

**FEDERAL COMMUNICATIONS COMMISSION**  
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**WASHINGTON DC 20554**

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April 9, 2010

Barry A. Friedman, Esq.  
Thompson Hine LLP  
1920 N Street NW, Suite 800  
Washington, DC 20036-1600

Re: Bay Broadcasting, Inc.  
WBEY-FM, Crisfield, Maryland  
Facility Identification Number: 27438  
Special Temporary Authority

Dear Counsel:

This is in reference to the request filed April 5, 2010, on behalf of Bay Broadcasting, Inc. ("BBI"). BBI requests special temporary authority ("STA") to operate Station WBEY-FM with temporary facilities.<sup>1</sup> In support of the request, BBI states that it has lost the use of the licensed site and must remove its equipment from the current location. BBI seeks STA to operate with temporary facilities from an existing tower, and states that it plans to file an application for permanent relocation of the station as soon as a lease is negotiated and a contract for a new directional antenna is finalized.

STA requests which involve a change in transmitter site must include four critical elements: (1) Loss of the licensed site must be beyond the licensee's control; (2) STA facilities must continue to provide service<sup>2</sup> to the licensed community; (3) STA facilities must maintain, as closely as practicable, the licensed service area<sup>3</sup> without extending it; (4) STA facilities cannot involve the construction of towers intended for permanent use by the station requesting the STA.

Our review indicates that the proposed operation with effective radiated power ("ERP") of 0.75 kilowatt would result in substantial extension of the 60 dBu contour beyond the licensed contour. However, if the ERP is reduced to 0.45 kilowatt, the extension would be eliminated. STA is granted with a power reduction to 0.45 kilowatt.

Accordingly, the request for STA IS HEREBY GRANTED, with a power reduction as discussed above. Station WBEY-FM may operate with the following facilities:

Geographic coordinates:	37° 58' 30" N, 75° 49' 45" W (NAD 1927)
Channel	250 (97.9 MHz)
Effective radiated power:	<b>0.45 kilowatt (H&amp;V)</b>

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<sup>1</sup> WBEY-FM is licensed for operation on Channel 250A (97.9 MHz) with effective radiated power of 4.3 kilowatts (Max-DA, H&V) and antenna height above average terrain of 116 meters.

<sup>2</sup> For AM - 5 mV/m; for commercial FM - 3.16 mV/m; for noncommercial educational FM - 1.0 mV/m.

<sup>3</sup> For AM - 0.5 mV/m contour; for FM - 1.0 mV/m contour.

Antenna height:  
above ground: 156 meters  
above mean sea level: 157 meters  
Above average terrain: 157 meters

BBI must notify the Commission when licensed operation is restored. BBI must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **October 9, 2010**.

**STA Advisory:** Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,



Charles N. Miller, Engineer  
Audio Division  
Media Bureau

cc: Bay Broadcasting, Inc.