



Federal Communications Commission
Washington, D.C. 20554

August 17, 2018

In Reply Refer to:
1800B3-RFS/DS

Donald H Pugh, Sr.
Eternity Media Group
PO BOX 6424
Laurel, Mississippi 39441

Re: WKXG(AM), Greenwood, MS
Fac. ID No. 65008
File No: BP-20180319AAL

Dear Mr. Pugh:

This letter refers to the minor change application (the "Application") of Eternity Media Group, licensee of Station WKXG(AM), 1540 kHz, Greenwood, Mississippi. The Application proposes a city of license modification for Station WKXG(AM) from 1540 kHz at Greenwood, Mississippi, to 1550 kHz at Bolton, Mississippi, as the community's first local service. For the reasons discussed below, we request amendment of the Application to provide additional evidence in support of the proposed modification.

Background. This application was filed pursuant to Section 73.3571(j) of the Commission's Rules, which sets forth the requirements for modification of an AM Station license to specify a new community of license without providing an opportunity for competing expressions of interest. Among other requirements, an applicant for such a minor modification must demonstrate that the proposed change of community constitutes a preferential arrangement of allotments.¹ We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.² You assert that the Application satisfies Priority 3 of the four allotment priorities, because the change of community would provide a first local service at Bolton.

Discussion. In the *Rural Radio* proceeding,³ the Commission established a rebuttable presumption applicable when a station's proposed community is located within an urbanized area or the station could, through a minor modification application, cover fifty percent or more of an urbanized area. In such cases, we will treat the application as a proposal to serve the entire urbanized area, rather than as a proposal for local service to the proposed named community of license.

¹ See 47 C.F.R. § 73.3573(g). See also *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).

² *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). 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).

³ See *Policies to Promote Rural Radio Service and to Streamline Allotment an Assignment Procedures*, Second Report and Order, First Order On Reconsideration, and Second Further Notice of Proposed Rule Making, 26 FCC Rcd 2556 (2011), *recon pending* ("Rural Radio").

A staff engineering analysis determine that there are available rule-compliant sites where Station WKXG(AM) could be modified, through minor modification application, to cover at least fifty percent of the Jackson, MS UA, while providing the necessary city-grade coverage to the community of Bolton, Mississippi. In applying the Commission's allotment priorities, as clarified in the *Rural Radio*, the Jackson, MS UA already has numerous local FM and AM stations. Absent a compelling showing, the proposed city of license modification is considered a proposal to serve the Jackson, MS UA in lieu of the community of Bolton, Mississippi, and it does not satisfy Priority 3 of the Commission's allotment priorities, first local service.

You may seek Priority 3 status by submitting evidence to rebut the urbanized area service presumption (UASP) established in *Rural Radio*. Such evidence must constitute "a compelling showing (1) that the proposed community is truly independent of the urbanized area, (2) of the community's specific need for an outlet for local expression separate from the urbanized area and (3) the ability of the proposed station to provide that outlet."⁴ The required compelling showing may be based on the existing three-pronged *Tuck* test to demonstrate independence,⁵ but "the *Tuck* factors, especially the eight-part test of independence, will be more rigorously scrutinized than has sometimes been the case in the past."⁶ In addition to demonstrating independence, a compelling showing requires evidence of the community's need for an outlet for local expression separate from the urbanized area.⁷

Absent of a compelling showing, the proposal would be evaluated pursuant to Priority 4, other public interest matters. Under Priority 4, we take in account, transmission services, reception services, population gains, and other information relevant to the public interest. To satisfy the requirements of Priority 4 of the Commission's allotment priorities, further information regarding the public interest must be submitted. Specifically, you need to submit an explanation as to how the proposal advances the revised Section 307(b) priorities.⁸ In addition to the required information, your Section 307(b) showing may include any information that you believe to be pertinent to the public interest.

Conclusion. Accordingly, for the reasons discussed above, we request that you amend the Application to provide additional evidence sufficient to establish that the proposed city of license modification constitutes a preferential arrangement of allotments, as set forth in *Revision of FM Assignment Policies and Procedures*, and further clarified in *Rural Radio*.

Technical deficiencies:

A preliminary review of the application indicates the following deficiencies:

1. The electrical height of the radiator, for the tower height given as 47.21 m, would be approximately 87.81 electrical degrees at 1550 kHz, not 70.3 degrees as indicated.

⁴ *Id.* at 2572, ¶ 30.

⁵ See *Faye and Richard Tuck, Inc.*, Memorandum Opinion and Order, 3 FCC Rcd 5374, 5378 (1978) ("*Tuck*") (establishing eight factors to determine whether a suburban community is independent of a nearby central city).

⁶ *Rural Radio, supra*, at 2573, ¶ 30.

⁷ *Id.*

⁸ *Rural Radio, supra*, at 2577, ¶ 39.

2. A description of the antenna ground system must be provided and please explain how you calculate the proposed theoretical RMS of 292.8 mV/m/kW/km for a tower of 47.21 meters.
3. Daytime and nighttime allocation studies must be provided. We note that the Attachment 13 has no allocation studies.
4. The proposed coordinates when looked up on Google Earth indicate the "existing tower" referred to in Attachment 13, "WKXG AM Consolidated Engineering," is a grounded, light-duty two-way radio tower located against the back of United Auto Towing. This tower does not have a "10.9 m by 10.9 m square wooden fences (sic)" surrounding it. Please explain how this discrepancy entered your narrative.

Further action on the subject application will be withheld for a period of thirty (30) days from the date of this letter to provide you an opportunity to respond. Failure to correct all tender and acceptance defects within the thirty days from the date of this letter will result in the dismissal of the application with no further opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3564.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nazifa Sawez', with a stylized flourish at the end.

Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau