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Before the
Federal Communications Commission
Washington, DC 20554

In re the Application of)	
Queen Cities Broadcasting LLC)	File No. BALH 20150226ABI
For Transfer of Control of License for)	(corrected file number 3/31/15)
KMCQ FM, Covington, WA)	

TO THE COMMISSION

PETITION TO DENY

William Resler ("Petitioner") pursuant to Section 309(d) of the Communications Act, 47 U.S.C § 309(d), and 47 C.F.R § 1.939, hereby petitions the Federal Communications Commission ("FCC" or "Commission") to deny Educational Media Foundation's ("EMF") request for waiver of Main Studio Rule and to Deny the Application for Consent to Transfer Control of Queen Cities LLC's ("QCB") station KMCQ FM in Covington, WA as this transfer will significantly reduce the localism provided to the community of license which is the main purpose of an FCC license. Petitioner is a regular listener of KMCQ and will be affected negatively by the loss of the current format if the station is transferred to EMF because EMF will change the format to one of religious broadcast.

Further, EMF's transaction violates the FCC's local Main Studio rule which will also affect Petitioner negatively as explained herein. These violations will severely increase the concentration of religious broadcasting and substantially decrease the competition and diversity of viewpoints available to the public in the Seattle metropolitan market.

I. BACKGROUND

As the attached Declaration explains, Petitioner is a resident in the Seattle metropolitan market and has been a listener of KMCQ for over three years. Petitioner benefits from the format of KMCQ, which plays classic hits that appeal to Petitioner's age group, which is over 65. There is only one other "classic hits" station in Seattle, KJR. Petitioner will lose any choice in listening to his preferred format if the transfer is approved and thus he is a person with an interest in this proceeding.

EMF seeks the FCC's consent to the transfer of control of QCB's station KMCQ FM licensed to Covington, WA. If approved, this transaction will add another radio station to EMF's portfolio of more than SEVEN HUNDRED religious broadcast stations across the country. Within the Seattle DMA there are currently EIGHT radio stations with overlapping coverage to KMCQ FM that represent the same religious KLOVE format EMF plans to air. These stations include KWAQ FM, K206CJ, KCMS FM, KARI AM, KCIS AM, KGNW AM, KBLE AM, and KARR AM. However, only one other station provides Classic hits as KMCQ currently does. The community simply will not benefit from another voice for religious

broadcasting. The FCC should not endorse EMF's proliferation of its national SINGLE MUSIC FORMAT footprint particularly when EMF already controls a station within the Seattle DMA, KWAQ FM licensed to Ocean Park, WA.

If approved, this transfer would eliminate the only other choice for a unique format and one of the last locally operated stations within the Seattle DMA, which in turn will eliminate local jobs. The station will convert from a commercial to a noncommercial education (NCE) station, which also has negative economic consequences for the community this transfer will eliminate the ability of advertisers to reach a large portion of the community, who might benefit from such information, and it will harm the businesses that choose to advertise. Petitioner seriously questions how EMF can even qualify as an NCE because it only broadcasts religious music, which in and of itself serves no educational function.

Clearly the transfer would harm the local community by diminishing the diversity in musical viewpoints available to them. Moreover, citizens would be deprived of the benefits of different local licensees, including minority-owned entities, which make unique programming decisions and are best situated to serve the citizens' communities.

In sum, the FCC needs to evaluate its role in readily approving transfers to mega-operators like EMF who admit they fail to serve the important goal of localism which is essential to radio broadcasting. The public interest will not be served by allowing EMF to acquire the license of KMCQ without a showing that no local purchaser could be found to promote, rather than undermine, the goal of localism.

II. Waiving the Main Studio Rule is not in the Public Interest

Even if the license transfer is approved the Commission should not allow the waiver of the local Main Studio rule for EMF. In order to receive a waiver, "An applicant for waiver faces a high hurdle even at the starting gate."¹ EMF must show that the public interest is better served by granting the waiver than by denying the waiver. EMF has not provided any evidence that the public interest is better served by granting the waiver than by denying the waiver. On the contrary, the public interest would be dis-served because there will be no human being associated with the local operation of KMCQ. EMF plans to air a national music format delivered via remote satellite feed with uniform programming from the state of California. The community of license—Covington, Washington- will have no meaningful connection whatsoever with the licensee if the waiver is granted.

