

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

MAY 13 2004

IN REPLY REFER TO:
1800B3-ARE

Amy L. Van de Kerckhove, Esquire
ShawPittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

In Re: KOFR(FM) Post, Texas
Educational Media Foundation
Facility ID No. 30104
Application for Assignment of License
File No. BALH-20040323ASV

File No. BMLH-20040407AAG

Request for Waiver of 47 C.F.R. § 73.1125
(Main Studio Rule)

Dear Ms. Van de Kerckhove:

This is in reference to the captioned application to: (1) assign the license of KOFR(FM), Post, Texas, from KXOJ, Inc. ("KXOJ"), to Educational Media Foundation ("EMF") and (2) modify the KOFR(FM) license by converting it from commercial to noncommercial educational status.¹ The modification of license application also contains a request for a waiver of the Commission's main studio requirement, 47 C.F.R. Section 73.1125, to permit KOFR(FM) to operate as a "satellite" of station KLRD(FM) Yucaipa, California.² For the reasons set forth below, we will grant the assignment application, the modification of license application and the waiver request. The latter grants will become effective upon notification of consummation of the assignment application.

Main Studio Rule Waiver. Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's principal community contour, (2) within the contour of any other broadcast station licensed to its community, or (3) within 25 miles of the center of its community of license.³ However, under Section 73.1125(b)(2), the Commission will waive these

¹ EMF is proposing to reclassify KOFR(FM) from commercial to noncommercial educational status pursuant to Section 73.1690(c)(9).

² A "satellite" station meets all of the Commission's technical rules. However, it originates no programming and instead rebroadcasts the parent station's programming. See *Amendment of Multiple Ownership Rules*, Memorandum Opinion and Order, 3 RR2d 1554, 1562 (1964).

³ See *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, 13 FCC Rcd 15691 (1998), *recon.granted in part*, 14 FCC Rcd 11113(1999) ("Reconsideration Order").

requirements where good cause exists to do so and where the proposed studio location would be consistent with the operation of the station in the public interest. Each waiver request by an NCE station seeking to operate as the satellite of another NCE station is considered on a case-by-case basis. The Commission has recognized the benefits of centralized operations for NCE stations, given their limited funding, and thus found "good cause" exists to waive the main studio location requirement where satellite operations are proposed.⁴ A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard.⁵

EMF's request is based on the economies of scale which would be realized by grant of its waiver. We agree and conclude that there is good cause to waive 47 C.F.R. § 73.1125(a)(4) Under these circumstances. EMF proposes to operate KOFR(FM) as a satellite station of KLRD(FM), Yucaipa, California, approximately 882 miles from Post, Texas. Where there is great distance between the parent and the satellite station, as here, and where the parent and the satellite stations are in different states, we are particularly concerned that the licensee takes adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, EMF has pledged: (1) to maintain an auxiliary studio at a location that complies with Section 73.1125 and that is capable of origination local programming that is responsive to local community needs; (2) that it will engage the services of a local Post public affairs representatives to conduct quarterly ascertainment surveys of local community leaders and other residents to determine the concerns, problems and needs of the Post listeners, which will be covered in EMF's news and public affairs programming and broadcast over the KOFR(FM); (3) that its local representative will further serve as a liaison between residents of Post, and EMF's programming personnel; and (4) to maintain a toll-free telephone number for the use of the residents in the community and maintain a public inspection file for the station with in the Post Community.

In these circumstances, we are persuaded that EMF will meet its local service obligation and thus, that grant of the requested waiver is consistent with the public interest. We remind EMF, however, of the requirement that it maintain a public file for the Post, Texas at the main studio of the "parent" station, KLRD(FM), Yucaipa, California. It must make reasonable accommodation for listeners wishing to examine the file's contents.⁶ We further remind EMF that, notwithstanding the grant of the waiver requested here, the public file for KOFR(FM) must contain the quarterly issues and programs list for Post, Texas as required by 47 C.F.R. Section 73.3527(e)(8).

Modification of License application. Pursuant to *Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit*⁷ EMF may apply to convert the KORF(FM) commercial authorization to noncommercial educational FM status. It may do so by filing a license application and a demonstration that it is a qualified educational organization pursuant to 47.C.F.R. Section

⁴ *Id.*

⁵ *Id.*

⁶ See *Reconsideration Order*, 14 FCC Rcd at 11129, Paragraph 45.

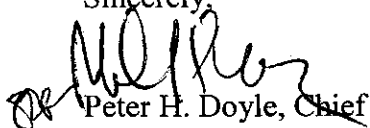
⁷ 12 FCC Rcd 12371 (1997).

73.503(a) and that the station will be used to advance EMF's educational program.⁸ We will accept the instant showing. An examination of EMF's proposal reveals that EMF is qualified to operate KOFR(FM) as a noncommercial educational facility and that grant thereof would serve the public interest, convenience and necessity. We will therefore convert KOFR(FM) to noncommercial educational status with the effective date of the grant being the date that EMF notifies the Commission of the consummation of the acquisition of the station.⁹

Assignment Application. We have also reviewed the application BALH-20040323ASV) to assign the license of station KOFR(FM) from KXOJ to EMF. We find that KXOJ and EMF are fully qualified to sell and acquire, respectively, the license for KOFR(FM). We also find that EMF is fully qualified to be the licensee of KOFR(FM) and that the grant of the application would further the public interest, convenience and necessity.

Accordingly, in light of the above discussion, the application (File No. BALH-20040323ASV) to assign KOFR(FM) from KXOJ, Inc. to Educational Media Foundation IS HEREBY GRANTED. Additionally, the application (BMLH-20040407AAG) to convert the KOFR(FM) license from commercial to noncommercial educational status, and the concomitant request for waiver of 47 C.F.R. Section 73.1125, ARE GRANTED. The effective date of the latter two actions will be the date on which the Commission is notified that Educational Media Foundation has consummated its acquisition of the station.¹⁰ The authorization to operate the station as a noncommercial educational facility will be sent at that time. In order to facilitate transmission of the authorization. Educational Media Foundation and counsel are requested to send a copy of the consummation notification notification to both Andree Ellis, Room 2-A165, and Druscilla Smalls, Room 2A140, at the Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554.

Sincerely,


Peter H. Doyle, Chief
Audio Division
Media Bureau

⁸ See 47.C.F.R. § 73.1690(c)(9).

⁹ See 47 C.F.R. § 1.102

¹⁰ *Id.*