

Section II (Legal and Financial)
of
FCC Form 340

NOTE: The failure to include an explanatory exhibit providing full particulars in connection with a "No" response may result in dismissal of the application. See Instructions, paragraph L for additional information regarding completion of explanatory exhibits.

Section II - Legal and Financial

1. **Certification.** Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets. ☒ Yes ☐ No

2. **Eligibility.** Each applicant must answer "Yes" to one and "No" to two of the three following certifications. An applicant should not submit an explanatory exhibit in connection with these Question 2 "No" responses.

The applicant certifies that it is:

- a. a nonprofit educational institution; or ☐ Yes ☒ No
- b. a governmental entity other than a school; or ☐ Yes ☒ No
- c. a nonprofit educational organization, other than described in a. or b. ☒ Yes ☐ No
3. For applicants checking "Yes" to question 2(c) and applying for a new noncommercial educational television station only, the applicant certifies that the applicant's officers, directors and members of its governing board are broadly representative of the educational, cultural, and civic segments of the principal community to be served. ☐ Yes ☐ No ☒ N/A
4. a. The applicant certifies that the Commission has previously granted a broadcast application identified here by file number that found this applicant qualified as a noncommercial educational entity with a qualifying educational program, and that the applicant will use the proposed station to advance a program similar to that the Commission has found qualifying in applicant's previous application. ☐ Yes _____
☒ No FCC File Number

b. Applicants who answered "No" to Question 4(a), must include an exhibit that describes the applicant's educational objective and how the proposed station will be used to advance an educational program that will further that objective according to 47 C.F.R. Section 73.503 (for radio applicants) or 47 C.F.R. Section 73.621 (for television applicants).

Exhibit No. 1

5. The applicant certifies that its governing documents (e.g., articles of incorporation, by-laws, charter, enabling statute, and/or other pertinent organizational document) permit the applicant to advance an educational program and that there is no provision in any of those documents that would restrict the applicant from advancing an educational program or complying with any Commission rule, policy, or provision of the Communications Act of 1934, as amended. ☒ Yes ☐ No

6. a. **Parties to the Application.** List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If another entity holds an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.

Name and Residence/Headquarters Address(es) (a)	Citizenship (b)	Positional Interest: Officer, director, investor/creditor attributable under the Commission's equity/debt plus standard, etc. (c)	Director or Member of Governing Board (d)		% of: Ownership (O) or Voting Stock(VS) or Membership (M) (e)	% of: of Total Assets (equity plus debt) (f)
			Yes	No		
Permian Basin Public Telecommunications, Inc. 550 West Texas Ave. Suite 800 Midland, TX 79764	US	Proposed Licensee	N/A		100	100
John H. James 2160 Commerce Midland, TX 79703	US	Board President and Director	Yes		0	0
Jon Lindgren 1004 N. Big Spring Suite 507 Midland, TX 79701	US	Board Secretary and Director	Yes		0	0
Pat Canty 222 E. Fourth Street Odessa, TX 79761	US	Director	Yes		0	0
Charles Spence 201 E. Illinois Midland, TX 79701	US	Director	Yes		0	0
Jane Wolf 4400 N. Big Spring Suite 101 Midland, TX 79705	US	Director	Yes		0	0

- b. Applicant certifies that any equity and financial interests not set forth above are non-attributable pursuant to 47 C.F.R. Section 73.3555 and that there are no agreements or understandings with any non-party that would give influence over the applicant's programming, personnel, or finances to that non-party.

☒ Yes ☐ No

See Explanation
in Exhibit No.

6. a. **Parties to the Application.** List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If another entity holds an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.

Name and Residence/Headquarters Address(es) (a)	Citizenship (b)	Positional Interest: Officer, director, investor/creditor attributable under the Commission's equity/debt plus standard, etc. (c)	Director or Member of Governing Board (d)		% of: Ownership (O) or Voting Stock(VS) or Membership (M) (e)	% of: of Total Assets (equity plus debt) (f)
			Yes	No		
Janet Wood 18 Santa Fe Pl. Odessa, TX 79765	US	Director	Yes		0	0
Frank Deaderick 4800 E. 42nd Street Suite 400 Odessa, TX 79762	US	Director	Yes		0	0
Dr. Nalin Tolia 6005 East Ridge Rd. Suite 100 Odessa, TX	US	Director	Yes		0	0
Shelly Smith 319 South Runnels Big Spring, TX 79720	US	Director	Yes		0	0

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☒ Yes ☐ No

See Explanation
in Exhibit No.

7. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest pursuant to the notes to 47 C.F.R. Section 73.3555. Exhibit No. ☒ N/A
8. **Character Issues.** Applicant certifies that neither applicant nor any party to the application has or has had any interest in, or connection with: ☒ Yes ☐ No See Explanation in Exhibit No.
- a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or
- b. any pending broadcast application in which character issues have been raised.
9. **Adverse Findings.** Applicant certifies that, with respect to the applicant, any party to the application, and any non-party equity owner in the applicant, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination. ☒ Yes ☐ No See Explanation in Exhibit No.
- If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter.
10. **Alien Ownership and Control.** Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. ☒ Yes ☐ No See Explanation in Exhibit No.
11. **Program Service Certification.** Applicant certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area. ☒ Yes ☐ No
12. **Local Public Notice.** Applicant certifies compliance with the public notice requirements of 47 C.F.R. Section 73.3580. ☒ Yes ☐ No
13. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☒ Yes ☐ No
14. **Equal Employment Opportunity (EEO).** If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A. ☐ Yes ☐ No ☒ N/A

QUESTIONS 15, 16 AND 17 APPLY ONLY TO APPLICATIONS FOR NEW STATIONS. OTHER APPLICANTS CAN PROCEED TO QUESTION 18.

15. **Financial.** The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue. ☐ Yes ☐ No See Explanation in Exhibit No.

If "No" to 15., answer questions 16. and 17.

16. Is this application contingent upon receipt of a grant from the National Telecommunications and Information Administration? ☐ Yes ☐ No
17. Is this application contingent upon receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political subdivision? ☐ Yes ☐ No

NOTE: If Yes to 16. or 17., the application cannot be granted unconditionally until all of the necessary funds are committed or appropriated. In the case of grants from the National Telecommunications and Information Administration, no further action on the applicant's part is required. If the applicant relies on funds from a source specified in Question 17., **the applicant must advise the Commission when the funds are committed or appropriated.** This should be accomplished by letter amendment to the application. Applicants should take note that the Commission's construction period is not considered "tolled" by funding difficulties and that any permit granted conditionally on funding will expire if the station is not constructed for any reason, including lack of funding.

QUESTIONS 18 AND 19 DO NOT APPLY TO APPLICATIONS FOR NEW STATIONS. APPLICANTS FOR NEW FM STATIONS CAN PROCEED TO SECTION III. APPLICANTS FOR NEW TV STATIONS CAN PROCEED TO SECTION IV.

Holding Period.

18. Applicant certifies that this application does not propose a modification to an authorization that was awarded on the basis of a preference for fair distribution of service pursuant to 47 U.S.C. Section 307(b). ☒ Yes ☐ No

If "No," answer a. and b. below. If applicant answers "No" to 18. above and cannot answer "Yes" to either a. or b. below, the application is unacceptable.

- a. Applicant certifies that the proposed modification will not downgrade service to the area on which the Section 307(b) preference was based. ☐ Yes ☐ No
- b. Applicant certifies that although it proposes to downgrade service to the area on which the Section 307(b) preference was based, applicant has provided full service to that area for a period of four years of on-air operations. ☐ Yes ☐ No
19. Applicant certifies that this application does not propose a modification to an authorized station that received a credit for superior technical parameters under the point system selection method in 47 C.F.R. Section 73.7003. ☒ Yes ☐ No

If "No," applicant must be able to answer "Yes" to a. below or provide an exhibit that makes a compelling showing that the downgrade would be in the public interest.

- a. Applicant certifies that the population and area within the proposed service contour (60 dBu (FM) or Grade B (TV)) are greater than or equivalent to those authorized. ☐ Yes ☐ No

Exhibit No.

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.

Form 340/Section II/Question 4

Governing Board, Educational Objectives, and Program of
Proposed Assignee of Station KOCV-TV

Permian Basin Public Telecommunications, Inc. ("PBPT"), the proposed Assignee of Station KOCV-TV, is a Texas non-profit corporation formed exclusively for educational purposes, to serve the educational needs of the Permian Basin community, for the advancement of educational programs, and to furnish a nonprofit and noncommercial television broadcast service. It has applied to the Internal Revenue Service for Section 501(c)(3) tax-exempt status. PBPT's corporate offices are located in Midland, Texas, which adjoins Odessa, KOCV-TV's community of license; however, the station's main studio is in Odessa.

A. PBPT's Governing Board

PBPT's community based governing board is broadly representative of the educational, cultural, and civic groups in the Odessa area. All of PBPT's Officers and Directors live in the service area of KOCV-TV. Here are brief supportive biographical sketches of each person:

John James, the Board's Chair, serves as the CEO of TOMCAT USA, Inc. a manufacturer of staging and lighting support equipment for the entertainment industry. He also serves as President of the Midland Development Corporation, the city of Midland's economic development arm, and as President of the Midland Community Healthcare Services Board of Directors, which manages the community's clinic system. In 2001, he was elected to the Midland College Board of Trustees, where he currently serves as Secretary to the Board. Previously, he was a member of the Board of Directors of the Midland Chamber of Commerce, Casa de Amigos Board of Directors, and the John Ben Sheppard Public Leadership Foundation;

Jon Lindgren, PBPT's Secretary and a Director, heads ViaMedia, a full-service motion picture production company in Midland specializing in creative, persuasive, and inventive endeavors;

Pat Canty, a PBPT Director, is publisher of the *Odessa American*. He has been involved with daily newspapers in Texas and California for more than 23 years. He also serves on a variety of civic, educational and charitable boards, including the United Way of Odessa, the Ector County Education Foundation, the School of Business Advisory Board for the University of Texas of the Permian Basin, and the Texas Elections Advisory Committee.