EMF's main station waiver request states that KMCQ's main station will be hundreds of miles away in California, but EMF assures the Commission that it will have a "local affairs representative, who may be a volunteer". This "volunteer" will conduct quarterly interviews and surveys to ascertain local interest and concerns. Really?? A "volunteer" who will somehow "be available" somewhere in the community of Covington? This is not a meaningful presence. Has EMF ever listened to the views of local listeners and adjusted its programming accordingly? Probably not. It is highly doubtful that EMF would adapt its

¹ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C Cir. 1969), *aff'd*, 459 F.2d 1203 (1972), *cert. Denied*, 93 S.Ct. 461 (1972) ("*WAIT Radio*") (finding that the Commission may decide in some instance that rule waiver serves the public interest if an applicant's proposal will not undermine the policy served by the rule). See also *Thomas Radio V. FCC*, 716 F.2D 921, 924 (D.C Cir. 1983)

format to address any local concern because all of its programming comes from one source—a satellite—that feeds uniform programming to all EMF stations. EMF’s representations about fulfilling its local service obligation are just “lip service” and they make a mockery of the Main Station rules.

Section 73.1125(a) of these rules requires broadcast stations to maintain a main studio.² The Main Studio rules are intended to make broadcast stations readily accessible to the people and communities they are licensed to serve. The rules constitute one of the *essential* ways to ensure that stations realistically meet their obligations to serve their communities of license as outlets for local self-expression.³ In order to meet that goal, the Commission has explained that “[a] station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence.⁴ The Commission has defined a minimally acceptable “meaningful presence” as managerial and staff personnel present at the studio on a full-time basis.⁵ To qualify as managerial, the commission stated that the employee should be “authorized to make typical managerial decisions pertaining to facilities, equipment, programming, sales and emergency procedures.⁶ The staffing requirements apply equally to both NCE and commercial stations.⁷ Clearly, EMF’s plans for “volunteer” staffing utterly fails the “meaningful presence” criteria.

EMF’s rote waiver request alleges that “satellite” operations are beneficial because of the cost savings gained by the licensee via a single main studio for a regional or statewide network of stations which provided service to rural areas that otherwise would lack such service. That rationale does not exist in this case. KMCQ FM operates within the Seattle DMA and does not serve a “rural” area because this DMA (which includes Covington, WA) has approx. 4 million residents in King County.

EMF claims that “good cause “ for a waiver exists solely upon a showing that centralized operations will provide an economic benefit to NCE’s with limited funding, provided that local service obligations are met. Let’s unravel that claim. EMF has made no showing that EMF will benefit from centralized operations or that it is entitled to be subsidized by the Commission, at the expense of the community of license. No doubt EMF will save tremendous expense if it does not have to pay for a local presence but EMF is hardly a financially distressed NCE that requires a subsidy by way of a waiver because its acquisition of stations is quite robust. Thus, there is no factual basis or policy basis to give EMF the waiver because its plan for meeting its “local service obligations” is totally inadequate as discussed above.

² See 47 C.F.R 73.1125(a)

³ FMTV Main Studio Rules, Report and Order, 27 FCC 2D 851, 852 (1971)

⁴ Main Studio and Program Origination Rules, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988)

⁵ Jones Eastern of the Outer Banks, Inc., Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 (1991) clarified, 7 FCC Rcd 6800 (1992). To qualify as a main studio, the studio must be staffed by at least one management-level employee and one staff-level employee at all times during “regular business hours.” *Id.* 15 Jones Eastern of the Outer Banks, 7 FCC Rcd at 6802

⁶ *Id.* At 6801 10.

⁷ See, e.g., First Baptist Church, Inc., Forfeiture Order, 23 FCC Rcd 919 (EB 2008) (forfeiture Issued to NCE licensee for, inter alia, failure to comply with main studio staffing requirements); Puget Sound Educational RV, Inc., Forfeiture Order, 22 FCC Rcd 17326 (EB 2007 (same)).

The Petitioner recognizes that the Commission has routinely granted these waivers and in several markets no main studio for NCE's exist. However, that does not mean that the Commission should rubber stamp this request because the Commission purports to consider Main Studio waiver requests on a *case by case basis*. *In this case there has been no showing of the requisite criteria to qualify for the waiver under 47 C.F.R § 73.1125(a) (4)*. Perhaps it is time the Commission re-tool its Main Studio waiver process to protect localism.

If this transfer is approved and the waiver request granted localism will suffer another blow. Localism is dying by a death of a thousand cuts because of the compound effect of having multiple NCE networks in communities which impede the local public's ability to secure access to the airwaves. It is clear that these NCEs use loopholes in the FCC's rules to plunder reserves channels that were originally meant for commercial broadcasts by locally owned operators that live in and serve the community of license.

