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**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

AUG 07 2003

**IN REPLY REFER TO:
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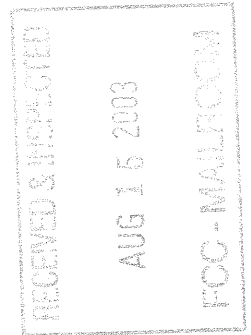
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In re: MX Group 980811

NEW(Ed. FM), Port Angeles, WA
Pacific Lutheran University
Facility ID No. 91468
File No. BPED-19980813ME

KUGS(FM), Bellingham, WA
Western Washington University
Facility ID No. 72017
File No. BPED-19990318ME

NEW(Ed. FM), Sequim, WA
Educational Media Foundation
Facility ID No. 93048
File No. BPED-19990319MG

MX Group 990106

NEW(Ed. FM), Rockaway Beach, OR
Educational Media Foundation
Facility ID No. 93900
File No. BPED-19990719MK

NEW(Ed. FM), Warrenton, OR
Pacific Lutheran University, Inc.
Facility ID No. 93685
File No. BPED-19990610MD

NEW(Ed. FM), Astoria, OR
World Radio Network, Inc.
Facility ID No. 92452
File No. BPED-19990104ME

NEW(Ed. FM), Astoria, OR
Catholic Broadcasting Northwest, Inc.
Facility ID No. 93831
File No. BPED-19990714MD

MX Group 990604

NEW(Ed. FM), Tillamook, OR
Educational Media Foundation
Facility ID No. 121862
File No. BNPED-19991117ABK

NEW(Ed. FM), Ocean Park, WA
Educational Media Foundation
Facility ID No. 121867
File No. BNPED-19991117ABL

NEW(Ed. FM), Astoria, OR
Tillicum Foundation
Facility ID No. 93999
File No. BPED-19990806MA

NEW(Ed. FM), Hammond, OR
Pacific Lutheran University, Inc.
Facility ID No. 93682
File No. BPED-19990610ME

Dear Counsel:

The Commission currently has before it: (1) the captioned mutually exclusive applications for new noncommercial educational FM stations in Port Angeles, Washington, Sequim, Washington and for a modification of the facilities of KUGS(FM), Bellingham, Washington in MX Group 980811; (2) a July 19, 2001 Joint Request For Approval of Settlement Agreement in MX Group 980811 ("Joint Request #1") filed by Pacific Lutheran University, Inc. ("PLU"), Western Washington University ("WWU"), and Educational Media Foundation ("EMF")¹; (3) the captioned mutually exclusive applications for new noncommercial educational FM stations in Rockaway Beach, Warrenton, and Astoria, Oregon in MX Group 990106; (4) a July 19, 2001 Joint Request For Approval of Settlement Agreements in MX Group 990106 filed by EMF, PLU, World Radio Network, Inc. ("WRN"), and Catholic Broadcasting Northwest, Inc. ("CBN") ("Joint Request #2"); (5) the captioned mutually exclusive applications for new noncommercial educational FM stations in Tillamook, Astoria, and Hammond, Oregon and Ocean Park, Washington in MX Group 990604; (6) a July 19, 2001 Joint Request For Approval of Settlement Agreements in MX Group 990604 filed by EMF, Tillicum Foundation ("Tillicum"), and PLU ("Joint Request #3"); and (7) requests by PLU and EMF for waivers of the Commission's main studio rule, 47 C.F.R. Section 73.1125, to permit them to operate their facilities as satellite stations of other commonly owned noncommercial educational FM stations.

The Joint Requests: Pursuant to the terms of Joint Request #1, the applications of PLU and WWU will be granted and the EMF application will be dismissed. In accordance with Joint Request #2, the applications of EMF, PLU, and WRN would be granted and the application filed by CBN would be dismissed. Lastly, Joint Request #3 contemplates the grant of the EMF and Tillicum applications and the PLU application will be dismissed. The Commission has directed the Media Bureau to waive the provisions of Section 73.3525(a)(3) of the Commission's Rules and accept universal settlements that involve payments to applicants that exceed their reasonable and prudent expenses for certain applications. In light of the Commission's directive, the dismissing applicants are in compliance with the temporary waiver of the reimbursement limitations, and will not receive consideration for dismissing their applications beyond that allowed.²

Compliance with Section 307(b). The three Joint Requests propose to resolve three groups of mutually exclusive applications to construct NCE stations in Washington and

¹ A supplement to the Joint Request #1 was submitted on August 26, 2002.

² See *Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Report and Order*, 15 FCC Rcd 7386 (2000), *modified*, 16 FCC Rcd 5074 (2001), *further recon. denied*, 17 FCC Rcd 13132 (2002).

Oregon. In each group Educational Media Foundation and Pacific Lutheran University, Inc. are competing with one or two other applicants. Under the settlement agreements, the Commission would authorize five organizations to construct eight NCE stations in seven communities and would dismiss the remaining three applications.

