

**THE SANCHEZ LAW FIRM**  
**2000 L STREET, N.W., SUITE 200**  
**WASHINGTON, D.C. 20036**

**ERNEST T. SANCHEZ**  
**ATTORNEY AT LAW**

Telephone: (202) 237-2814  
Fax: (202) 237-5614  
Email: [esanchez@bellatlantic.net](mailto:esanchez@bellatlantic.net)

July 18, 2001

Ms. Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**RECEIVED**  
**JUL 19 2001**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: State of Wisconsin - ECB  
Filing of FCC 340 Supplement Form  
BPED-19971211MC, Superior, WI  
MX Closed Group No. 970312

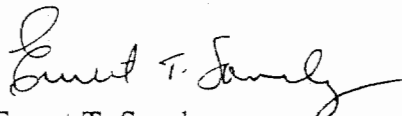
Dear Ms. Salas:

Enclosed is an original and two copies of FCC 340 Supplement Form that is being submitted on behalf of the State of Wisconsin - Educational Communications Board with respect to its pending application for a new NCE station on Channel 203A in Superior, WI.

Please be advised that, in making this filing and providing responses to the various questions posed in this Form 340, the State of Wisconsin - Educational Communications Board does not waive any of its substantive or procedural rights with respect to the manner in which this form, the instructions for this form, and Worksheet # 6 for this form have framed the Fair Distribution analysis, particularly in light of the recent decision of the U.S. Court of Appeals for the D.C. Circuit in *National Public Radio, et al. v. FCC*, 2001 U.S.App.LEXIS 14811 (D.C. Cir. July 3, 2001).

If you have any questions about this filing, please let me know.

Very truly yours,



Ernest T. Sanchez  
Counsel to The State of Wisconsin - Educational Communications Board

**POINT SUPPLEMENT TO PENDING FCC 340 FILED PRIOR TO POINT SYSTEM  
(NONCOMMERCIAL EDUCATIONAL BROADCAST STATION)**

File Number of Application to be Supplemented: 971211 MC

City/State of Proposed Facility: SUPERIOR, WI

☒ FM ☐ TV

|   |                                       |                     |
|---|---------------------------------------|---------------------|
| Legal Name of the Licensee/Permittee                      |                                       |                     |
| State of Wisconsin - Educational Communications Board     |                                       |                     |
| Mailing Address   |                                       |                     |
| 3319 W. Beltline Highway                                  |                                       |                     |
| City  | State or Country (if foreign address) | ZIP Code            |
| Madison   | WISCONSIN                             | 53713               |
| Telephone Number (include area code)                      | E-Mail Address (if available)         |                     |
| 608-264-9600  | rwundrock@ecb.state.wi.us             |                     |
|   | Call Sign                             | Facility Identifier |
|   |                                       |                     |
| Contact Representative (if other than licensee/permittee) | Firm or Company Name                  |                     |
| 'ERNEST T. SANCHEZ  | THE SANCHEZ LAW FIRM                  |                     |
| Telephone Number (include area code)                      | E-Mail Address (if available)         |                     |
| 202-237-2814  | esanchez@bellatlantic.net             |                     |

[Sections I, II and VII of FCC 340 are not reproduced]

**Section III**

**Fair Distribution of Service Pursuant to 47 U.S.C. Section 307(b) (New and Major Changes to FM Radio Only)** (Other applicants can proceed to Section IV.)

1. Applicant certifies that the proposed station will provide a first noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1 mV/m) service contour **and** (b) to a minimum of 2,000 people. Applicants answering "Yes" must provide an Exhibit. ☐ Yes ☒ No  

Exhibit No.
2. Applicant certifies that the proposed station will provide a second noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1 mV/m) service contour **and** (b) to a minimum of 2,000 people. Applicants answering "Yes" must provide an Exhibit. ☐ Yes ☒ No  

Exhibit No.

**Section IV – Point System Factors – New and Major Change Applications Only** (used to select among mutually exclusive radio and television applications for new stations and major modifications) **NOTE:** Applicants will not receive any additional points for amendments made after the close of the application filing window.

