CR 597, 65 FR 7615 (January 27, 2000 (“LPFM R&O”), at para. 4). And in particular the emphasis was to be on community based organizations. As the Commission explained, “Another goal expressed in the Notice was that any new LPFM service specifically include the voices of community based schools, churches and civic organizations.” Id, para 5.

From the outset of this service the Commission has voiced a concern that the licenses should not become the material for speculators, thus delaying the initiation of service to a community and thus considered restrictions on the sale of LPFM stations to deter the filing of speculative applications and trafficking in construction permits. LPFM R&O, para. 161. Initially the Commission limited the transferability of licenses. The Commission stated that a prohibition on transfers will best promote the Commission’s interest in ensuring that spectrum is used for low power operations as soon as possible, without the delay associated with license speculation. However, the Commission in reconsidering that policy and during the interim delegated to the Media Bureau the authority to act on appropriate waivers of Rule 73.855:

20. As discussed in detail above, our current rule prohibiting the transfer of LPFM stations is hampering the LPFM service by, for example, impeding routine transitions to new governing boards and limiting the ability of an LPFM licensee to assign its license to a new, jointly-controlled entity composed of several similarly focused organizations. We believe that introducing some level of transferability to the LPFM service is critical. We also believe that delaying relief to LPFM stations until this proceeding is completed will

not serve the public interest. Accordingly, we delegate to the Media Bureau authority to consider, on a case-by-case basis, requests for waivers of Section 73.865 of our rules. The Media Bureau may grant a waiver upon determination that such waiver will maximize spectrum use for low power FM operations. For example, waiver may be appropriate, assuming the public interest would be served, in certain circumstances: a sudden change in the majority of a governing board with no change in the organization's mission; development of a partnership or cooperative effort between local community groups, one of which is the licensee; and transfer to another local entity upon the inability of the current licensee to continue operations. This is not an exhaustive list of circumstances appropriate for waiver. However, until we have further considered the transferability issue, we do not believe that waiver is appropriate to permit the for-profit sale of an LPFM station to any entity or the transfer of an LPFM station to a non-local entity or an entity that owns another LPFM station. (*"Creation of a Low Power Radio Service*, MM Docket No. 99-25, 35 CR 875, 20 FCC Rcd 6563 (March 17, 2005) ("Second Reconsideration") at para 20").

Lane College is such as organization which will be able to financially support the continued LPFM service now provided by the assignor. The college meets to eligibility criteria and has shown in Exhibit 9 and Exhibit 11 of the application that (i) that it is in fact a nonprofit educational organization, (ii) that it has an educational objective, and (iii) how its programming will further that objective. LPFM R&O, para, 19. Lane College was founded in 1882 and incorporated (not-for-profit) as a liberal arts college in 1909. Lane College is a small, private, co-educational, church-related institution which provides a liberal arts curriculum leading to baccalaureate degrees in the Arts and Sciences. The College accepts persons regardless of race, color, gender, religion, age, or national origin. Founded by Bishop Isaac Lane, a former slave, Lane College is one of the nations oldest historically black colleges.

The assignment of the license to Lane College will continue the local, community based objective of the LPFM service.

In the case of Lane College it is able to certify that it is physically headquartered and has a campus, within 10 miles of the reference coordinates of the proposed transmitting antenna.

It should also be noted that all of its officers, and eight members of its Board of Trustees reside in Jackson, Tennessee, with eleven additional members of its Board of Trustees residing in nearby Memphis, Tennessee. None of its officers nor any of its trustees serve as officers or directors of any other mass media (broadcasting, CATV, or newspapers) nor do any of them have any ownership interest in, or connection with, any other mass media.

The proposed sale of the station to Lane College is not the result of speculation nor trafficking. As explained in the application at Exhibit 4 there is no monetary consideration given for the proposed assignment of the license to Lane College. The station has been built and operated by the assignor but it determined that it is best if the college is able to continue the

service with its resources.

By granting this waiver, the Commission will permit the continue use of this LPFM station by the college which has the financial resources and personnel to assure that the African-American community in Jackson, TN has access to programing designed to meet their needs and interests. The college is exactly the type of entity for which this service was designed and the public interest is best served if this application is granted.

LEGAL QUALIFICATIONS-FORM 340

The legal qualifications section of FCC Form 340 (for new construction permit applications) is attached.

