

307(b) EXHIBIT

Aurora Media, LLC (“Aurora”), permittee of Station KMOA(FM), Caliente, Nevada, and Cameron Broadcasting, Inc. (“Cameron”), licensee of Station KFLG-FM, Kingman, Arizona, hereby submit these contingent applications, which propose to (i) delete Channel 233C at Caliente, Nevada and allot Channel 233C to Moapa, Nevada as that community’s first local service, and (ii) delete Channel 234C at Kingman, Arizona and allot Channel 234C0 to Big River, California as that community’s first local service.

I. KMOA(FM), Caliente to Moapa, Nevada.

As demonstrated in the Engineering Exhibit attached to Aurora’s application (“Aurora Engineering”), Channel 233C can be allotted to Moapa consistent with Section 73.207 of the Commission’s Rules. *See* Aurora Engineering, Table 1. A 70 dBu signal can be provided to Moapa from the proposed reference coordinates. *See* Aurora Engineering, Figure 1. The relocation of KMOA from Caliente to Moapa will result in a predicted net gain in population of 52,226 persons within KMOA’s proposed 60 dBu contour. *See* Aurora Engineering, Table 2. The area and population within the proposed 70 dBu contour is 14,356.3 square kilometers and 24,955 persons, and within the proposed 60 dBu contour is 26,475 square kilometers and 94,588 persons. *See* Aurora Engineering, Figure 1, page 2.

Aurora desires to change the community of license of KMOA from Caliente to Moapa under the guidelines set forth in *Amendment of the Commission’s Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recons. granted in part*, 5 FCC Rcd 7094 (1990).¹ There, the Commission stated that a station may change its community of license without subjecting the license to other expressions of

¹ *See also, Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006).

interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities.

These criteria are met here. First, the proposed use of Channel 233C at Moapa is mutually exclusive with the current use of Channel 233C at Caliente. *See* Aurora Engineering, Table 1. Second, Caliente will not be deprived of existing local service because the proposed station is an unbuilt facility. The Commission has held that the removal of unbuilt facilities does not present the same loss of service concerns as the removal of an operating station that the public has become reliant upon. *See, e.g., Linden, Texas, et al.*, 16 FCC Rcd 10853, 10854 (2001); *Grand Isle and Empire, Louisiana*, 15 FCC Rcd 9162, 9163 (2000); *Chatom and Grove Hill, Alabama*, 12 FCC Rcd 7664, 7665 (1997). Finally, the provision of a first local service to Moapa (2005 pop. 1,261), and the loss of a potential first local service at Caliente (2005 pop. 1,015) both fall under Priority 3. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). However, the Commission has held that under Priority 3, the provision of service to the larger community is preferred. *See, e.g., Ardmore, Alabama, et. al.*, 17 FCC Rcd 16332, 16334-35 (2002); *Three Oaks and Bridgman, Michigan*, 5 FCC Rcd 1004, 1004 (1990). Therefore, a first local service to Moapa is preferred over a first local service to the smaller community of Caliente.

The 2005 population figures for Caliente and Moapa ("2005 Population Determination") are from the Nevada Department of Taxation and the Nevada State Demographer and have been certified by the Governor of Nevada. *See* Exhibit 1. These figures are being used because they are more recent than the 2000 U.S. Census population estimates. The Commission requires that an applicant seeking to rely on population data other than Census data produce an "alternative

authoritative source of population data.”² The 2005 Population Determination is such a source. It was prepared by the Nevada State Demographer based on criteria mandated by the Nevada Administrative Code,³ published by the Nevada Department of Taxation,⁴ and certified by Nevada Governor Kenny C. Guinn on February 21, 2006.⁵ Pursuant to Nevada state regulations, the Population Determination was compiled using the “most relevant available information,”⁶ including the county assessor’s housing unit records and a regression model that combines employment, labor force, and school enrollment data.⁷ As provided in Nevada statutes,⁸ the Nevada Department of Taxation uses the Population Determination to distribute the City-County Relief Tax and, because individual determinations can be appealed,⁹ it is imperative that the Population Determination be verifiable and accurate.