The Commission is required to undertake a Section 307(b) NCE comparative analysis³ of the proposed settlements. Generally, the Commission favors those proposals that would provide a first NCE receptive service to the greatest number of listeners: Tillamook (16,187 people), Rockaway (5,875 people), and Sequim (16,486 people). The settlements propose grants in Tillamook and Rockaway, but would dismiss the only application for Sequim. The Sequim dismissal represents a potential loss of first NCE service to 16,486 people (31.3% of the population) and of second NCE reception to 52,611 people (100% of the population). The settlements do, however, bring lesser levels of new NCE reception to five other communities: Bellingham, Port Angeles, and Ocean Park, Washington, and Astoria and Warrenton, Oregon.⁴ When aggregated, these five communities would receive new NCE service comparable to that lost in Sequim: first NCE reception to 15,746 people and second NCE reception to 48,977 people.⁵ When these figures are added to those that the settlement facilitates in the Section 307(b)-preferred communities of Tillamook and Rockaway, the settlements would result in first NCE reception to 37,808 people and second NCE reception to 71,312 people.

Pursuant to Section 73.3525(b) we examined the settlements to determine whether republication is necessary to avoid undue impedance of Section 307(b) objectives. The question of whether to republish is a close call given the proposed dismissal of the Sequim application. Of all the communities in these related settlements, Sequim would have benefited most from a new NCE station. The populations receiving new first and second NCE service from the settlements are comparable, but only if we aggregate lesser Section 307(b) benefits to other communities, some of which are in proceedings not mutually exclusive with Sequim.⁶ We find in this case that the prompt initiation of service tips the balance in favor of settlement. By granting these settlements we can immediately authorize significant first and second NCE service in the Washington/Oregon region, with two of three Section 307(b)-preferred communities receiving service in addition to others. A total of 37,808 people would receive first NCE reception and 71,312 people would receive second NCE reception. Given the uncertainties raised by court challenges to our NCE comparative selection criteria, it

³ See 47 C.F.R. § 73.7002. 47 U.S.C. § 307(b).

⁴ Of these communities, only Bellingham and Port Angeles are part of the Sequim proceeding (MX Group 980811). The Bellingham application proposes a first NCE receptive service to 5,527 people and a second such service to 6,234 people. The Port Angeles application proposes no first service and a second NCE receptive service to 29,972 people.

⁵ These figures exclude a second NCE receptive service to 683 listeners in Astoria because, as the settling parties recognize, service to less than 2,000 people is insignificant under the Commission's Section 307(b) NCE comparative analysis.

⁶ See generally *Sacred Heart University*, 8 FCC Rcd 4108 (Rev. Bd. 1993).

could take considerably longer to initiate comparable first and second levels of service, were we to require republication in the Sequim proceeding and to open a filing window for submission of mutually exclusive applications.⁷ Given these circumstances, we find that the settlements do not unduly impede the objectives of Section 307(b) and we will not require republication.⁸

Main Studio Waiver Requests: Both PLU and EMF have requested waivers of the main studio requirement.⁹ PLU proposes to operate the proposed Port Angeles, Washington and Warrenton, Oregon stations as satellites of its commonly-owned NCE station KPLU-FM, Tacoma, Washington. EMF proposes to operate its Rockaway Beach, Oregon and Ocean Park, Washington stations as satellites¹⁰ of its commonly-owned NCE station KLVR(FM), Santa Rosa, California and the proposed Tillimook, Oregon station as a satellite of commonly-owned station KLRD(FM), Yucaipa, California. The proposed EMF facilities will be part of a network of radio broadcast stations operated by EMF known as the "K-LOVE Radio Network." For the reasons set forth below, we will waive Section 73.1125 of the rules for the PLU and EMF proposals.

Pursuant to Section 73.1125(a), a main studio must be located either (1) within a station's community of license; (2) within the principal community contour of any other broadcast station licensed to its community; or (3) within 25 miles of the center of the community of license.¹¹ However, under Section 73.1125(b)(2), the Commission will waive this requirement 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 a 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.¹² A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 public interest standard.¹³ The requests

⁷ See *State of Oregon*, appeal docketed, No 00-1255 (D.C. Cir. June 16, 2000); *American Family Association*, appeal docketed, No. 00-1310 (D.C. Cir. July 14, 2000).

⁸ See *Mobile Broadcasting Service, Inc.*, 91 FCC 2d 1209 (1982).

⁹ See 47 C.F.R. § 73.1125.

¹⁰ 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 RR 2d 1554, 1562 (1964).

¹¹ 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").

¹² *Id.*

¹³ *Id.*

filed by PLU and EMF are based on the economies of scale which would be realized by a grant of their waiver request. We agree and conclude that there is good cause to waive 47 C.F.R. Section 73.1125(a) in these circumstances.