1. **Established Local Applicant:** Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 C.F.R. Section 73.7000, that its governing documents require that such localism be maintained, and that it has placed documentation of its qualifications as an established local applicant in a local public inspection file and has submitted to the Commission copies of the documentation. ☒ Yes (3 points) ☐ No (0 points)  
See Exhibit 1

2. **Diversity of Ownership:** (a) Applicant certifies that the principal community (city grade) contour of the proposed station as identified in 47 C.F.R. Section 73.7003(b)(2) does not overlap the principal community contour of any other authorized station (comparing radio to radio and television to television, including non-fill-in FM translator stations other than those identified in 2(b) below) in which any party to the application has an attributable interest as defined in 47 C.F.R. Section 73.3555, that its governing documents require that such diversity be maintained, and that it has placed documentation of its diversity qualifications in a local public inspection file and has submitted to the Commission copies of the documentation. ☐ Yes (2 points) ☒ No (0 points)

(b) Is the applicant's certification to 2(a) based on its exclusion of FM translator station(s) that will be replaced with a full service station pursuant to the authorization requested here? ☐ Yes ☐ No

If Yes, applicant must include an exhibit identifying the FM translator station authorization for which it will request cancellation upon commencement of operation of the proposed full service station (i.e., upon its filing of a license application and receipt of program test authority).

Exhibit No.

3. **State-wide Network:** Applicant certifies that (a) it has NOT claimed a credit for diversity of ownership above; (b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and (c) it has placed documentation of its qualifications in a local public inspection file and has submitted to the Commission copies of the documentation. ☒ Yes (2 points) ☐ No (0 points)  
See Exhibit 2

4. **Technical Parameters:** Applicant certifies that the numbers in the boxes below accurately reflect the new area and population that its proposal would serve with a 60 dBu (FM) or Grade B (TV) signal measured in accordance with the standard predicted contours in 47 C.F.R. Sections 73.313(c) (FM) and 73.683(TV) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include new area proposed only (exclude any area already within the station's existing service area). (Points, if any, will be determined by FCC) ☐ Yes ☒ No

New area served in square kilometers (excluding areas of water):

1185.9

Population served based on the most recent census block data from the United States Bureau of Census using the centroid method:

128,719

**This box is for FCC use only:**

**Technical Points:**

- ☐ 0 points.
- ☐ 1 point. Applicant's proposal covers the largest area and population, and both area and population are 10% greater than next best proposal; or
- ☐ 2 points. Applicant's proposal covers the largest area and population, and both area and population are 25% greater than next best proposal.

**POINTS CLAIMED BY APPLICANT (from Questions 1-3)**

**TECHNICAL POINTS? (from Question 4)**

**TOTAL POINTS**

**Section V – Tie Breakers – New and Major Change Applications Only** (used to choose among competing radio and television applicants receiving the same number of points in Section IV)

1. **Existing Authorizations.** By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of relevant broadcast station authorizations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in IV(2)(b) above. TV applicants should count all attributable full service TV stations, commercial and noncommercial, including Class A stations.


(number of commercial and noncommercial licenses and construction permits)

2. **Pending Applications.** By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of pending applications for new or major changes to relevant broadcast stations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in IV(2)(b) above. TV applicants should count all attributable full service TV stations, commercial and noncommercial, including Class A stations.

(number of pending commercial and noncommercial applications)

**Section VI – Certification**

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

|  |  |
|--|--|
| Typed or Printed Name of Person Signing<br>Thomas Fletemeyer                                     | Typed or Printed Title of Person Signing<br>Executive Director |
| Signature<br> | Date<br>7/16/2001  |

**Section IV, Question 1:**  
**Established local entity (government)**  
**Exhibit 1**

**State of Wisconsin - ECB**  
**Application for Channel 203A, Superior, WI**  
**BPED-19971211MC**

Applicant, the State of Wisconsin - Educational Communications Board ("State of Wisconsin-ECB"), is entitled to be credited with three (3) points as an Established Local Entity, within the meaning of that term as defined in Rules 73.7000 and 73.7003(b)(1), 47 C.F.R. § 73.7000, 73.7003(b)(1), because it is a state governmental entity that has applied for this new station whose proposed community of license, Superior, Wisconsin, is within applicant's area of jurisdiction.