The Commission has accepted alternative sources of population data introduced by applicants particularly in cases where, as here, the alternative source is more current than and as authoritative as the Commission’s source. For example, in *East Brewton, Alabama and Navarre, Florida* in 1999, the Policy and Rules Division granted a Petition for Reconsideration after the petitioner, also the permittee of an unbuilt station, introduced county voting records to show that

² *Blanchard, Louisiana and Stephens, Arkansas*, 8 FCC Rcd 7083 (1993), *recon. denied*, 10 FCC Rcd 9828, 9830 n.12 (1995); *see also Sparta and Buckhead, Georgia*, 15 FCC Rcd 21536, 21538-539 n.4 (2000) (requiring “compelling information”).

³ *See* Nev. Admin. Code §§ 360.300-.390 (2006); Letter from Jeff Hardcastle, State of Nevada Demographer (June 7, 2006), included in Exhibit 1.

⁴ Nev. Rev. Stat. § 360.283 (2006). Section 360.283 requires the Nevada Department of Taxation to “issue an annual report of the estimated population of each town, township, city and county in this state” and to “employ a demographer to assist in the determination of population.”

⁵ *See* Certification of Nevada Governor Kenny C. Guinn (Feb. 27, 2006), included in Exhibit 1; Nev. Rev. Stat. § 360.285 (2006). Section 360.285 provides, “the governor shall, on or before March 1 of each year, certify the population of each town, township, city and county in this state from the determination submitted to him by the department.”

⁶ Nev. Admin. Code § 360.368 (2006).

⁷ Nev. Admin. Code § 360.340, .365 (2006).

⁸ Nev. Rev. Stat. 360.283(3).

⁹ Nev. Rev. Stat. 377.010-.080(2006).

Navarre, Florida had grown significantly since the 1990 Census.¹⁰ Faced with the new data, the Division reversed an earlier decision to retain the allotted station in East Brewton, Alabama because such a reversal would “cure a decisionally significant and manifest error, which, if left uncorrected, would adversely affect the public interest.”¹¹ The 2005 Nevada population data meet this criteria.

As demonstrated in Aurora’s Engineering Exhibit, the entire loss area will remain well served, except for a small underserved area. *See* Aurora Engineering, Table 2. The underserved area consists of 114 persons and is considered *de minimis*.¹² Notwithstanding the *de minimis* nature of this area, in order to ensure that these 114 persons are not deprived of a potential service, Aurora proposes the allotment of Channel 288C2 at Alamo, Nevada (2005 pop. 400) as its first local service.¹³ Channel 288C2 can be allotted to Alamo consistent with Section 73.207 the Commission’s Rules with respect to all existing and proposed domestic allotments and

¹⁰ *See East Brewton, Alabama and Navarre, Florida*, 14 FCC Rcd 6974 (Policy and Rules Division 1999); *see also Sparta and Buckhead, Georgia*, 16 FCC Rcd 2169 (Allocations Branch 2001) (reversing initial allocations decision based on new data); *Greenup, Kentucky and Athens, Ohio*, 6 FCC Rcd 1493 (1991) (same).

¹¹ *East Brewton, Alabama and Navarre, Florida*, 14 FCC Rcd at ¶ 9.

¹² The Commission has held in numerous cases that impacts on small numbers of people are *de minimis*. *See Eldorado, Mason, Mertzon and Fort Stockton, Texas*, DA 07-61 (2007) (the provision of a first aural service to 124 persons was *de minimis*); *Freer, Hebbroville, and Orange Grove, Texas*, 19 FCC Rcd 4742 (2004) (the provision of a first aural service to 178 persons was *de minimis*); *Wallace, Idaho and Big Fork, Montana*, 19 FCC Rcd 15267 (2004) (the provision of a first aural service to 55 persons and the creation of an underserved area consisting of 150 persons were *de minimis*); *Sparta and Buckhead, Georgia*, 16 FCC Rcd 2169 (2001) (the creation of underserved area consisting of 124 persons was *de minimis*); *Seabrook, Texas, et al.*, 10 FCC Rcd 9360 (1995) (the provision of a second aural service to 455 persons was *de minimis*).

