



Federal Communications Commission
Washington, D.C. 20554

September 24, 2020

In Reply Refer To:
1800B3-DB

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In re: Station KYOD-LP, Odessa, TX
Facility ID No. 197531
File No. BLL-20190822ABM

Station KLDU-LP, Laredo, TX
Facility ID No. 196431
File No. BLL-20190821ABP

Station KPJU-LP, El Paso, TX
Facility ID No. 196408
File No. BLL-20190821ABQ

Station KZLI-LP, Little Rock, AR
Facility ID No. 196053
File No. BLL-20190815ABU

Informal Objections

Counsel and Ms. Bradley,

We have before us the referenced applications (Applications) filed by North Odessa Hispanic Education Family Foundation (North Odessa), North Laredo Hispanic Education Family Foundation (North Laredo), South El Paso Hispanic Education Family Foundation (South El Paso), and Little Rock Hispanic Education Family Foundation (Little Rock) (collectively, Applicants) for licenses to cover construction permits for stations KYOD-LP, Odessa, Texas, KLDU-LP, Laredo, Texas, KPJU-LP, El Paso, Texas, and KZLI-LP, Little Rock, Arkansas, respectively (collectively, Stations).¹ Also before us are Informal Objections filed by REC Networks (REC) against the Applications and related responsive pleadings.² For the reasons set forth below, we dismiss the Objections and grant the Applications.

Background. In the Objections, REC argues that the Applications should be dismissed, and the construction permits forfeited, because the Stations were not constructed as described in the construction permits.³ REC states that a letter of inquiry should be issued to confirm, among other things, that the facilities have been constructed as described in the underlying construction permits.⁴

In the Oppositions, the Applicants argue that the Objection must be dismissed because it presents no documentation indicating that the Stations were not constructed as alleged.⁵ Each permittee submits information to refute these allegations. Specifically, North Odessa provides a declaration establishing, under penalty of perjury, that the Station was constructed as specified in the Application, as well as photographs showing the mounted facility, a copy of a lease for the site location, and a copy of an invoice

¹ See File No. BLL-20190822ABM (filed Aug. 23, 2019). North Odessa's application was accepted for filing on August 23, 2019. North Odessa subsequently amended the application on August 26, 2019. See File No. BLL-20190822ABM (filed Aug. 26, 2019); *Broadcast Applications*, Public Notice, Report No. 29559 (MB Aug. 27, 2019). Station KYOD-LP is authorized to broadcast on channel 229 (93.7 MHz). North Laredo filed its application on August 21, 2019, and it was accepted for filing on August 22, 2019. See File No. BLL-20190821ABP (filed Aug. 21, 2019); *Broadcast Applications*, Public Notice, Report No. 29558 (MB Aug. 26, 2019). Station KLDU-LP is authorized to broadcast on channel 293 (106.5 MHz). South El Paso filed its application on August 21, 2019, and it was accepted for filing on August 22, 2019. See File No. BLL-20190821ABQ (filed Aug. 21, 2019); *Broadcast Applications*, Public Notice, Report No. 29558 (MB Aug. 26, 2019). Station KPJU-LP is authorized to broadcast on channel 205 (88.9 MHz). Little Rock filed its application on August 13, 2019, and it was accepted for filing on August 16, 2019. See File No. BLL-20190815ABU (filed Aug. 13, 2019); *Broadcast Applications*, Public Notice, Report No. 29554 (MB Aug. 20, 2019). Station KZLI-LP is authorized to broadcast on channel 297 (107.3 MHz).

² Informal Objection, REC Networks, File No. BLL-20190822ABM (filed Aug. 26, 2019); Informal Objection, REC Networks, File No. BLL-20190821ABP (filed Aug. 26, 2019); Informal Objection, REC Networks, File No. BLL-20190821ABQ (filed Aug. 26, 2019); Informal Objection, REC Networks, File No. BLL-20190815ABU (filed Aug. 26, 2019) (collectively, Objections); Opposition to Informal Objection, North Odessa Hispanic Education Family Foundation, File No. BLL-20190822ABM (filed Nov. 7, 2019) (North Odessa Opposition); Opposition to Informal Objection, North Laredo Hispanic Education Family Foundation, File No. BLL-20190821ABP (filed Nov. 7, 2019) (North Laredo Opposition); Opposition to Informal Objection, South El Paso Hispanic Education Family Foundation, File No. BLL-20190821ABQ (filed Nov. 7, 2019) (South El Paso Opposition); and Opposition to Informal Objection, Little Rock Hispanic Education Family Foundation, File No. BLL-20190815ABU (filed Nov. 7, 2019) (Little Rock Opposition) (collectively, Oppositions).

³ Objections at 2.

⁴ *Id.* at 1.

