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POSTED
9/27/13

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Received & Inspected
SEP 23 2013
FCC Mail Room

In re: Application of)
)
Weber State University)
)
for Extension of Special Temporary Authority)
KWCR-FM 88.1 MHz)
Ogden, UT)
_____)

File No BESTA - 20130918AEG
Facility ID No. 71394

To: Chief, Media Bureau, Federal Communications Commission;
Federal Communications Commission, Audio Division; Dale Bickel, Federal Communications
Commission.

PETITION TO DENY EXTENSION OF SPECIAL TEMPORARY AUTHORITY

Donald Lynn Hullinger (Herein referred to as "The Petitioner") respectfully petitions to deny the above captioned application. As is demonstrated below, grant of this application is prima facie inconsistent with rules established pertaining to grant of Special Temporary Authorization. This petition is submitted pursuant to Section 309(d) of the Communications Act, 47 U.S.C. Sec. 309(d) and Section 73.3584 of the Commission's Rules and Regulations, 47 C.F.R. Sec. 73.3584, is timely, and the petitioner has standing because he has previously worked for this station and is a regular listener of the station.

INTRODUCTION

This petition challenges the extension of temporary authority BSTA-20120402AJF which was granted on 4/5/2012 (having been extended by BSTA - 20120927ALY & BESTA - 20130320ADV) to Non-Commercial Educational station KWCR-FM (Herein referred to as "the Licensee") which is licensed to Ogden, UT. The basis of this challenge is that this station has failed to meet the criterion needed for grant of an STA as well as the grant of the extension of an STA, and therefore with new facts brought to light to the commission, this extension should be scrutinized and after review of stated facts, denied based on the original STA being granted under circumstances which were not clear.

Circumstances NOT beyond Licensees Control

According to FCC policy, Site Changes for antenna structures must meet 4 criteria.

1. Loss of the licensed site must be beyond the licensee's control.
2. STA facilities must continue to provide service to the licensed community.
3. STA facilities must maintain, as closely as practicable, the licensed service area without extending it.

4. STA facilities cannot involve the construction of towers intended for permanent use by the station requesting the STA.

The petitioner contends the loss of the Licensed Site was NOT beyond the Licensee's control in the fact that they had years of advanced notice of what was going to happen. The petitioner believes this because the Licensee's Management knew as far back as 2008, when Weber State University's Housing Master Plan was devised and later finalized, that Promontory Tower, the building in which the licensees transmitting equipment was located, would be demolished and that they would lose their tower site.

This means that Station Management had approximately 4 years between when it was known that the building in which their tower was located was going to be demolished and when the building was demolished in the summer of 2012 to find a new place and construct a new tower. This period was more than ample time to find a new site and construct a new tower.

The Licensee will argue that in 2010 they filed for a construction permit to permanently move the transmitter, but that never came to fruition as they were never able to successfully negotiate a contract on the proposed site. This means the licensee is asking the commission to believe it took approximately 2 years to decide on this site and that the following 2 years of negotiations failed resulting in an emergency loss of their ability to broadcast. This does not seem a likely scenario.

A more likely scenario is that the stations management procrastinated and did not make enough effort to resolve this situation in which they knew approximately 4 years before the structure in which their tower resided was going to be demolished.

Not making sufficient substantial progress

Commission policy states that requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

1. Restoration of licensed facilities is complete and testing is underway;
2. Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
3. No progress has been made during the most recent STA period for reasons clearly beyond the licensees control, and the licensee has taken all possible steps to expeditiously resolve the problem.

First, the petitioner contends that the first criteria has not been met by the Licensees own admission that the administration has yet to finalize a new location for the new broadcast antenna.

Second, the petitioner also contends that the licensee has not made "substantial progress" toward restoration of licensed operation. This is demonstrated by the licensee stating in the previous 2 extension requests, BSTA – 20120927ALY and BESTA 2012-20130320ADV, that "The school administration has not made a final determination on a new on campus

permanent location.”

Third, the petitioner contends that the licensee does not meet the third criteria for reasons listed in the above section and that it has been 17 months since the original STA was granted and the administration has still not made a final decision as to where to place the new broadcast tower; this indicates that the licensee is not expeditiously moving to resolve the problem. This clearly is not beyond the licensee's control as the licensee and the administration are the same organization who has had ample time not only to decide where to place the tower and perform steps required to restore normal operation.

Conclusion

If the first section of this petition is not ample to prevent this STA extension, then the second part surely must be. I cannot reiterate enough that the licensee has had more than ample time (approximately 4 years) from when they learned that their transmitter site was being demolished to actual loss of that site to change transmitter locations and since the loss of the site they have had more than ample time (approximately 17 months) to decide on at least where to put the new permanent transmitter, if not more.

The plain and simple fact is, that in a way, the licensee is expecting the commission to clean up their mess by requesting STA's over and over. In the petitioner's opinion, the only way to truly make the licensee correct the problem in an expeditious manner is to deny the STA extension, forcing them off the air until such time as they can restore permanent licensed facilities.

Thank You,

Donald Lynn Hullinger Jr.

Affidavit

Received & Inspected
SEP 23 2013
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The State Of Utah)
County of Salt Lake) SS
)

I, Donald Lynn Hullinger Jr. of West Jordan, Utah, MAKE OATH AND SAY THAT:

1. I, Donald Lynn Hullinger of West Jordan, UT am a regular listener and previous Student Employee of KWCR-FM. As Such, I am a party of Interest, have standing, and have a real stake in the outcome of the renewal of this stations license.
2. I certify that the allegations and statements made in this Petition to Deny are true and correct to the best of my knowledge.

SUBSCRIBED AND SWORN TO
BEFORE ME, on the
20th day of September, 2013

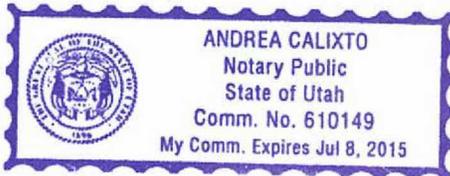
Andrea Calixto

Notary Public

My Commission Expires 7/8/2015

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Donald Lynn Hullinger Jr.
Donald Lynn Hullinger Jr.



CERTIFICATE OF MAILING

Received & Inspected

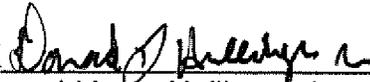
SEP 23 2013

FCC Mail Room

I, Donald Lynn Hullinger, hereby certify that I have this day served the foregoing document upon the parties of record set forth below by mailing a copy thereof, properly addressed by first class mail to:

KWCR-FM
2188 University Circle
Ogden, UT 84408

DATED this 20th day of September, 2013 .

X 

Donald Lynn Hullinger Jr.
5558 Shadberry Cir.
West Jordan, UT 84081