¹³ Aurora recognizes that the Media Bureau’s decision in *Sells* prohibits proposals that utilize vacant allotments to cover underserved area that was previously served with an existing service. *See Amendment of Section 73.202(b) FM Table of Allotments, FM Broadcast Stations (Sells, Arizona)*, Report and Order, MB Docket No. 02-376, 19 FCC Rcd 22459 (rel. Nov. 22, 2004) (“*Sells*”), *petition for recon. pending*. However, the situation in this proceeding is distinguishable because Aurora is not leaving an area without an existing service; it is leaving an area without potential service. And, in order to ensure that this area continues to have potential service, Aurora is proposing a new allotment at Alamo.

facilities.¹⁴ See Petition for Rule Making to Allot Channel 288C2 to Alamo, NV (“Petition”). The technical specifications and allotment benefits of the proposal are contained in the Petition and the application for construction permit (Form 301) filed concurrently therewith. Should this channel be allotted to Alamo, Aurora hereby states that it will apply for the channel and if authorized, will construct the facility.¹⁵

Moapa is not located in an Urbanized Area and the proposed 70 dBu signal of the KMOA will not encompass over 50% of an Urbanized Area. Therefore, this relocation does not implicate the Commission’s policy against migration of stations from rural to urban areas. See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988). Moapa enjoys the attributes that the Commission traditionally associates with a community. The U.S. Postal Service has assigned ZIP Code 89025 to Moapa, and maintains a Post Office in Moapa. See Exhibit 2. A five-member Town Advisory Board of local citizens appointed by the Clark County Commissioners makes recommendations on policy and funding in Moapa. The town has its own Moapa Branch of the Clark County Library, its own elementary school – Ute V. Perkins Elementary School, and its own volunteer fire department. Recreation facilities in Moapa include the Moapa Recreation Complex and Moapa Community Center, and the Ron Lewis Park. The Marley P. Robinson

¹⁴ Aurora is contemporaneously filing a separate petition for rule making for this channel in accordance with paragraph 17 of the Commission’s decision in *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006).

¹⁵ Alamo is a community for allotment purposes. It is a town listed in the 2005 Rand McNally Atlas with a population of 400 persons. The United States Postal Service has assigned a ZIP Code (89001) to Alamo. The town includes a café, grocery store, church, motels, service stations, emergency services and a landing strip for small private airplanes. It is the social and business center of the rich Pahrangat Valley and home to the Pahrangat National Wildlife Refuge. The town of Alamo celebrated its 100th anniversary in July of 2001. Fred Allen, Mike Botts, Bert Riggs and William Stewart originally laid out the town in 1901. The post office was established on May 12, 1905. Most of the Alamo settlers came from Fredonia, Arizona. The name of the town was derived from the Spanish word for "poplar" and denotes the presence of poplar or cottonwood trees in the area. The businesses located in Alamo include Meadow Lane Motel, Windmill Ridge, Alamo Auto Motel, Alamo Truck Stop, R Place RV Park, Del Pueblo Restaurant, Great Basin Foods, Windmill Ridge Restaurant, and Alamo Chevron. Alamo is also home to a Senior Center and Lincoln County operates an Annex in Alamo. See Petition at 2; Petition, Attachment at 2.

Justice Court is located in Moapa, as are several construction companies, manufacturing plants, services stations, an equipment repair center, an RV park, and a variety of retail businesses providing consumer goods and services to local residents. Two churches -- the Moapa Christian Church and The Church of Jesus Christ of Latter-Day Saints -- are located in Moapa. *See* Exhibit 2. The Moapa Indian Reservation, located adjacent to the town of Moapa, has its own boys and girls club, health and human services facilities, day care center, grocery store, police and senior center. *See* Exhibit 2. Like the town of Moapa, the Reservation would benefit from the local service provided by a local radio station in Moapa.

