

Community of License Change – Section 307(b)
KIYS(FM), Jonesboro, Arkansas to Crawfordsville, Arkansas

Capstar TX Limited Partnership (“Capstar”), licensee of KIYS(FM), Channel 270, Jonesboro, Arkansas, Facility ID No. 51855 (“KIYS” or the “Station”) submits this application (the “Application”) for a construction permit for the minor modification of licensed facilities to specify operation on Channel 270C2 at Crawfordsville, Arkansas, proposing that community’s first local service, in lieu of operation on Channel 270C at Jonesboro, Arkansas.

This exhibit, together with the Technical Exhibit/Change of Principal Community to the Application (the “Technical Exhibit”), demonstrates that the proposed community of license change constitutes a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. § 307(b)). Furthermore, as set forth in the Technical Exhibit, the station specifications requested in the Application are mutually exclusive, as defined in Section 73.207 of the Commission’s Rules, with the current assignment of the Station. As confirmed in the Technical Exhibit to the Application, there is an assignment or allotment site for the facility at the proposed community of license 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. 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. Consequently, the proposed community of license change qualifies for submission as a minor modification application pursuant to Section 73.3573(g) 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, grant of the Application would satisfy the third priority by authorizing a first local aural transmission service at Crawfordsville, Arkansas, which had a 2000 U.S. Census population of 514. ^{2/} The community of Jonesboro would continue to have local aural transmission service from a wide array of stations, including KAOG(FM), Channel 213 (90.5 MHz); KASU(FM), Channel 220 (91.9 MHz); KBTM(AM), 1230 kHz; KEGI(FM), Channel 263 (100.1 MHz); KFIN(FM), Channel 300 (107.9 MHz); KNEA(AM), 970 kHz; as well as multiple received aural transmission services. ^{3/} Thus the Application constitutes a preferential arrangement of allotments under Section 307(b) as compared to the existing allotment/assignment.

Crawfordsville, Arkansas 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. ^{4/} Crawfordsville qualifies under both criteria: it was recognized as a town in the 2000 Census ^{5/} and it is incorporated as a city. ^{6/}

^{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. See also *Report and Order, In the Matter of Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212, 14218 [¶ 10] (2006) (Section 307(b) priorities and policies used by Commission since 1982 continue to apply under new application procedures).

^{2/} See Crawfordsville town, Arkansas, Census 2000 Demographic Profile Highlights, <http://censtats.census.gov/data/AR/1600515940.pdf> (copy attached hereto as Exhibit 1).

^{3/} See Technical Exhibit; FCC CDBS database, at http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/sta_sear.htm (search terms city = “Jonesboro”, state = “AK”).

^{4/} 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

The proposed community of Crawfordsville is not located within the Memphis, Tennessee Urbanized Area (“Memphis UA”). However, because a Crawfordsville-based signal from KIYS(FM) could reach more than 50 percent of the of Memphis UA, a *Tuck* analysis is appropriate. ^{7/} In a *Tuck* analysis, the Commissions considers: (1) the extent to which the station will provide service to the entire urbanized area; 2) the relative populations and proximity of the suburban and central city of the urbanized area; and 3) the independence of the proposed community to the urbanized area. ^{8/} The latter, and most important consideration, is further refined to eight factors: (1) the extent to which the community residents work in the larger metropolitan area, rather than the proposed community; (2) whether the smaller community has its own newspaper or other media coverage; (3) whether community leaders and residents perceive the proposed community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the proposed community has its own local government and elected officials; (5) whether the smaller community has its zip code and its own telephone book provided by a local telephone company; (6) whether the community has its own commercial establishments, health care facilities and transportation systems; (7) the extent to which the proposed community and the central city are part of the same advertising market; and (8) the extent to which the proposed community relies on the larger metropolitan area for various municipal services. ^{9/}

incorporated or listed in the U.S. Census.”); *see also* *Reydon, Oklahoma R&O*, 18 FCC Rcd 3222, 3222 [¶ 2] (MB 2003).

^{5/} *See supra* note 2.

^{6/} The State of Arkansas classifies Crawfordsville as a city of the second class. *See* County and Municipal Information & Services, Crawfordsville, at <http://local.arkansas.gov/local.php?agency=Crawfordsville> (copy attached hereto as Exhibit 2); *see also* Telephone Conversation with Mary Freeman, City Clerk, Crawfordsville Water Department, June 1, 2007.

^{7/} *See* Technical Exhibit; *Talladega and Munford, Alabama*, 20 FCC Rcd 13010, 13011 [¶ 3] (MB 2005) (“*Talladega and Munford*”) (requiring showing of independence under *Tuck* at the allotment stage regardless of transmitter location when near an urban area).

^{8/} *See, e.g., Saluda and Irmo, South Carolina*, 19 FCC Rcd 1078, 1078-79 [¶ 3] (MB 2004) (“*Saluda and Irmo*”) (citing *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) (“*Tuck*”).