⁵ Oppositions at 1.

for purchased Station equipment.⁶ North Laredo provides a declaration establishing, under penalty of perjury, that the Station was constructed pursuant to its modified construction permit, as well as photographs of the mounted facility and letters from Station KLDU-LP listeners.⁷ Lastly, South El Paso and Little Rock provide declarations establishing, under penalty of perjury, that the Stations were constructed pursuant to their construction permits, as well as photographs of the mounted facility.⁸ The Applicants state that the Objection fails to demonstrate how operation of the Stations is against the public interest.⁹ Additionally, the Applicants note that REC uses the Objection as a vehicle to continue its crusade against Hispanic low-power FM operators utilizing the services of Cesar Guel.¹⁰ The Applicants assert that they control their respective Stations' operation and staffing and are not affiliated with Cesar Guel in any way.¹¹

Discussion. Section 309(d)(1) of the Communications Act of 1934, as amended (Act), authorizes any party in interest to file a petition to deny any application as long as the petition “contain[s] specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with [the public interest].”¹² Informal objections, like petitions to deny, also must allege properly supported facts that, if true, would establish a substantial and material question of fact that grant of the application would be inconsistent with the public interest.¹³ After reviewing the record, we find that REC has failed to meet this burden.

Section 319(c) of the Act¹⁴ imposes a stringent standard on challenges to license applications. So long as “all the terms, conditions, and obligations set forth in the application and permit have been fully met,” a permittee is entitled, as an applicant for a license to cover a construction permit, to a high degree of protection and a presumption that the public interest determination made during the underlying construction permit proceedings continues in effect unless circumstances have arisen that would make

⁶ North Odessa Opposition at Attachment 1.

⁷ North Laredo Opposition at Attachment 1. *See also* File No. BMPL-20190815ABN (filed Aug. 16, 2019) (application for a minor modification to a construction permit). The minor modification application was accepted for filing on August 16, 2019. *See Broadcast Applications*, Public Notice, Report No. 49555 (MB Aug. 21, 2019).

⁸ Little Rock Opposition at Attachment 1; South El Paso Opposition at Attachment 1. *See also* File No. BMPL-20190815ABO (filed Aug. 16, 2019) (South El Paso application for a minor modification to a construction permit). South El Paso's minor modification application was accepted for filing on August 16, 2019. *See Broadcast Applications*, Public Notice, Report No. 49555 (MB Aug. 21, 2019).

⁹ North Odessa Opposition at 2-3; North Laredo Opposition at 2; South El Paso Opposition at 2-3; Little Rock Opposition at 1-2.

¹⁰ North Odessa Opposition at n.5; North Laredo Opposition at n.4; South El Paso Opposition at n.5.

¹¹ North Odessa Opposition at n.5; North Laredo Opposition at n.4; South El Paso Opposition at n.5.

¹² 47 U.S.C. § 309(d)(1).

¹³ *See, e.g., WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197, n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986) (informal objections, like petitions to deny, must also contain adequate and specific factual allegations sufficient to warrant the relief requested).

¹⁴ 47 U.S.C. § 319(c).

operation of the station against the public interest.¹⁵ The Commission traditionally is reluctant to designate license applications for hearing in these circumstances and, in most instances, considers the grant of such application to follow almost automatically from the issuance of a construction permit and the completion of construction in accordance therewith.¹⁶

REC has failed to raise any specific violations pertaining to the construction of the authorized facilities at issue.¹⁷ Furthermore, the Applicants have provided photographs, a declaration, under penalty of perjury, and other evidence demonstrating the Stations' timely construction and operation.¹⁸ REC has not responded to these assertions. We therefore find no basis for granting REC's Objections, which rests solely on unsupported allegations that the Applicants' facilities have not been constructed. Because REC has not raised any substantial or material questions of fact and has otherwise failed to demonstrate how grant of the Applications would make operation of the Stations inconsistent with the public interest, we dismiss the Objections.

Conclusion/Action. For the reasons stated above, IT IS ORDERED that the Informal Objections filed by REC Networks on August 26, 2019, ARE DISMISSED and the applications for a license to cover filed by North Odessa Hispanic Education Family Foundation (File No. BLL-20190822ABM), North Laredo Hispanic Education Family Foundation (File No. BLL-20190821ABP), South El Paso Hispanic Education Family Foundation (File No. BLL-20190821ABQ), and Little Rock Hispanic Education Family Foundation (File No. BLL-20190815ABU) ARE GRANTED.

Sincerely,

Nazifa Sawez
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¹⁵ *Id.* (requiring the Commission to issue a license where a construction permit has been granted and it appears that the terms of such permit have been met, and "that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest...").

¹⁶ *See, e.g., Meyer Broadcasting Company*, Memorandum Opinion and Order, 65 FCC 2d 438, 441 (1977).

¹⁷ Indeed, the Objections contain information concerning other license to cover applications that are unrelated to the Applications at issue here.

¹⁸ *See* Oppositions at Attachment 1.