II. KFLG-FM, Kingman, Arizona to Big River, California.

As demonstrated in the Engineering Exhibit attached to Cameron's application ("Cameron Engineering"), Channel 234C0 can be allotted to Big River consistent with Section 73.207 of the Commission's Rules. *See* Cameron Engineering, Table 1. A 70 dBu signal can be provided to Big River from the proposed reference coordinates. *See* Cameron Engineering, Figure 1. The relocation of KFLG-FM from Kingman to Big River will result in a predicted net gain in population of 3,135 persons within the proposed KFLG-FM 60 dBu contour. *See* Cameron Engineering, Table 2. The area and population within the proposed 70 dBu contour is 10,788 square kilometers and 71,145 persons, and within the proposed 60 dBu contour is 21,642 square kilometers and 166,271 persons. *See* Cameron Engineering, Figure 1, page 2.

As demonstrated in Cameron's Engineering Exhibit, the entire loss area will remain well served, except for a small area that will lose its only aural service and another area that will be left with one aural service. *See* Cameron Engineering, Table 2. The unserved area consists of 4 persons and is considered *de minimis*.¹⁶ The underserved area created consists of 455 persons.

¹⁶ *See* n.12, *supra*.

Cameron seeks to change KFLG-FM's community of license from Kingman to Big River under the guidelines set forth in *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*.¹⁷ There, the Commission stated that a station may change its community of license without subjecting the license to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 234C0 at Big River is mutually exclusive with the current use of Channel 234C at Kingman. *See* Cameron Engineering, Table 1. Second, Kingman will not be deprived of its only local service because it will continue to be served by Station KAAA(AM), which is also licensed to Cameron, and Station KGMN(FM). Third, the provision of a first local service at Big River (2000 U.S. Census population 1,266¹⁸) under Priority 3 will result in a preferential arrangement of allotments over the retention of a third local service at Kingman (2000 U.S. Census population 20,069) under Priority 4.¹⁹

Big River is not located in an Urbanized Area, and KFLG-FM's proposed 70 dBu signal will not encompass any part of an Urbanized Area. Therefore, this relocation does not implicate the Commission's policy against migration of stations from rural to urban areas. *See Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

¹⁷ 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990); *see also Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006).

¹⁸ Big River is a census-designated place.

¹⁹ *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

Big River is a community deserving of a first local service. Located in San Bernardino County, California, Big River is situated near the Colorado River and the border between Arizona and California. The Colorado River Indian Reservation, which is home to Mohave, Chemehuevi, Hopi, and Navajo tribes, encompasses the community of Big River. As noted above, the population of Big River is approximately 1,266. The United States Postal Service has assigned ZIP Code 92242 to Big River. *See Exhibit 3.*

The San Bernardino Fire Department has a Big River Station, which serves residents of Big River and nearby Earp.²⁰ The Parker Phone Book contains yellow and white page directories for a number of communities, including Big River. Located within the community are restaurants and lodging such as the Big River Inn, Big River R.V. Park, and The Dock Restaurant. Big River is also home to a number of businesses, community organizations, and a church, including: Big River Development, Big River Market, Big River Water Company, One Stop Hair Shop, and the Big River Baptist Church. *See Exhibit 3.* The foregoing demonstrates that Big River constitutes a “community” for licensing purposes.

In sum, the changes proposed in these contingent applications will result in a preferential arrangement of allotments under 307(b). The proposed changes would leave 1015 people in Caliente without potential first local service and create underserved areas containing 569 people, thereby affecting a total of 1584 people. However, the proposed changes would also result in first local service to 1261 people in Moapa and 1266 people in Big River thereby resulting in first local service being provided to a total of 2527 people. Under the FM allotment priorities, the creation of underserved area (Priority 2) and the provision of first local service (Priority 3)

²⁰ Because Big River and Earp share a ZIP Code, the city listed in the address information may differ among the sources provided at Exhibit 3.

are considered coequal.²¹ Accordingly, given that the proposed changes result in a net service gain (943 people), the Commission should (i) delete Channel 233C at Caliente, Nevada, and allot Channel 233C at Moapa, Nevada, as that community's first local service; and (ii) delete Channel 234C at Kingman, Arizona, and allot Channel 234C0 at Big River, California, as that community's first local service.

²¹ See *Silverton and Bayfield, Colorado*, 14 FCC Rcd 21502 (1999); *Littlefield, Wolfforth and and Tahoka, Texas*, 12 FCC Rcd 3215 (1997).