The State of Wisconsin - ECB has caused a copy of this statement supporting its claim to be credited as an established local entity to be placed in its local public inspection file, which is located at the main studio site in Vilas Hall, 821 University Avenue, Madison, Wisconsin, and at the Wisconsin Public Broadcasting Center, 3319 West Beltline Highway, Madison, Wisconsin.

**Section IV, Question 3**  
**State-wide Network**  
**Exhibit 2**

**State of Wisconsin - ECB**  
**Application for Channel 203A, Superior, WI**  
**BPED-19971211MC**

The State of Wisconsin - Educational Communications Board ("State of Wisconsin- ECB") is entitled to be credited with two (2) points as a State-wide network within the meaning of the term in Rule 73.7003(b)(3)(ii), 47 C.F.R. §73.7003(b)(3)(ii). With respect to this credit, the State of Wisconsin - ECB certifies as follows:

1. It has not applied for credit on the basis of diversity of ownership.
2. Through the University of Wisconsin System, the State of Wisconsin has jurisdiction over a large number of college and university campuses state-wide, including the required number of at least five full-time college or university campuses. All such colleges and universities are public institutions of higher learning accredited by a recognized regional or national educational accrediting organization. The State of Wisconsin has formed a state-wide network of NCE radio stations for which it holds the license either through the University of Wisconsin or through the State's Educational Communications Board ("ECB"). These radio stations include within their combined service contours at least five (5) such college or university campuses to which the state-wide network regularly provides programming in furtherance of curriculum. The station which the State of Wisconsin - ECB has proposed for the community of Superior, Wisconsin, will increase the number of campuses that applicant will regularly serve because the campus of the University of Wisconsin-Superior is within the proposed service area for the new station in Superior. Many private colleges and universities are also within the service contours of this state-wide network.
3. In support of this statement, the State of Wisconsin has provided a chart listing all stations for which is presently holds licenses, including at least five (5) college or university campuses that are located within the service contours of licensee's existing stations, including the University of Wisconsin-Superior campus within the proposed Superior station service contour (See *Exh. 3*)
4. The University of Wisconsin System is the model of a state-wide educational broadcast service. Wisconsin Public Radio ("WPR"), the nation's oldest public radio broadcasting service, has been providing educational (as well as informational and cultural) public radio programming to the university and college campuses in the State since 1917. This system has expanded state-wide from a single frequency (9XM/WHA Radio) on the University of Wisconsin-Madison campus. In the 1940s, through WPR, the State of Wisconsin launched the nation's first state-wide FM network, further extending the benefits of educational and other programming throughout the state's school systems in campuses in then-underserved rural communities. By the gradual addition of new frequencies in new locations over the years, the UW System today operates a dual state-wide 24-hour programming service, consisting of the WPR Ideas Network and the WPR News and Classical Music Network. WPR produces over fifteen hours of its own core programming daily on each network. The educational curricula of the UW System's colleges and universities is enriched and furthered by the state-wide network radio service, including such programming elements as:

Section IV, Question 3, page 2

- A. **University of the Air.** WPR's distinctive lifelong learning service, *University of the Air*, features University of Wisconsin course materials presented by leading faculty members. Program hosts have included Professor Emily Auerbach, a member of the UW-Madison faculty and a part-time WPR staff member.
- B. **The Wisconsin Idea.** is a state-wide educational focus of the State government through the UW System of major significance for the educational goals of the State. The Wisconsin Idea encompasses the concept of lifelong learning and other ways of extending the services of the UW System to the citizens of the State through, among other means, lifelong learning and continuing education programs, of which University of the Air is an aspect.
- C. **Broadcast-Related Links to Educational Opportunities and Content.** WPR's web site and Listener Services Center provide direct links to other formal and informal lifelong learning and other continuing education services related to its daily programming.,
- D.. **The Annenberg/CPB Audio-Print Courses.** UW System faculty and WPR developed and produced nearly all of the Annenberg/Corporation for Public Broadcasting ("A/CPB") Audio/Print Courses, a series of college-level courses that were produced for use nationally at two- and four-year post-secondary institutions of higher learning. These programs were initially broadcast in Wisconsin over its state-wide network and distributed for national broadcast as well. WPR remains actively involved as a (non-broadcast) distributor of these programs nationally and worldwide. Among the A/CPB Audio-Print courses offered for university credit through the University of Wisconsin are: *Basic Concepts of Music, Sociological Foundations, Nutrition Today, Introduction to Psychology, Ethics in Business, American History I and II, An Introduction to the History of Women and the Family in America: 1607 - 1870, Principles of Statistics, College Algebra, Introduction to Modern English and American Literature I and II, and Dilemmas in War and Peace.* These A/CPB Audio-Print courses may be taken for university credit through the Independent Learning Office, University of Wisconsin-Extension, located on the Madison campus.

Section IV, Question 3, page 3

- E. **Other Audio-Print Courses.** Professor Auerbach has developed and produced through WPR a series of audio/print courses on pioneering women writers entitled *The Courage to Write*. These audio series have been and continue to be broadcast by WPR as part of the *University of the Air* service and are taught by Prof. Auerbach in the University's continuing studies curriculum.
- F. **Faculty and Staff On Air.** WPR programming regularly utilizes the services of faculty and staff in such areas as current events, politics and government, and cultural programs. Academic faculty is regularly involved in WPR's 15 daily hours of original programming, including routine participation in the Idea Network's commentary and discussion programs. Such cross-fertilization between the UW System faculty and WPR is another way in which WPR programming connects with and furthers the curriculum on the UW System. Attached to this application is a partial list of such faculty participation in programming. Some examples include Prof. Patricia McConnell (animal health and behavior); Prof. Larry Meiller, whose daily talk program (*Conversations with Larry Meiller*) regularly includes UW faculty and academic staff as expert guests on such topics as conservation, agriculture, environmental science, and other topics related to areas of the UW System lifelong learning curriculum; Prof. Dave Berkman (UW-Milwaukee, Department of Journalism), who hosts a Friday afternoon discussion program (*Media Talk*) which focuses on the political, social, and cultural impact of the mass media; and *To the Best of Our Knowledge*, a weekly two-hour program featuring interviews with leading academics and intellectuals (regularly featuring UW faculty) on a variety of topics, including politics, history, cultural affairs, and the arts.
- G. **UW Faculty Involvement as WPR Staff.** Other UW System academic/faculty involvement with WPR includes faculty members who teach broadcasting and broadcast journalism, such as WPR staff member, Professor Larry Meiller (UW-Madison courses in agricultural journalism); former WPR Director, Jack Mitchell, now a faculty member in the UW-Madison Journalism Department, who serves as Academic Chair of WPR's parent entity, the Educational Communications Division of the University of Wisconsin-Extension, and teaches a course in the history of public broadcasting.
- H. **WPR Staff Serving as UW Faculty and Guest Lecturers.** Several WPR staff members also teach courses or serve as guest lecturers on UW System campuses, including the UW-Madison Communications Arts Department, Journalism Department, Law School, and School of Business; the UW-Superior School of Communicating Arts; and the UW-La Crosse Department of Communication Arts/Journalism.



Section IV, Question 3, page 4

- I. **Cultural Programming and Liberal Arts Curriculum.** WPR produces and/or broadcasts a great deal of music, arts, literature, and drama programming. Such programs, through the state-wide network and the cross-fertilization between its academic and broadcasting functions, feed into furtherance of the liberal arts curriculum of corresponding academic departments at the various UW System campuses. A small sample of such programs include the Metropolitan Opera; the Lyric Opera; *Chapter A Day*, a daily (M - F) program of readings of classical and current works of fiction that has been produced and performed by WPR staff since the 1920s. This fall (2001), a WPR-produced 15-part dramatic series, *A Canticle for Liebowitz*, will be distributed for broadcast through National Public Radio to all of its member stations in Wisconsin (as well as nation-wide).
- J. **Internships.** All WPR regional bureaus – Eau Claire, Green Bay, Milwaukee, La Crosse, Superior, and Madison – routinely offer internship opportunities for journalism or communication arts students. In addition, each summer the UW-Madison bureau provides special minority internship opportunities under the auspices of the UW-Extension AA/EEO Office and the Office of the Mayor of Madison. In addition, WPR professional staff routinely provide informal career counseling for UW journalism and communications arts students.

