

FEDERAL COMMUNICATIONS COMMISSION**445 12th STREET, S.W.****WASHINGTON, D. C. 20554****JAN 31 2003**

IN REPLY REFER TO:

1800B3

David D. Oxenford, Esq.
 Shaw Pittman
 2300 N Street, N.W.
 Washington, D.C. 20037-1128

In re: **KMLV(FM), Ralston, NE**
Facility ID # 85846

File No. BPED-20020712ABZ
 Request for Waiver of 47 C.F.R. Section
 73.1125

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 FCC - MAILROOM

Dear Mr. Oxenford:

The staff has under consideration: (1) the captioned application of Educational Media Foundation ("EMF") for modification of the existing authorization of licensed station KMLV(FM), Ralston, Nebraska. The application includes a request for waiver of the Commission's main studio rule, 47 C.F.R. Section 73.1125, in order to operate station KMLV(FM) as a "satellite" of EMF's station KLVR(FM), Santa Rosa, California.¹ For the reasons set forth below, we will grant both EMF's request for waiver and its modification application.

Waiver request. Pursuant to Section 73.1125, a station's main studio must be located either (1) within a station's principal community contour; (2) within the principal community 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 this requirement 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 has found that "good cause" exists to

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*, 3 RR 2d 1554, 1562 (1964).

² *See Report and Order, Review of the Commission's Rules regarding the main studio and local public inspection files of broadcast and radio stations*, 13 FCC Rcd 15691 (1998); *recon. granted in part*, 14 FCC Rcd 11113 (1999) ("Reconsideration Order").

waive the main studio location requirement where satellite operations are proposed.³ In order to receive a satellite main studio waiver, an applicant must demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard.⁴

EMF's request is based on the economies of scale which would be realized by grant of its waiver, *i.e.*, avoiding the cost of equipping, operating, and staffing a main studio in the Ralston, Nebraska area which would detract from the organization's programming efforts and exacerbate the "severe financial constraints" under which the station will operate.

We conclude that EMF has demonstrated "good cause" to waive 47 C.F.R. Section 73.1125(a)(4) in these circumstances. As noted above, EMF proposes to operate KMLV(FM) as a satellite of co-owned station KLVR(FM), Santa Rosa, California. We note that Ralston is approximately 1,412 miles from Santa Rosa. Where there is a considerable distance between parent and satellite stations, and where the two stations are located in different states, we are particularly concerned that the licensee take adequate measures to maintain its awareness of the satellite community's needs and interests and respond to them in its programming. To that end, EMF has stated that: (1) it will assess community needs and problems through the use of a local Ralston public affairs representative – who may be a volunteer -- to work with EMF's regional managers and conduct ascertainment surveys of Ralston community leaders on at least a quarterly basis, the results of which will be covered in EMF's news and public affairs programming; (2) its local representative will further provide a liaison between local community leaders and EMF's programming personnel to enable residents to comment on the Ralston station's programming; and (3) it will maintain an auxiliary studio at a location that complies with Section 73.1125, which studio will be used to originate programming responsive to local needs, as determined in consultation with the Ralston-based representative. EMF also states that it will maintain a toll-free telephone number from Ralston to the KLVR(FM) studio in Santa Rosa and will maintain the station's public inspection file as required by the Commission's rules.

In these circumstances, we are persuaded that EMF will meet its local service obligations and thus that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for KMLV(FM) at the main studio of the "parent" station, KLVR(FM) in Santa Rosa, California. It must also make reasonable accommodation for listeners wishing to examine the file's contents.⁵ We further remind EMF that, notwithstanding the grant of the waiver requested here, the public file for KMLV(FM) must contain the quarterly issues and programs list for Ralston, Nebraska required by 47 C.F.R. Section 73.3527(e)(8).

³ *Id.*

⁴ *Id.*

See Reconsideration Order, 14 FCC Rcd at 11,129 ¶ 45.

Modification application. We have also examined EMF's modification application and find that it complies with all pertinent statutory and regulatory requirements and thus that the public interest, convenience, and necessity would be furthered by its grant.

Conclusion/Actions. In accordance with these findings, and in reliance upon the representations listed above, the application (File No. BMPED-20020712ABZ) of Educational Media Foundation for modification of the permit of station KMLV(FM), Ralston, Nebraska, and its request for waiver of 47 C.F.R. Section 73.1125 ARE GRANTED. The authorization is enclosed.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Peter H. Doyle', with a long horizontal flourish extending to the right.

6/ Peter H. Doyle, Chief
Audio Division
Media Bureau