

ESTABLISHED LOCAL APPLICANT MONTANA STATE UNIVERSITY-BILLINGS

The Applicant certifies that it qualifies as an established local applicant pursuant to 47 C.F.R. Section 73.7000, as a governmental entity within its area of jurisdiction.

The Applicant, whose campus is in Billings, Montana, is a branch of the Montana University System, which is governed by a Board of Regents. Applicant is a Land Grant College which was established in 1893, by an act of Montana's Legislature.

A state-chartered or state-established educational entity is a governmental entity which is local throughout the area within which its authority extends. *See, Reexamination of the Comparative Standards for Noncommercial Educational Applicants (MM Docket 95-31)*, adopted April 4, 2000, FCC 00-20 at ¶54.

Accordingly, the Applicant is entitled to an award of points as an established local entity with respect to its proposed new facilities.

MONTANA
STATE UNIVERSITY
BILLINGS

Access & Excellence

Office of the Chancellor

TO: Federal Communications Commission
FROM: Dr. Ronald P. Sexton
RE: FM Reserved Channels-Localism and Diversity
DATE: October 11, 2007

Established Local Applicant

The Applicant certifies that it qualifies as an "established local applicant" pursuant to 47 C.F.R. Section 73.7000, as a governmental entity within its area of jurisdiction.

The Applicant, whose campus is in Billings, Montana, is a branch of the Montana University System (the "University"), which is governed by a Board of Regents. Applicant is a Land Grant College established in 1893, by an act of the State's Legislature.

A state-chartered or state-established educational entity is a governmental entity which is local throughout the area within which its authority extends. *See, Reexamination of the Comparative Standards for Noncommercial Educational Applicants (MM Docket 95-31)*, adopted April 4, 2000, FCC 00-20 at ¶54.

Accordingly, the Applicant is entitled to an award of points as an established local entity with respect to its proposed new facilities.

Diversity in Wolf Point, Stanford, Colstrip, and Helena, Montana, and Greybull, WY (the "Proposed Stations")

Applicant is seeking construction permits in the above communities for which it is seeking points for diversity of ownership. Applicant is also seeking construction permits in Livingston and Emigrant, Montana. Like the aforementioned communities, Livingston and Emigrant are "established local entities" by virtue of their status as governmental entities. They are not entitled to points awarded for diversity.

Applicant certifies that the principal community contour (city grade) of each Proposed Station does not overlap the principal community contour of any other authorized station in which any party to the application has an attributable interest as defined by FCC Rule 73.3555. It has further certified that its governing documents require that such diversity be maintained. This statement provides documentation in support of those certifications.

Applicant is governed by a Board. With the exception of one Member, who is elected, Board members are appointed by the Governor of Montana. The Governor is a Member of the Board as provided in the Laws of Montana.

In addressing the issue of documentation to support an award of points for diversity of ownership, the Commission acknowledged, "We do, however, recognize that it might be very difficult for state-chartered organizations like [a state university], to obtain legislative amendments to their charter." *Reexamination of the Comparative Standards for Noncommercial Educational Applicants* (on reconsideration), FCC 01-64 at ¶ 58. Accordingly, the Commission concluded, "we will consider alternative safeguards from such organization if they reasonable assure that board characteristics will be maintained during the four-year holding period." *Id.*

To this end, Applicant shall present for consideration by the Board and the Governor a plan by which if the Applicant receives an authorization as a result of diversity of ownership claim, for making a commitment to maintain the Board characteristics on which the diversity claim is made.

At its next regular meeting, Applicant will place on the agenda Resolutions, along the lines of the attached samples, by which Applicant affirms its commitment to maintaining diversity and whereby it proposes safeguards in the event a future Board Member has an attributable interest in an overlapping broadcast station or a construction permit for such facility.



Ronald P. Sexton, Ph.D.

Chancellor, Montana State University Billings

RESOLUTION
OF
THE BOARD OF TRUSTEES

The Board of Trustees (the "Board") hereby adopts the following Resolution, effective _____.

WHEREAS, _____ ("____") is applicant for new noncommercial educational ("NCE") FM broadcast facilities at _____; and

WHEREAS, the Federal Communications Commission ("FCC") adopted a point system to select among mutually exclusive proposals to build NCE FM stations, and among the factors for awarding points is diversity of the ownership and operation of NCE stations; and

WHEREAS, an applicant that claims an award for diversity of ownership must establish that the proposed station's principal signal coverage contour does not overlap such contours of any other radio station in which the applicant, its parent, subsidiaries, or members of their governing boards, have any attributable interests, and

WHEREAS, if an applicant is successful and is awarded a permit to construct and a license to operate such facilities based on diversity of ownership, it must maintain diversity of ownership for a period of four years of on-air operations; and

WHEREAS, ___ is committed to maintaining diversity of ownership with respect to its proposed facilities and will represent to the FCC that it is entitled to an award of points for such diversity because no Member of the Board has an attributable interest in a broadcast station the principal signal coverage contour of which overlaps ___'s proposed facilities; and

WHEREAS, ___ is obligated to maintain such diversity at the present and into the future, but recognizing that a seat on the board is an elective [appointive] office and that any qualified member of the public may run for election [or be appointed] to the board, ___ must demonstrate to the FCC a means for assuring continued diversity.

NOW THEREFORE, BE IT RESOLVED that ___ will maintain diversity of ownership with respect to its facilities through the means of the insulation of any board member who has an attributable interest in a radio broadcast station the principal community contour of which overlaps the principal community contour of ___'s proposed facilities, from matters arising before the board concerning such facilities, and such board member shall be recused from decisions respecting the management or operation of such facilities; and

RESOLVED FURTHER, that the determination whether insulation and recusal need to be implemented with respect to any board member shall be made within 30 days after the close of nominations for office; if it is determined that insulation and recusal would need to be implemented as to any candidate, and if such candidate wins the election [is appointed], then at the next regular meeting of the board following the election, the board shall consider and act upon an appropriate implementing resolution in form similar to the attached.

FORM OF RESOLUTION
OF
THE BOARD OF TRUSTEES

The Board of Trustees (the "Board") hereby adopts the following Resolution, effective _____

WHEREAS, the Board, in furtherance of its educational and cultural purposes, [has applied for] [is permittee of] [is licensee of] noncommercial educational FM facilities at _____ (the "Facilities"); and

WHEREAS, the Federal Communications Commission ("FCC") favors the entity that provides, and that will commit to provide, "diversity of ownership" pursuant to Section 73.7003(b)(2) of the FCC's Rules; and

WHEREAS, ___ possesses that quality of "diversity of ownership" because neither it nor any member of the Board has an attributable interest in a radio station serving the area[s] served by the Facilities; and

WHEREAS, ___ is obligated and is committed to maintain such diversity of ownership for a period of four years from the date the Facilities begin broadcast operations; and

WHEREAS, in the general election held _____, [name of winning candidate] was elected to the Board; and

WHEREAS, [winning candidate] has an attributable interest as defined by the FCC's Rules; and

WHEREAS, the Board deems it warranted and necessary to insulate and to recuse [winning candidate] from any and all matters arising before the Board concerning the management and operation of the Facilities;

NOW THEREFORE, be it resolved that the Board has provided and shall continue to provide "diversity of ownership" with respect to its Facilities, and that in order to facilitate and implement this commitment, [winning candidate] shall be insulated and recused from any and all matters arising before the Board concerning the management and operation of the Facilities, for so long as he/she maintains an attributable interest under the FCC's Rules, or until the expiration of four years from the date the Facilities commence broadcast operations, whichever comes first.