^{9/} *Tuck*, 3 FCC Rcd at 5378 [¶ 36].

In the instant proposal, from the proposed reference coordinates, the 70 dBu signal of the Station would cover 89% of the population and 98% of the area of the Memphis UA. 10/ Such service does not preclude favorable consideration as a first local service. 11/ Although Crawfordsville's population is substantially smaller than that of Memphis, Tennessee, the Commission has granted requests when the new community is separate and independent and not a "bedroom" community of the nearby metropolitan area. 12/ Crawfordsville is situated across the Mississippi River and is approximately 20 miles from Memphis, Tennessee, and approximately eight miles from Marion, Arkansas, a city on the outer edge of the Memphis UA. 13/ These distances amply demonstrate the independence of the Crawfordsville community from the Memphis area. 14/ Furthermore, the Commission has granted first local preference under *Tuck* to communities of sizes similar to that of Crawfordsville. 15/

The following factors further demonstrate the independence of Crawfordsville from Memphis.

(1) Extent to which community residents work in the larger metropolitan area.

Various business ventures located within Crawfordsville (described below), including construction, manufacturing, and wholesale trade, provide employment opportunities in the community. The Associated Press has described Crawfordsville's economy as "booming," and highlighted a railway

10/ See Technical Exhibit.

11/ See, e.g., *Bon Air, Chester, Mechanicsville, Ruckersville, Williamsburg and Fort Lee, Virginia*, 11 FCC Rcd 5758, 5760 [¶ 11] (MMB 1996) ("*Bon Air*") (finding community independent when station would place a city grade signal over 100% of the Urbanized Area).

12/ See, e.g., *Ada, Newcastle, and Watonga, Oklahoma*, 11 FCC Rcd 16896, 16897 [¶ 3] (MMB 1996).

13/ Attached as Exhibit 3 are maps from the Census Bureau showing the boundaries of Crawfordsville and the Memphis UA, as well as a map with distances calculated from internet map provider Mapquest.

14/ See, e.g., *Mullins and Briarcliffe Acres, South Carolina*, 14 FCC Rcd 10516, 10517 [¶ 3] (MMB 1999) (finding community independent with a four-mile separation from Urbanized Area); *Bon Air*, 11 FCC Rcd 5758, 5760 [¶ 11] (finding community independent with a three-mile separation from central city of Urbanized Area).

15/ See, e.g., *Park City, Montana*, 19 FCC Rcd 2092, 2094 [¶ 12] (MB 2004) (population of 870, less than one percent of that of central city of Urbanized Area).

facility that is expected to attract other business to the community. 16/ According to 2000 Census figures, 34 of 186 employed persons, or 18.3%, work within Crawfordsville itself, and 63.4% work within Crittenden County, Arkansas. 17/ This percentage compares favorably with other communities deemed independent under a *Tuck* analysis. 18/

(2) Whether the community has its own newspaper or other media coverage.

Although there is no local print newspaper based in Crawfordsville, community residents can access local community coverage in *The Evening Times*, published for and about Crittenden County residents. 19/

(3) Whether community leaders and residents perceive the proposed community as being an integral part of, or separate from, the larger metropolitan area. Crawfordsville is a community in the East Arkansas Delta which, although somewhat close geographically to metropolitan Memphis, is distinct in character. In a recent profile of the town, the Memphis Commercial Appeal noted that the community's agricultural roots separate it from the Memphis suburbs nearby. 20/ Local business leaders, though hard-hit by the transitioning economy, have vowed to persevere to preserve the community. 21/ Much of the spirit of Crawfordsville is exemplified by the mural depicting many of the city's residents at Uncle John's Restaurant, the

16/ See Cristina Rodriguez, "Black districts decide to merge despite desegregation clause," AP Alert-Arkansas, Mar. 17, 2004 (copy attached hereto as Exhibit 4).

17/ See U.S. Census Bureau, Place of Work for Workers 16 Year and Over, Census 2000 Summary File, Crawfordsville town, Arkansas (copy attached hereto as Exhibit 5); U.S. Census Bureau, Employment Status and Commuting to Work, Census 2000 Summary File, Crawfordsville town, Arkansas (copy attached hereto as Exhibit 6).

18/ See e.g., *Charles Town, West Virginia and Stephens City, Virginia*, DA 06-343 [¶ 5] (MB rel. Feb. 17, 2006) (11 percent of employed residents working in proposed community, along with the presence of local businesses, supports a favorable *Tuck* finding); *Coolidge and Gilbert, Arizona*, 11 FCC Rcd 3610, 3610 [¶ 4] (MMB 1996) (13 percent of the workforce working in specified community sufficient to support a favorable *Tuck* finding).

19/ See <http://www.theeveningtimes.com> (copy attached hereto as Exhibit 7).

20/ See "Crawfordsville Is Ready to Work Harder," Memphis Commercial Appeal, Nov. 15, 2003 (copy attached hereto as Exhibit 8).

