

#184971

Received & Interpreted

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

JUN 25 2015

FCC Mail Room

In re Application of )  
Hubbardston Community Radio ) File No. BLED – 20150615ACJ  
For License to Cover WSJH ) Facility ID No. 184971  
Hubbardston, Michigan )

To: The Secretary  
For transmission to the Chief, Audio Division, Media Bureau

**PETITION TO DISMISS AND/OR DENY**

**I. Introduction and Summary**

In early 2012, applications were solicited for construction permits on various non-commercial operations on commercial channels.

Such channels had been reserved for non-commercial use after no commercial interest was generated in previous auctions.

Included was Channel 279A at Hubbardston, Michigan.

There were multiple applications filed and the comparative “points” system was used in making the award.

The Commission staff decided that Hubbardston Community Radio (“HCR”) was superior to all others, including SAID News Foundation (“SAID”) because all technical parameters were equal (since the commercial rules applied and because all applicants proposed maximum ERP & HAAT) and that HCR was considered “local” while SAID was not.

Based upon the grant, HCR had 3 years to fulfill its promise to the Commission to build and operate with the ERP & HAAT (including directionality) upon which the grant was made.

## **II. Discussion**

The Commission allowed a technical modification of the original construction permit (BMPED-20150529ADM) by which HCR is allowed to build less than the full facilities it promised and thereby serving far less persons than was shown in the original grant.

The Commission has steadfastly refused to allow stations which were granted on the points system to modify their original grant when the number of persons changes by more than a few percent. Even when NEW coverage to persons on the same level (i.e. first, second or third service) exceeded the original grant, the modification was not approved. (See "Trinity Texas, KYTR, Fac ID No. 173782, BMPED 20071018ANS, BMPED 20101020ACK, BMPED 20110113ADF, et al".) Therefore, the modification of the original construction permit should not have been allowed by the Commission staff.

Over the course of the next 32 months, no action was ever taken by HCR to obtain permission for construction and/or installation of a tower at the original CP site and the last-minute build-out by HCR on a grain silo with significantly diminished facilities from those promised to obtain the original grant shows conclusively that HCR never attempted to meet their obligations under the grant.

HCR has, under Section II, #2 of form 302-FM checked "yes" to certify that it has met all the terms, conditions, and obligations set forth in the underlying construction permit have been fully met.

While technically this certification is accurate for the modified construction permit, the modified construction permit is NOT the actual, original construction permit which HCR obtained through the points system. Therefore, HCR is in violation of the terms, conditions, and obligations of the original grant making this application for license untrue and ungrantable.

### **III. Conclusion**

HCR was not forthcoming with the Commission in its certifications and has not fulfilled its promises made to obtain the original construction permit.

The time for construction under the original technical specifications has expired as of June 15, 2015 and HCR has not built the approved facilities.

**WHEREFORE**, SAID requests the Commission to:

- a) deny the Application for FM Broadcast Station License (BLED-10150615ACJ) with prejudice,
- b) rescind the original grant to HCR for lack of candor by violation of the promises made to obtain said construction permit and,
- c) grant the construction permit to SAID which truthfully promised to the Commission that it would promptly construct and operate the station with full facilities and herein once again confirms its intent.

Respectfully submitted,

*Scott Boehme*

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Scott Boehme, President  
SAID News Foundation

Post Office Box 4872  
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**CERTIFICATE OF SERVICE**

I, Scott Boehme, President of SAID News Foundation, do hereby certify that a true copy of the *Petition to Dismiss or Deny* was sent this 19th day of June 2015 via United States First Class Mail, Certified, Return Receipt Requested and postage prepaid, to the following:

Kris Fleischer  
5477 N. US 27  
St. Johns, MI 48879

*Scott Boehme*

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Scott Boehme