The State of Wisconsin certifies that it will continue to provide programming through its state-wide network at least the level set forth in this exhibit through at least the four-year period after a license for the proposed station has been granted.

This statement and supporting exhibits have been placed in the local public inspection file, which is located at the main studio site in Vilas Hall, 821 University Avenue, Madison, Wisconsin, and at the Wisconsin Public Broadcasting Center, 3319 West Beltline Highway, Madison, Wisconsin.

**Section V, Question 1 & 2:  
Existing Authorizations &  
Proposed Application**

**State of Wisconsin - ECB  
Application for Channel 205A, Superior, WI  
BPED-971211MC**

**Exhibit 3**

| <b>Call Sign</b> | <b>Type of Station</b> | <b>Location</b> | <b>Facility ID</b> | <b>Campus Being Served</b> |
|------------------|------------------------|-----------------|--------------------|----------------------------|
| WPNE             | FM                     | Green Bay, WI   | 63060              | UW-Green Bay               |
| WHRM             | FM                     | Wausau, WI      | 63083              | UW-Marathon County         |
| WHLA             | FM                     | La Crosse, WI   | 63055              | UW-LaCrosse                |
| WHWC             | FM                     | Menomonie, WI   | 63078              | UW-Eau Claire              |
| WHSB             | FM                     | Brule, WI       | 63089              | UW-Superior                |
| WHHI             | FM                     | Highland, WI    | 63056              | UW-Madison                 |
| WERN             | FM                     | Madison, WI     | 63030              | UW-Madison                 |
| WHAD             | FM                     | Delafield, WI   | 63091              | UW-Milwaukee               |
| WHBM             | FM                     | Park Falls, WI  | 63058              | UW-Superior                |
| WLBL             | FM                     | Wausau, WI      | 63031              | UW-Marathon County         |
| WLBL             | AM                     | Auburndale, WI  | 63138              | UW-Marathon County         |
| WHND             | FM                     | Sister Bay, WI  | 83612              | UW-Green Bay               |
| WHDI             | FM                     | Sister Bay, WI  | 83611              | UW-Green Bay               |
| W215AQ           | FM Translator          | Madison, WI     | 83023              | UW-Madison                 |
| W284AN           | FM Translator          | Ashland, WI     | 86305              | NA                         |
| W275AF           | FM Translator          | Ashland, WI     | 86309              | NA                         |

**Proposed Application**

| <b>Call Sign</b> | <b>FCC File No.</b> | <b>Type of Station</b> | <b>Location (City/State)</b> | <b>Campus Being Served</b> |
|------------------|---------------------|------------------------|------------------------------|----------------------------|
| New              | BPED-971211MC       | FM                     | Superior, WI                 | UW-Superior                |

**Section V, Question 1 & 2:  
Existing Authorizations &  
Proposed Application**

**State of Wisconsin - ECB  
Application for Channel 205A, Superior, WI  
BPED-971211MC**

| <b>Call Sign</b> | <b>FCC File No.</b> | <b>Type of<br/>Station</b> | <b>Location<br/>(City/State)</b> | <b>Campus Bing<br/>Served</b> |
|------------------|---------------------|----------------------------|----------------------------------|-------------------------------|
| New              | BPED-980826MH       | FM                         | Adams, WI                        | UW-LaCrosse                   |
| New              | BPED-980909ML       | FM                         | Platteville, WI                  | UW-Platteville                |
| New              | BPED-971211MC       | FM                         | Superior, WI                     | UW-Superior                   |
| New              | BPED-971016MC       | FM                         | Random Lake, WI                  | UW-Oshkosh                    |