21/ See *id.*

local Italian eatery that serves as the cultural center of town and attracts hungry visitors from all over the area. 22/

(4) Whether the proposed community has its own local government and elected officials. Crawfordsville is governed by an elected Mayor and a town council with six members. 23/ The town is also served by a City Attorney, Treasurer, Recorder, Fire Chief, and Water Superintendent. 24/

(5) Whether the community has its zip code and its own telephone book provided by a local telephone company. The zip code for Crawfordsville is 72327. 25/ The Crawfordsville post office is located at 5482 Main Street. 26/ While Crawfordsville does not have its own telephone book, this is a factor that has not been determinative of independent status. 27/

(6) Whether the community has its own commercial establishments, health care facilities and transportation systems. Within the Crawfordsville community, there are a variety of commercial establishments, including both wholesale and retail trade. 28/ There is at least one facility classified as providing health care and social assistance. 29/ There are also seven churches

22/ See William Thomas, "Dab of Fantasy Transports Townsfolk," Memphis Commercial Appeal, Nov. 4, 1993 (copy attached hereto as Exhibit 9).

23/ See supra note 6.

24/ Id.

25/ See http://zip4.usps.com/zip4/zcl_1_results.jsp (copy attached hereto as Exhibit 10).

26/ See http://www.switchboard.com/_1_208EUHO03RYRJUH__usps.1355/dir/poresults.htm?MEMID=&SD=100&CN=100&CID=1222&A=&T=mcdonald&S=OH&Z=44437&Search.x=0&Search.y=0 (copy attached hereto as Exhibit 11).

27/ See, e.g., *Bon Air*, 11 FCC Rcd at 5760 [¶ 11] (community that qualifies for local transmission service does not have its own telephone book provided by the local telephone company).

28/ See ZIP Code Business Patterns (NAICS), 2005 Industry Code Summary, 72327 (Crawfordsville, AR), <http://censtats.census.gov/cbpnaic/cbpnaic.shtml> (enter ZIP code "72327"); Yellow Book, Agriculture, Autos, Trucks, and Recreational Vehicles, Building and Construction, Business-to-Business, Clothing, Dining, Education and Training, Entertainment, Food and Drink, House and Home, Housing and Real Estate, Manufacturing and Engineering, and Shopping listings in Crawfordsville, AR, available at <http://www.yellowbook.com/> (copy attached hereto as Exhibit 12).

29/ See *id.*

in the Crawfordsville community, a factor which the Commission has considered favorably under *Tuck*. 30/

(7) Extent to which the proposed community and the central city are part of the same advertising market. Crawfordsville is part of the Memphis, Tennessee Arbitron Metro market. 31/ As mentioned above, advertisers may target Crawfordsville residents through the Crittenden County-focused *Evening Times*. Alternatively, they may advertise in the Memphis Commercial Appeal, although few community residents read that paper on a regular basis. 32/

(8) Extent to which the proposed community relies on the larger metropolitan area for various municipal services. Crawfordsville provides many services directly to its residents. For instance, Crawfordsville boasts its own volunteer fire department, 33/ a library, 34/ and municipal water services. 35/ Other services, such as police protection, are provided by Crittenden County. 36/ Crawfordsville had its own school district until state law forced it to merge with Marion School District No. 3 in Crittenden County. 37/ Because Crawfordsville provides some

30/ See Yellow Book, Community & Social Service listings in Crawfordsville, AR, available at <http://www.yellowbook.com/?A=1&T=1&Q=categories%3A+Community+%26+Social+Services&BN=&WH=Crawfordsville%2C+AR&x=51&y=13> (copy attached hereto as Exhibit 13); *Talladega and Munford*, FCC Rcd at 13012 [¶ 6].

31/ See BIA Media Access Pro.

32/ See Telephone Conversation with Mary Freeman, City Clerk, Crawfordsville Water Department, June 1, 2007.

33/ See Fire Departments Net, <http://www.firedepartments.net/Arkansas/Crawfordsville/CrawfordsvilleVolunteerFireDepartment.html> (copy attached hereto as Exhibit 14).

34/ See Arkansas State Public Library Search, <http://www.state.ar.us/asl/> (search “City” field for “Crawfordsville” (copy attached hereto as Exhibit 15).

35/ See Telephone Conversation with Mary Freeman, City Clerk, Crawfordsville Water Department, June 1, 2007.

36/ *Id.*

37/ See “Crawfordsville, Marion School Districts Officially Merged,” AP Alert—Arkansas, Sept. 13, 2004 (copy attached hereto as Exhibit 16).

services of its own and is not dependent on Memphis, Tennessee for any services, some credit should be awarded under this *Tuck* factor. 38/

Under Commission precedent, these indicia of an independent community confirm that Crawfordsville is a place deserving of its own local aural transmission service and that grant of the Application would further the public interest in the fair, efficient and equitable distribution of radio services.

38/ See *Talladega and Munford*, 20 FCC Rcd at 13012 [¶ 5].