Charles Spence, a PBPT Director, is publisher of the *Midland Reporter Telegram*. He also serves on the boards of the University of Texas of the Permian Basin Development Board, Habitat for Humanity, Hospice of Midland, Community and Senior Services, Boy Scouts, Midland Affordable Housing Roundtable, United Way of Midland, George W. Bush Childhood Home, Court Appointed Special Advocates, Permian Basin Area Foundation, and the Museum of the Southwest;

Shelley Smith, a PBPT Director, is the Chief Executive Officer of the West Texas Centers for Mental Health and Mental Retardation. She is also a member of the Greater Big Spring Rotary, the Association of Retarded Citizens, and the Big Spring Alliance for the Mentally Ill. She

serves on the Big Spring Area Chamber of Commerce Task Force for the West Texas Veterans Administration Medical Center and the Trust Fund Committee for the Big Spring First United Methodist Church and is Past President of the Board of Trustees for Texas Community Solutions -- Administrative Services Organization;

Jane Wolf, a PBPT Director, is a realtor with Legacy Real Estate. She served as president of the United Way of Midland (1985) and as a campaign leader for eight years. She has also served on the City of Midland Planning and Zoning Commission, the boards of the Midland Chamber of Commerce, the United Way of Midland, and the Midland High School PTA. She has also served on the boards of the Permian Basin Petroleum Association, the Permian Basin Petroleum Museum, Library and Hall of Fame, the Midland-Odessa Symphony and Chorale, the Permian Basin Private Industry Council, and the Junior League of Midland. She is on the Advisory Committee for the School of Business of the University of Texas of the Permian Basin;

Dr. Nalin Tolia, a PBPT Director, is an ophthalmologist. He is Founder and past President of the Association of Asian Indians in Ophthalmology; member of the Education Committee of that Association; Board member, Baroda Medical College Alumni Association; Board of Trustees, Texas School for the Blind and Visually Impaired, 1987 – 1992, Governor appointed; member of the Medical Advisory Board, West Texas Chapter, Juvenile Diabetes Foundation, 1987 – 1990; Consultant to the Texas Commission for the Blind and Visually Impaired, 1992 to present; Pillars Club Cabinet member, 1999 to present; and inducted into the Odessa Chamber of Commerce "Business Hall of Fame" in 2001;

Frank Deaderick, a PBPT Director, is President and CEO of Standard Sales Company. He is a lifelong Odessan who has served on the board of the abused children's shelter, Harmony Home, since 1992. He is also Chairman of the University of Texas of the Permian Basin Development Board and serves on the Board of Directors of the Odessa Chamber of Commerce, the Odessa Industrial Development Corporation, the Texas Ranger Association Foundation, and the Texas Association of Business; and

Janet Wood, a PBPT Director, is a long time charity volunteer and active member of the Odessa community. She currently serves on the Board of Directors for Habitat for Humanity of Odessa, the Junior League of Odessa, High Sky's Children's Ranch, and the Globe of the Southwest. She is a past board member for Mission Dorado and past member of the Odessa Symphony Guild and the Heart Association of Odessa.

B. Educational Objectives and Program

PBPT envisions that KOCV-TV will be an optimal means to educate the Odessa and Midland public (and residents of the entire Permian Basin) on a wide range of topics and also to provide local TV media access for that public. The corporation has been formed by residents of the Permian Basin to preserve the opportunity for everyone in the region to participate in and contribute to the local intellect through the programming offered by KOCV-TV.

Most importantly, PBPT intends to continue KOCV-TV's network affiliation with the Public Broadcasting Service ("PBS"). In addition, PBPT proposes to produce and televise original programming of educational and cultural nature to be aired by Station KOCV-TV for the

benefit of its public school classes and the general public. On a going-forward basis PBPT envisions continuing education classes, college-level courses, consumer information, life enrichment, and skill improvement programming. As part of its long term strategic planning, PBPT plans to offer the citizens of the Permian Basin more opportunities for educational programming in Spanish. As an innovation, through a joint project with other Texas PBS stations, KOCV-TV will provide teachers in Ector County Independent School District (where Odessa is located) access to PBS TeacherLine of Texas, an online professional development tool developed by PBS for Texas teachers. In addition, PBPT will provide teachers with access to over 3000 free lesson plans and activities on line. PBPT will work with local educators to provide internship opportunities for students, in addition to providing speakers to inform students about topics including broadcasting, public television, and outreach.

More generally, PBPT will provide locally ascertained public, educational, and instructional television programming to all residents of its service area. It believes that the citizens of this area deserve public television that is responsive to their needs and desires. PBPT has a professional staff that will provide the administrative, creative, and technical expertise needed to give the service area high quality public television in conjunction with PBS.

In sum, PBPT will strive to make KOCV-TV an educational television showcase for the diverse talents that exist without its broadcast service area and to stimulate and stretch the perceptions, imagination, and intellect of the viewing public.