



(REFERENCE COPY - Not for submission)
New Low Power FM Station Construction Permit Application

File Number: **BNPL-20010615AMY** | Submit Date: **06/15/2001** | Lead Call Sign: **WRES-LP** | Facility ID: **135084**

FRN: **0007940562**

Service: **Low Power FM** | Purpose: **Construction Permit** | Status: **Superseded** | Status Date: **02/12/2003** | Filing Status: **Inactive**

General Information

Section	Question	Response
Attachments	Are attachments (other than associated schedules) being filed with this application?	

Fees, Waivers, and Exemptions

Section	Question	Response
Waivers	Does this filing request a waiver of the Commission's rule (s)?	
	Total number of rule sections involved in this waiver request:	

Applicant Information

Applicant Name, Type, and Contact Information

Applicant	Address	Phone	Email	Applicant Type
EMPOWERMENT RESOURCE CENTER OF ASHEVILLE & BUNCOMBE CO. INC. Applicant Doing Business As: EMPOWERMENT RESOURCE CENTER OF ASHEVILLE & BUNCOMBE CO. INC.	NAACP 91 PATTON AVENUE ASHEVILLE, NC 28801 United States	+1 (828) 281- 3066	ABNAACP@BELLSOUTH. NET	OTH

Contact Representatives (2)

Contact Name	Address	Phone	Email	Contact Type
TIMOTHY L. WARNER, P.E.	87 N. LIBERTY STREET ASHEVILLE, NC 28801- 1829 United States	+1 (828) 258- 1238	TWARNER@TLWINC. NET	Technical Representative
JOHN R. HAYES NAACP - ASHEVILLE	United States	+1 (828) 281- 3066	ABNAACP@BELLSOUTH. NET	Legal Representative

Parties to the Application (4)

Party Name	Address	Phone	Email	Positional Interest
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SOPHIE DIXON - 424 BROOKLYN ROAD - ASHEVILLE, NC 28803	NAACP 91 PATTON AVENUE ASHEVILLE, NC 28801 United States	+1 (828) 281- 3066	ABNAACP@BELLSOUTH. NET	Positional Interest: VICE PRESIDENT Citizenship: United States Percentage of Votes: 25% Percentage of Total Assets: 0%
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LAFREDIA B. MORRIS - 117 HOUSTON STREET - P. O. BOX 1541 - ASHEVILLE, NC 28801	NAACP 91 PATTON AVENUE ASHEVILLE, NC 28801 United States	+1 (828) 281- 3066	ABNAACP@BELLSOUTH. NET	Positional Interest: SECRETARY Citizenship: United States Percentage of Votes: 25% Percentage of Total Assets: 0%
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JOHN R. HAYES 47 WAKE FOREST WAY ASHEVILLE, NC 28805	NAACP 91 PATTON AVENUE ASHEVILLE, NC 28801 United States	+1 (828) 281- 3066	ABNAACP@BELLSOUTH. NET	Positional Interest: PRESIDENT/CEO Citizenship: United States Percentage of Votes: 25% Percentage of Total Assets: 0%
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CLAUDIA TUCKER - 972 W. CHAPEL ROAD - ASHEVILLE, NC 28803	NAACP 91 PATTON AVENUE ASHEVILLE, NC 28801 United States	+1 (828) 281- 3066	ABNAACP@BELLSOUTH. NET	Positional Interest: TREASURER Citizenship: United States Percentage of Votes: 25% Percentage of Total Assets: 0%
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Attributable Interest

Section	Question	Response
Equity and Financial Interests	Applicant certifies that equity and financial interests not listed in the Parties to the Application section are non-attributable pursuant to the notes to 47 C.F.R. Section 73.3555.	No
Other Authorizations	Does the applicant or any party to the application have an attributable interest in any other broadcast station(s).	
Broadcast Incubator Program	Is the proposed facility the subject of an incubation proposal or a 'reward' waiver request under the Commission's Broadcast Incubator Program?	