While religious NCEs may serve an important purpose Petitioner is concerned that little opportunity is left for the remaining majority of other voices: local, cultural, historical, independent music, viewpoint of youth, elderly, handicapped, booming cultural communities, farm works, unions', high school and college education programs, religious (or non-religious) content providers, city council, local elections, governmental access, and local community access, etc.

NCE license usage has changed since its inception. Thus, the issue of studio waivers requires close examination because of the negative impact to localism. Between 1947 and now NCE usage has changed, but the rationale underlying the granting of main studio waivers has remained the same. Even as far back as 1973, the Commission agreed with petitioners that non-commercial licensees no longer provided purely in-school instruction programming, but often competed with the programming of commercial licensees; this became an argument for commercial ascertainment policies being formally adapted to non-commercial stations.⁸ Ascertainment addressed the evolving state of NCE studio-waived stations past purely educational goals, acknowledging the local public services responsibilities of NCE licenses. The Commission rescinded community ascertainment requirements in 1981, but did not re-examine its practice with respect to main studio waivers.

In 1981, the Commission acknowledged that NCE licenses were being used increasingly for the booming, well-funded public radio network: "The growth of public radio has been described as being remarkable..."⁹ Within the past several decades NCE licenses have been increasingly used for entertainment rather than the dissemination of ideological beliefs or education. NCE licensees often compete programming-wise with commercial stations, and additionally for new channels with other non-commercial broadcaster. This total change in NCE use – programming, competition, license-holder type and funding begs for a reassessment of the local public service obligation of main studio-waived licensee. The Commission never anticipated that a centralized operation of NCE networks would reduce the diversity of programming and crush localism in many communities, but this is what has happened.

⁸ Ascertainment of Community Problems by Noncommercial Broadcast Applicants, 41 FR 12424 (1976)

⁹ From *In the Matter of Deregulation of Radio*, Appendix E "The Non-Entertaining Programming Guideline A Brief History of Programming Regulation", para 102 within 84 FCC 2d 961- (1981)

EMF is one example of an NCE network that has amassed an ownership level of unchecked power that is a disservice to American democracy and free markets. The KLOVE format is a contemporary music format with little to no educational component. When the Commission approves this waiver it creates a competitive advantage to NCE's over local commercial broadcasters from an operational, revenue generation and profitability standpoint.

III. Reduce Emergency Responsiveness to the Community

KMCQ FM (licensed to Covington, WA) is attractive to EMF because is basically services the larger metro city of Seattle, WA and is a commercially competitive signal for King County. Seattle is subject to extreme weather emergency situations including earthquakes, Pacific Rim eruptions (Mt. St Helens and Mt. Rainier), tsunamis and hurricanes. Because EMF's single studio location is in California it will have no one present in its city of license, so KMCQ cannot serve that community during an emergency. History shows that without a locally based EAS plan that is integrated with the local emergency services KMCQ will not be able to fulfill their EAS role to this community. For that reason alone this transfer shouldn't be approved by the FCC, and the main station waiver request denied.

IV. Conclusion and Recommendation

For the FCC to protect the public's interest which includes local competition, diversity in local broadcast radio, and compliance with local EAS rules and best practices, the FCC should deny EMF's request for main studio waiver and also QCB's request to transfer KMCQ FM to a NCE.

Respectfully submitted March 27, 2015

A handwritten signature in blue ink, appearing to read 'William Resler', with a long horizontal flourish extending to the right.

William Resler, Pro Se, Citizen

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In re the Application of
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KMCQ FM, Covington, WA

) File No. BALH-20150226ABI
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DECLARATION OF WILLIAM
RESLER

I, William Resler, declare as follows:

1. I reside at 5214 Pullman Ave NE Seattle, WA 98105. I am 69 years of age and am competent to testify to the facts set forth in this declaration, which are true and correct.
2. I have listened to KMCQ radio station since 2012. I listen to it at home and in my car. I really enjoy the format of KMCQ because the station plays classic hits that appeal to me and, I believe, others in my demographic group. Only one other station, KJR, plays classic hits in the Seattle area. I like to have a choice between the two stations but I prefer KMCQ because of the localism the station provides to this community.
3. I learned from an on-air station announcement in March that KMCQ was the subject of an application for transfer of control. I have reviewed it on the FCC's web-site. I also learned that the purchasers had filed a waiver request of the main studio requirement.
4. I will be harmed if the FCC grants the Application and waiver request because no other stations providing services to the community has the level of localism this station has combined with the music I enjoy. Therefore I submitted, pro se, the Petition to Deny which I wrote.

I declare that the foregoing is true and correct subject to penalty of perjury under the laws of the State of Washington.

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DATED this 27th day of March, 2015, at Seattle, Washington.



William Resler