

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D. C. 20554

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IN REPLY REFER TO:
1800B3-ALM

Harry F. Cole, Esq.
Bechtel & Cole
1901 L Street, N.W.
Washington, D. C. 20036

In re: WXHD(FM), Mount Hope, NY
Auricle Communications
Request for Waiver of
47 C.F.R. § 73.1125

Re: WXHD(FM), Mount Hope New York; Request for Waiver of 47 C.F.R. § 73.1125

Dear Mr. Cole:

This is in response to your letter of January 10, 1997. Auricle Communications ("Auricle") has requested a waiver¹ of the Commission's main studio requirement, see 47 C.F.R. § 73.1125, in order to operate station WXHD(FM), Mount Hope, New York as a satellite of its NCE station WFMU(FM), East Orange, New Jersey.² For the reasons set forth below, we will grant the requested waiver.

Section 73.1125(a) requires each broadcast station to maintain a main studio within the station's principal community contour to ensure that the station will serve the needs and interests of the residents of its community of license. Amendment of Sections 73.1125 and 73.1130, 3 FCC Rcd 5024, 5027 (1988). However, under Section 73.1125(a)(4), 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 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. Id. A satellite station must, however, demonstrate that it will meet its local service obligation to satisfy the Section 73.1125 "public interest" standard. Id.

¹This waiver request was associated with the application to assign WXHD(FM) from Shawangunk Communications to Auricle, BALED-960903GM, which was granted by the Commission on October 30, 1996.

²A "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).

Auricle'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) in these circumstances. Auricle proposes to operate WXHD(FM) as a satellite of WFMU(FM), East Orange, New Jersey, approximately 35 miles from Mt. Hope. The Commission expects the licensee of a satellite station to take adequate measures to maintain its awareness of the satellite community's needs and interests. To that end, Auricle has pledged to: (1) ascertain the problems, needs and interests of Mt. Hope through periodic interviews with Mt. Hope and Orange County, New York community leaders; (2) maintain on-going contacts with Mt. Hope and Orange County through station representatives (including employees, volunteers and others) who reside in Mt. Hope and Orange County; (3) review, on a regular basis, one or more newspapers and other media sources from Mt. Hope and Orange County; (4) consult with, in an advisory capacity, the principals of Sahwangunk Communications, the previous licensee of station WXHD(FM); (5) contemplate inclusion of news and public affairs programming relating to Mt. Hope and Orange County in all of Auricle's regularly scheduled, originated programming; (6) contract the services of two program producers who reside within the primary coverage of station WXHD(FM) to provide program segments addressing local issues of Mt. Hope and Orange County; (7) provide training and materials to other residents within the station's service area, so that they will be able to produce locally-directed program segments; (8) assign, as the need arises, other members of Auricle's staff to cover important issues in Mt. Hope and Orange County and (9) provide a toll-free telephone line between Mt. Hope and WXHD(FM)'s main studio in East Orange, New Jersey. We also remind Auricle that it must maintain a public file for WXHD(FM) in Mt. Hope, as required by 47 C.F.R. § 73.3527(d). In these circumstances, we are persuaded that Auricle will meet its local service obligations and thus, that grant of the requested waiver is consistent with the public interest.

Accordingly, Auricle Communications' request for waiver of 47 C.F.R. § 73.1125 IS GRANTED.

Sincerely,

Linda Blair
for

Linda Blair, Chief
Audio Services Division
Mass Media Bureau