Multiple Ownership	Is the applicant or any party to the application the holder of an attributable radio joint sales agreement or an attributable radio time brokerage agreement in the same market as the station subject to this application?	
	Applicant certifies that the proposed facility complies with the Commission's multiple ownership rules.	
	Applicant certifies that the proposed facility: (a) does not present an issue under the Commission's policies relating to media interests of immediate family members; (b) complies with the Commission's policies relating to future ownership interests; and (c) complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors.	
	Does the Applicant claim status as an "eligible entity," that is, an entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping (as set forth in 13 C.F.R. § 121.201), and holds: (a) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or (b) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (c) more than 50 percent of the voting power of the corporation that will own the media outlet (if such corporation is a publicly traded company)?	

Alien Ownership

Question	Response
1) Is the applicant a foreign government or the representative of any foreign government as specified in Section 310(a) of the Communications Act?	
2) Is the applicant an alien or the representative of an alien? (Section 310(b)(1))	
3) Is the applicant a corporation, or non-corporate entity, that is organized under the laws of any foreign government? (Section 310(b)(2))	
4) Is the applicant an entity of which more than one-fifth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country? (Section 310(b)(3))	
5) Is the applicant directly or indirectly controlled by any other entity of which more than one-fourth of the capital stock, or other equity or voting interest, is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any entity organized under the laws of a foreign country? (Section 310(b)(4))	
6) Has the applicant received a declaratory ruling(s) under Section 310(b)(4) of the Communications Act?	
6a) Enter the citation of the applicable declaratory ruling by DA/FCC number or the FCC Record citation, release date, or any other identifying information.	
7) Has there been any change in the applicant's foreign ownership since issuance of the declaratory ruling(s) cited in response to Question 6?	

7a) Enter the File or Docket Number of the Petition for Declaratory Ruling that the applicant has filed for its foreign ownership in connection with this application pursuant to Section 310(b)(4) of the Communications Act.	
8) Does the applicant certify that it is in compliance with the terms and conditions of the foreign ownership declaratory ruling(s) cited in response to Question 6?	
9) In connection with this application, is the applicant filing a foreign ownership Petition for Declaratory Ruling pursuant to Section 310(b)(4) of the Communications Act?	

**Legal
Certifications**

Section	Question	Response
Obligations	Licensee/Permittee certifies that all terms, conditions, and obligations set forth in the underlying construction permit have been fully met.	
	Licensee/Permittee certifies that, apart from changes already reported, no cause or circumstance has arisen since the grant of the underlying construction permit which would result in any statement or representation contained in the construction permit application to be now incorrect.	
Character Issues	<p>Applicant certifies that neither the applicant nor any party to the application has or had any interest in, or connection with:</p> <p>(a) any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or</p> <p>(b) any pending broadcast application in which character issues have been raised.</p>	Yes
Adverse Findings	Applicant certifies that, with respect to the applicant and any party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any laws related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.	Yes
Operational Compliance	Applicant certifies that it is not the licensee or permittee of the commercial primary station being rebroadcast and that neither it nor any parties to the application have any interest in or connection with the commercial primary station being rebroadcast? See 47 C.F.R. Section 74.1232(d).	
	Applicant certifies that the FM translator's (a) 1mV/m coverage contour does not extend beyond the protected contour of the commercial FM primary station to be rebroadcast, or (b) entire 1mV/m coverage contour is contained within the greater of either: (i) the 2 mV/m daytime contour of the commercial AM primary station to be rebroadcast, or (ii) a 25-mile radius centered at the commercial AM primary station's transmitter site.	
Support Compliance	The applicant, if for a commercial FM translator station with a coverage contour extending beyond the protected contour of the commercial primary station being rebroadcast, certifies that it has not received any support, before or after constructing, directly or indirectly, from the licensee /permittee of the primary station or any person with an interest in or connection with the licensee or permittee of the primary station, except for technical assistance as provided for under 47 C.F.R. Section 74.1232(e).	

Rebroadcast Certification	For applicants proposing translator rebroadcasts that are not the licensee of the primary station, the applicant certifies that written authority has been obtained from the licensee of the station whose programs are to be retransmitted.	
Station Ready for Operation	Applicant certifies that station is now in satisfactory operating condition and ready for regular operation.	
Programming	The applicant certifies that it is the licensee of the primary station or the applicant certifies that written authority has been obtained from the licensee of the primary station whose programming is to be retransmitted.	
Eligibility Certifications	The applicant certifies that it is a:	
	If the applicant is submitting multiple applications, is this application the "priority" application? See Creation of a Low Power Radio Service, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 19208, 19239-40, 79-80, paras. 79-80 (2000).	
	The applicant certifies that the Commission has previously granted a broadcast application identified here by file number that found this applicant qualified as a noncommercial educational entity with a qualifying educational program, and that the applicant will use the proposed station to advance a program similar to that the Commission has found qualifying in applicant's previous application.	
	The applicant certifies that its governing documents (e.g., articles of incorporation, by-laws, charter, enabling statute, and/or other pertinent organizational document) permit the applicant to advance an educational program and that there is no provision in any of those documents that would restrict the applicant from advancing an educational program or complying with any Commission rule, policy, or provision of the Communications Act of 1934, as amended.	
Community-Based Criteria	Applicants must certify that they are local to be eligible for LPFM authorizations. An applicant must select "yes" to at least one of the certifications below to be eligible for an LPFM license. The applicant certifies that: it is a nonprofit educational institution or organization that is physically headquartered or has a campus within 16.1 kilometers (10 miles), if applicant is in the top 50 urban markets, or 32.1 kilometers (20 miles) if applicant is outside the top 50 urban markets, of the proposed transmitting antenna site set forth in this application	Yes
	it is a nonprofit educational institution or organization that has 75 percent of its board members residing within 16.1 kilometers (10 miles), if applicant is in the top 50 urban markets, or 32.1 kilometers (20 miles) if applicant is outside the top 50 urban markets, of the proposed transmitting antenna site set forth in this application	Yes
	it is a Tribe and its Tribal Lands, as that term is defined in Section 73.7000 of the Commission's rules, are within the service area of the proposed LPFM station; or it is a Tribal organization owned or controlled by a Tribe (or Tribes) and such Tribe's (or Tribes') Tribal Lands, as that term is defined in Section 73.7000 of the Commission's rules, are within the service area of the proposed LPFM station. See 47 C.F.R. Sections 73.853(c) and 73.7000.	
	it proposes a public safety radio service and has jurisdiction within the service area of the proposed LPFM station.	Yes

Ownership	The applicant certifies that: no party to this application has an attributable interest in any low power FM broadcast station	Yes
	1. no party to this application has an attributable interest in any non-LPFM broadcast station, including any full power AM or FM station, FM translator station, full or low power television station, or any other media subject to the Commission's broadcast ownership restrictions	Yes
	2. no party to this application has pending an application for a low power FM, full power AM or FM station, FM translator station, or full or low power television station;	
	the applicant is in compliance with the Commission's policies relating to media interests of immediate family members; and	Yes
	the applicant is in compliance with the Commission's policies relating to investor insulation and the non-participation of non-party investors and creditors.	Yes
Unlicensed Operation	The applicant certifies, under penalty of perjury, that neither the applicant nor any party to the application has engaged in any manner, individually or with other persons, groups, organizations, or other entities, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. Section 301.	
Financial	The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.	
Holding Period Certifications	Applicant certifies that this application does not propose a modification to an authorization that was awarded on the basis of a preference for fair distribution of service pursuant to 47 U.S.C. Section 307(b).	
	Applicant certifies that this application does not propose a modification to an authorized station that received a credit for superior technical parameters under the point system selection method in 47 C.F.R. Section 73.7003.	
Fair Distribution of Service Pursuant to 47 U.S.C. Section 307(b)	Applicant certifies that the proposed station will provide a first rural (reception) service.	
	Applicant certifies that: (a) it is a Tribal Applicant, as defined in 47 C.F.R. Section 73.7000; (b) the facilities proposed in this Application will provide Tribal Coverage, as defined in 47 C.F.R. Section 73.7000, of Tribal Lands occupied by the applicant Tribe(s); (c) the proposed community of license is located on Tribal Lands, as defined in 47 C.F.R. Section 73.7000; and (d) the proposed facility would be the first local Tribal-owned noncommercial educational transmission service at the proposed community of license	
	Applicant certifies that the proposed station will provide a first noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and (b) to a minimum of 2,000 people.	
	Applicant certifies that the proposed station will provide a second noncommercial educational aural service, or an aggregated first and second noncommercial educational aural service, to (a) at least 10 percent of the people residing within the station's 60 dBu (1 mV/m) service contour and (b) to a minimum of 2,000 people.	