PLU proposes to operate the Port Angeles, Washington and Warrenton, Oregon stations as satellite stations of KPLU-FM, Tacoma, Washington, approximately 60 miles from Port Angeles and 100 miles from Warrenton. Where there is a considerable distance between parent and satellite stations, as here, we are particularly concerned that the licensees take adequate measures to maintain their awareness of the satellite communities' needs and interests. For Port Angeles, PLU has pledged to: seek input from the Port Angeles community in developing programming strategy to address local and regional issues; (2) subscribe to and strengthen its relationship with the local Port Angeles newspaper, *The Peninsula Daily News*; develop and provide programming to meet the needs and interest of the Port Angeles community based on its ascertainment efforts. For Warrenton, PLU has pledged to: (1) contact local community leaders and other citizens to ascertain the community's problems, concerns and needs; (2) subscribe to the *Daily Astorian*, the local newspaper for the area; (3) make regular visits to Warrenton area in an effort to understand and respond to the issues and concerns of the community; and (4) employ a part-time news reporter in the Olympia area to cover Washington state legislative news, and to the extent that issues and concerns of the Warrenton community are different, cover those issues. For both proposed facilities, PLU has committed to operating a web site to enable local residents of Port Angeles, Washington and Warrenton, Oregon to comment on programming and to receive extensive information about PLU and its radio services and to maintain a toll free telephone number from these communities to the KPLU-FM main studio.

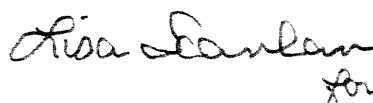
EMF proposes to operate the proposed Ocean Park, Washington, and Rockaway Beach Oregon stations as satellite stations of KLVR(FM), Santa Rosa, California, approximately 560 miles from Ocean Park and approximately 492 miles from Rockaway Beach. EMF also proposes to operate its Tillamook station as a satellite of KLRD(FM), Yucaipa, California, approximately 867 miles from Tillamook. EMF has pledged to: (1) maintain an auxiliary studio within each proposed station's city grade contour, capable of originating local programming that is responsive to local community needs; (2) engage the services of local public affairs representatives in each community to conduct regular ascertainment surveys of community leaders and other residents to determine the concerns, problems and needs of listeners in each community, which will be covered in K-LOVE's news and public affairs programming; (3) have local representatives in each community who will serve as a liaison between the residents and EMF's programming personnel, and (4) maintain a toll-free telephone number to each community and a public inspection file for each station as required by Commission rules.

Under these circumstances, we are persuaded that PLU and EMF will meet their local service obligations and thus, grant of the requested waivers are consistent with the public interest. We remind PLU it must maintain a public file for the proposed Port Angeles, Washington and Warrenton, Oregon stations at the main studio of the parent station, KPLU-FM, Tacoma, Washington. EMF must maintain a public file for its Ocean Park,

Washington and Rockaway Beach, Oregon stations at the main studio of their parent stations, KLVR(FM), Santa Rosa, California and for the Tillamook, Oregon facility at its parent station, KLRD(FM), Yucaipa, California. PLU and EMF must also make reasonable accommodation for listeners wishing to examine the contents of the public files located at the parent stations.¹⁴ We further remind PLU and EMF that, notwithstanding the grant of the waiver requested here, the public file for each station must contain the quarterly issues and programs list, as required by 47 C.F.R. Section 73.3527(e)(8).

Accordingly, the Joint Request for Approval of Settlement Agreement in MX Group 980811 IS GRANTED and the applications filed by Pacific Lutheran University, Inc. (File No. BPED-19980813ME), as amended on July 19, 2001, and Western Washington University (File No. BPED-19990318ME) ARE HEREBY GRANTED and the application of Educational Media Foundation (File No. BPED-19900319MG) IS DISMISSED. The Joint Request for Approval of Settlement Agreement in MX Group 990106 IS GRANTED and the applications filed by Educational Media Foundation (File No. BPED-19970719MK), Pacific Lutheran University, Inc. (File No. BPED-19990610MD), as amended on July 19, 2001, and World Radio Network, Inc. (File No. BPED-19990610MD), as amended on July 19, 2001, ARE HEREBY GRANTED and the application filed by Catholic Broadcasting Northwest, Inc. (File No. BPED-19990714MD) IS DISMISSED. The Joint Request for Approval of Settlement Agreement in MX 990604 IS GRANTED and the applications filed by Educational Media Foundation (File Nos. BNPED-19991117ABK and BNPED-19991117ABL), as amended on July 19, 2001, and Tillicum Foundation (File No. BPED-19990806MA) ARE HEREBY GRANTED and the application filed by Pacific Lutheran University, Inc. (File No. BPED-19990610ME) IS DISMISSED. Lastly, the requests for waiver of 47 C.F.R. Section 73.1125 (the main studio rule) filed by Pacific Lutheran University, Inc. and Educational Media Foundation ARE GRANTED.

Sincerely,

A handwritten signature in dark ink, appearing to read "Peter H. Doyle", with a small flourish at the end.

Peter H. Doyle, Chief
Audio Division
Media Bureau

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