NOTE: The failure to include an explanatory exhibit providing full particulars in connection with a "No" response may result in dismissal of the application. See Instructions, paragraph L for additional information regarding completion of explanatory exhibits.

Section II - Legal and Financial

1. **Certification.** Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets. ☒ Yes ☐ No

2. **Eligibility.** Each applicant must answer "Yes" to one and "No" to two of the three following certifications. An applicant should not submit an explanatory exhibit in connection with these Question 2 "No" responses.

The applicant certifies that it is:

- a. a nonprofit educational institution; or ☒ Yes ☐ No
- b. a governmental entity other than a school; or ☐ Yes ☒ No
- c. a nonprofit educational organization, other than described in a. or b. ☐ Yes ☒ No
3. For applicants checking "Yes" to question 2(c) and applying for a new noncommercial educational television station only, the applicant certifies that the applicant's officers, directors and members of its governing board are broadly representative of the educational, cultural, and civic segments of the principal community to be served. ☒ Yes ☐ No ☐ N/A
4. a. The applicant certifies that the Commission has previously granted a broadcast application identified here by file number that found this applicant qualified as a noncommercial educational entity with a qualifying educational program, and that the applicant will use the proposed station to advance a program similar to that the Commission has found qualifying in applicant's previous application. ☐ Yes _____
FCC File Number ☒ No
- b. Applicants who answered "No" to Question 4(a), must include an exhibit that describes the applicant's educational objective and how the proposed station will be used to advance an educational program that will further that objective according to 47 C.F.R. Section 73.503 (for radio applicants) or 47 C.F.R. Section 73.621 (for television applicants).

Exhibit No.
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5. The applicant certifies that its governing documents (e.g., articles of incorporation, by-laws, charter, enabling statute, and/or other pertinent organizational document) permit the applicant to advance an educational program and that there is no provision in any of those documents that would restrict the applicant from advancing an educational program or complying with any Commission rule, policy, or provision of the Communications Act of 1934, as amended. ☒ Yes ☐ No

6. a. **Parties to the Application.** List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If another entity holds an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.

| Name and Residence/Headquarters Address(es) (a) | Citizenship (b) | Positional Interest: Officer, director, investor/creditor attributable under the Commission's equity/debt plus standard, etc. (c) | Director or Member of Governing Board | | % of: Ownership (O) or Voting Stock(VS) or Membership (M) (e) | % of: of Total Assets (equity plus debt) (f) |
|--|------------------------|--|--|----|--|---|
| | | | Yes | No | | |
| | | | (d) | | | |
| SEE EXHIBIT 11 | | | | | | |

- b. Applicant certifies that any equity and financial interests not set forth above are non-attributable pursuant to 47 C.F.R. Section 73.3555 and that there are no agreements or understandings with any non-party that would give influence over the applicant's programming, personnel, or finances to that non-party.

☒ Yes ☐ No

See Explanation
in Exhibit No.

7. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest pursuant to the notes to 47 C.F.R. Section 73.3555.

Exhibit No.

☒ N/A

8. **Character Issues.** Applicant certifies that neither applicant nor any party to the application has or has had any interest in, or connection with:

☒ Yes ☐ No

See Explanation
in Exhibit No.

- a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or
- b. any pending broadcast application in which character issues have been raised.

9. **Adverse Findings.** Applicant certifies that, with respect to the applicant, any party to the application, and any non-party equity owner in the applicant, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.

☒ Yes ☐ No

See Explanation
in Exhibit No.

If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter.

10. **Alien Ownership and Control.** Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.

☒ Yes ☐ No

See Explanation
in Exhibit No.

11. **Program Service Certification.** Applicant certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.

☒ Yes ☐ No

12. **Local Public Notice.** Applicant certifies compliance with the public notice requirements of 47 C.F.R. Section 73.3580.

☒ Yes ☐ No

13. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

☒ Yes ☐ No

14. **Equal Employment Opportunity (EEO).** If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A.

☐ Yes ☐ No ☒ N/A

QUESTIONS 15, 16 AND 17 APPLY ONLY TO APPLICATIONS FOR NEW STATIONS. OTHER APPLICANTS CAN PROCEED TO QUESTION 18.

15. **Financial.** The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.

☐ Yes ☐ No

See Explanation
in Exhibit No.

If "No" to 15., answer questions 16. and 17.