Auction Authorization	If the application is being submitted to obtain a construction permit for which the applicant was the winning bidder in an auction, then the applicant certifies, pursuant to 47 C.F.R. Section 73.5005(a), that it has attached an exhibit containing the information required by 47 C.F.R. Sections 1.2107(d), 1.2110(i), 1.2112(a) and 1.2112(b), if applicable.	
Tribal Priority – Threshold Qualifications	Is the Applicant applying for an FM allotment set forth in a Public Notice announcing a Tribal Threshold Qualifications window?	
Petition for Rulemaking /Counterproposal to Add New FM Channel to FM Table of Allotments	This application is being submitted concurrently with a Petition for Rulemaking or Counterproposal to Amend the FM Table of Allotments (47 C.F.R. Section 73.202) to add a new FM channel allotment. The petitioner/counter-proponent certifies that, if the FM channel allotment requested is allotted, petitioner/counter-proponent will apply to participate in the auction of the channel allotment requested and specified in this application.	

Point System Factors

New station and major change LPFM applicants must complete the following questions. Point system factors are used only for selection among mutually exclusive applications for new LPFM stations and major modifications of authorized LPFM stations. Mutually exclusive applicants will be awarded one point for each of the following:

Section	Question	Response
Preliminary Matter	Does this application provide fill-in service only?	
Local Program Origination	The applicant pledges to originate locally at least eight hours of programming per day.	
Main Studio	The applicant pledges to maintain a publicly accessible main studio that has local program origination capability, is reachable by telephone, is staffed at least 20 hours per week between 7 a.m. and 10 p.m., and is located within 16.1 kilometers (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets and 32.1 kilometers (20 miles) for applicants outside the top 50 urban markets.	
	An applicant claiming a point under 3. must provide the proposed address and telephone number for the main studio.	
	Address Line 1:	
	Address Line 1:	
	City:	
	State:	
	Zip Code:	
Phone:		
Established Community Presence	The applicant certifies that it is a:	
Local Program Origination and Main Studio	The applicant certifies that it qualifies for a point under both the local program origination and the main studio criteria.	
Established Local Applicant	Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 C.F.R. Section 73.7000, that its governing documents require that such localism be maintained, and that it has placed documentation of its qualifications as an established local applicant in a local public inspection file and has submitted to the Commission copies of the documentation.	

Diversity of Ownership	Applicant certifies that the principal community (city grade) contour of the proposed station does not overlap the principal community contour of any other authorized station (comparing radio to radio and television to television, including non-fill-in translator stations, other than those identified in (b) below, in which any party to the application has an attributable interest as defined in 47 C.F.R. Section 73.3555, that its governing documents require that such diversity be maintained, and that it has placed documentation of its diversity qualifications in a local public inspection file and has submitted to the Commission copies of the documentation	
	The applicant certifies that neither it nor any party to the application holds an attributable interest in any other broadcast station.	
State-wide Network	Applicant certifies that (a) it has NOT claimed a credit for diversity of ownership above; (b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and (c) it has placed documentation of its qualifications in a local public inspection file and has submitted to the Commission copies of the documentation.	
Technical Parameters	Applicant certifies that the numbers in the boxes below accurately reflect the new area and population that its proposal would serve with a 60 dBu (FM) or Grade B (TV) signal measured in accordance with the standard predicted contours in 47 C.F.R. Sections 73.313(c) (FM), 73.683(TV) and 73.622(e) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include new area proposed only (exclude any area already within the station's existing service area). (Points, if any, will be determined by FCC)	
	New area served in square kilometers (excluding areas of water):	
	Population served based on the most recent census block data from the United States:	
Existing Authorizations	By placing a number below, the applicant certifies that it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, existing authorizations for the following number of relevant broadcast stations. FM translator applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial and FM translator stations other than fill-in stations.	
	(Fill-in Applicants Only.) By placing a number below, the applicant certifies that, in addition to the station identified in (a), it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, existing authorizations for the following number of FM translators.	
Pending Applications	By placing a number below, the applicant certifies that it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, pending applications for new or major changes to the following number of relevant broadcast stations. FM translator applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial and FM translator stations other than fill-in stations.	

