

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

**IN REPLY REFER TO:
1800B3-ALM**

July 20, 2004

Cary S. Tepper, Esquire
Booth, Freret, Imlay & Tepper, P.C.
7900 Wisconsin Avenue, Suite 304
Bethesda, Maryland 20814-3628

**In re: WVBH(FM), Beach Haven West, NJ
Facility ID No. 89740
Priority Radio, Inc.
Request For Waiver of 47 C.F.R.
Section 73.1125 (Main Studio Rule)**

Dear Mr. Tepper:

The staff has under consideration the February 17, 2004, request for a waiver of 47 C.F.R. Section 73.1125 filed by Priority Radio, Inc. ("Priority"), to operate WVBH(FM), Beach Haven West, New Jersey, as satellite station of its commonly owned noncommercial educational ("NCE") station, WXHL(FM), Christiana, Delaware.¹

Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community.² However, under Section 73.1125(b)(2), the Commission will waive these requirements where "good cause" exists to do so and where the proposed studio location "would be consistent with the operation of the station in the public interest." Each waiver request by an NCE station seeking to operate as the satellite of another NCE station is considered on a case-by-case basis. The Commission has recognized the benefits of centralized operations for NCE stations, given their limited funding, and thus found "good cause" exists to waive the main studio location requirement where satellite operations are proposed.³ A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard.⁴

¹ A "satellite" station meets all of the Commission's technical rules, however, it originates no programming and instead rebroadcasts the parent station's programming. See *Amendment of Multiple Ownership Rules, Memorandum Opinion and Order*, 3 RR2d 1554, 1562 (1964).

² See *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691 (1998); recon. granted in part, 14 FCC Rcd 11113 (1999) ("Reconsideration Order")

³ *Id.*

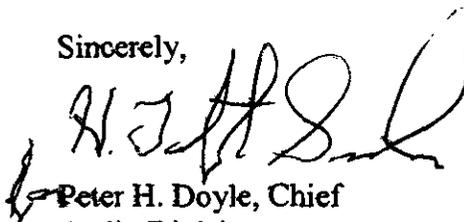
⁴ *Id.*

Priority proposes to operate WVBH(FM), Beach Haven West, New Jersey, as a satellite station of WXHL(FM), Christiana, Delaware, which is located 75 miles from Beach Haven West. Where there are great distances between parent and satellite stations, as here, and where the parent and satellite stations are in different states, we are particularly concerned that the licensee takes adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, Priority has pledged to: (1) appoint a local representative from the Beach Haven West area who will report to Priority on a monthly basis with advice on the interests and concerns of the community; (2) publicize, in advance, and hold a quarterly meeting in Beach Haven West between a management employee and community leaders and citizens to ascertain community needs; (3) subscribe to local Beach Haven West newspapers to further Priority's ascertainment efforts; (4) produce programming addressing the ascertained community interests and needs; (5) broadcast, on a daily basis, news, weather, and public service announcements pertaining to Beach Haven West; and (6) maintain a toll-free telephone number between Beach Haven West and the WXHL(FM) main studio.

In these circumstances, we are persuaded that Priority will meet its local service obligations and thus, that grant of the requested waiver is consistent with the public interest. However, we remind Priority, of the requirement that it maintain the public file for WVBH(FM) at the main studio of the "parent" station, WXHL(FM). It must also make reasonable accommodation for listeners wishing to examine the file's contents.⁵ We further remind Priority that, notwithstanding the grant of the waiver requested here, the public file for WVBH(FM) must contain the quarterly issues and programs list for Beach Haven West, New Jersey, required by 47 C.F.R. Section 73.3527(e)(8).

Accordingly, the requests for a waiver of 47 C.F.R. Section 73.1125 filed by Priority Radio, Inc. for WVBH(FM) IS HEREBY GRANTED.

Sincerely,



Peter H. Doyle, Chief
Audio Division
Media Bureau

⁵ See *Reconsideration Order*, 14 FCC Rcd 11113, 11129 at Paragraph 45.