

Section 307(b) Statement

Capstar TX, LLC, the licensee of WKZP(FM), FCC Facility ID No. 4674 (“WKZP” or the “Station”), is requesting a construction permit for the minor modification of the Station to specify a change in community of license from Bethany Beach, Delaware, to West Ocean City, Maryland (the “Application”). No changes in the technical facilities of the Station are being requested.

This exhibit, together with the Technical Exhibits to the Application, demonstrates that the proposed modification of the Station constitutes a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 307(b)). As set forth in the Technical Exhibits, the facility specified in the Application is mutually exclusive, as defined in Section 73.207 of the Commission’s Rules, with the current assignment of the Station. Moreover, the current community of license will not be deprived of its only local service. The applicant will comply with the local public notice provisions of Sections 73.3580(c)(3), 73.3580(d)(3), and 73.3580(f) of the Commission’s Rules, and understands that the exception contained in Section 73.3580(e) of the Commission’s Rules does not apply to an application proposing to change the community of license of an FM station.

As confirmed in the Technical Exhibits to the Application, there is an assignment/allotment site for the facility that fully complies with Sections 73.207 and 73.315 of the Commission’s Rules without resort to Sections 73.213 or 73.215 of the Commission’s Rules.

In determining whether a proposed community of license change constitutes a preferential arrangement of allotments under Section 307(b) of the Act, the Commission

considers whether the proposal would serve one or more of the Commission's four priorities. 1/

Here, where neither the current nor the proposed community of license of the Station is located within an Urbanized Area, and there is no apparent way the facility could be relocated to serve 50 percent or more of an Urbanized Area, the proposal will be evaluated pursuant to Priority (3) – first local transmission service for a community. 2/

Grant of the Application would foster Priority (3) by authorizing the first local transmission service at West Ocean City, Maryland, while the current community of license, Bethany Beach, will not be deprived of its only local service, as FM Station WJKI, FCC Facility ID No. 30858, will continue to be licensed to Bethany Beach, Delaware.

West Ocean City, Maryland, is a community suitable for allotment purposes. Commission precedent holds that a community that is a Census Designated Place *or* that is incorporated presumptively qualifies as a community for allotment purposes and thereby merits its own local transmission service. 3/ West Ocean City is listed as a “CDP” - Census Designated

1/ See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982) (“*FM Assignment Policies*”). The four priorities are: (i) one full-time aural reception service to a community; (ii) a second full-time aural reception service to a community; (iii) one local transmission service to a community; or (iv) other public interest factors. The second and third criteria have equal priority. *Id.* at 91.

2/ Cf. *Policies to Promote Rural Radio Service and to Streamline Allotment an Assignment Procedures*, Second Report and Order, First Order On Reconsideration, and Second Further Notice of Proposed Rule Making, 26 FCC Rcd 2556, 3572, 3575 ¶¶ 30, 35 (2011) (“*Rural Radio Second R&O*”), (when a proposal is for a community located within an urbanized area, or that would place a daytime principal community signal over 50 percent or more of an urbanized area, or that could be modified to provide such coverage, the proposal will be presumed to be a proposal to serve the urbanized area rather than the proposed community).

3/ See, e.g., *Cleveland and Ebenezer, Mississippi R&O*, 10 FCC Rcd 8807, 8808 [¶ 6] (MMB 1995) (“The Commission’s long standing policy is to allot channels to communities composed of geographically identifiable population groupings. This requirement is generally satisfied if the community is either incorporated or listed in the U.S. Census.”); see also *Reydon, Oklahoma R&O*, 18 FCC Rcd 3222, 3222 [¶ 2] (MB 2003).

Place - in the U.S. Census with a 2010 population of 4,375. 4/ Thus West Ocean City, Maryland qualifies a community for a first local transmission service.

A guide to West Ocean City, Maryland hotels, restaurants, and other local businesses is available on line. 5/ The Worcester County Public Schools maintains a Pre-Kindergarten through Grade 4 school within the boundaries of West Ocean City. 6/ Places of worship in West Ocean City include Shore Community Church, 7/ Crossway Church, 8/ and Ocean City Baptist Church. 9/ Medical services are available within West Ocean City from Dr. William Greer III. 10/ Restaurants in West Ocean City include Fat Fish OC, 11/ Crab Alley, 12/ and The Shark on the Harbor. 13/

In sum, West Ocean City is qualified to be assigned an FM station allotment, and the public will be better served under the proposal set forth in the Application than the current Station allocation. The record here establishes that grant of the Application would further the public interest in the fair, efficient, and equitable distribution of radio services.

4/ See The United States Census Bureau, American Factfinder – Community Facts, at http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml (“US Census”) (copy at Attachment 1).

5/ See <http://westoceancity.com/> (copy at Attachment 2).

6/ See The Worcester County Board of Education at <http://www.worcesterk12.com/about-wcps/school-system/general-basic-facts/ocean-city-elementary-school> (copy at Attachment 3).

7/ See <http://www.yelp.com/biz/shore-community-church-west-ocean-city-2> (copy at Attachment 4).

8/ See <http://crossway.cc/contact/locations/> (copy at Attachment 5).

9/ See <http://www.yelp.com/biz/ocean-city-baptist-church-ocean-city-2> (copy at Attachment 6).

10/ See <http://www.yelp.com/biz/william-greer-iii-md-ocean-city> (copy at Attachment 7).

11/ See <http://www.yelp.com/biz/fat-fish-oc-west-ocean-city> (copy at Attachment 8).

12/ See <http://www.yelp.com/biz/crab-alley-ocean-city> (copy at Attachment 9).

13/ See <http://www.yelp.com/biz/the-shark-on-the-harbor-ocean-city> (copy at Attachment 10).