	(Fill-in Applicants Only.) By placing a number below, the applicant certifies that, in addition to the station identified in (a), it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, pending authorizations for the following number of FM translators.	
Tribes or Tribal Organizations	The applicant certifies it is a Tribe proposing to locate its transmitting antenna site on its Tribal Lands, or a Tribal organization proposing to locate its transmitting antenna site on the Tribal Lands of the Tribe or Tribes that own or control more than 51 percent of the organization.	

Involuntary Time-Share Information

New station and major change applicants must complete the following questions.

This information will be used only for selection among mutually exclusive applications for the new LPFM stations and major modification of authorized LPFM stations and only in the event that two or more applications are tied after the point system analysis. See 47 C.F.R. Section 73.872

Section	Question	Response
Established Community Presence	Provide the date on which the applicant qualified as local. See 47 C.F.R. Section 73.853(b).	
	Applicant certifies that it has remained local at all times since this date.	

Channel and Facility Information

Section	Question	Response
Proposed Community of License	State	North Carolina
	City	ASHEVILLE
	Channel	264
	Frequency	100.7

Antenna Location Data

Section	Question	Response
Antenna Structure Registration	Do you have an FCC Antenna Structure Registration (ASR) Number?	No
	ASR Number	
Coordinates (NAD83)	Latitude	35° 35' 39.4" N+
	Longitude	082° 33' 19.4" W-
	Structure Type	
	Overall Structure Height	40 meters
	Support Structure Height	
	Ground Elevation (AMSL)	671 meters
Antenna Data	Height of Radiation Center Above Ground Level	Horizontal:39 meters Vertical:
	Height of Radiation Center Above Mean Sea Level	Horizontal:710 meters Vertical:0 meters
	Minimum Effective Radiated Power	Horizontal: 50.0 W Vertical: 50.0 W

Maximum Effective Radiated Power	Horizontal: 100.0 W Vertical: 100.0 W
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Technical Certifications

Section	Question	Response
Environmental Effect	Would a Commission grant of Authorization for this location be an action which may have a significant environmental effect? (See 47 C.F.R. Section 1.1306)	Yes
Reasonable Site Assurance	Applicant certifies that it has reasonable assurance in good faith that the site or proposed structure at the location of its transmitting antenna will be available to the applicant for the applicant's intended purpose.	
	If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.	
	Name of the person contacted	
	Phone number of the person contacted	
	Person contacted is	

Certification

Section	Question	Response
General Certification Statements	The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by authorization or otherwise, and requests an Authorization in accordance with this application (See Section 304 of the Communications Act of 1934, as amended.).	
	The Applicant certifies that neither the Applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to §5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under §1.2002(c) of the rules, 47 CFR . See §1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification § 1.2002(c). The Applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.	
Authorized Party to Sign	<p>FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID</p> <p>Upon grant of this application, the Authorization Holder may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements will result in automatic cancellation of the Authorization. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of Authorization requested in this application.</p> <p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, §1001) AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, §312(a)(1)), AND /OR FORFEITURE (U.S. Code, Title 47, §503).</p>	

I declare, under penalty of perjury, that I am an authorized representative of the above-named applicant for the Authorization(s) specified above.

JOHN R. HAYES

Attachments

File Name	Uploaded By	Attachment Type	Description	Upload Status
<u>569934_28049.txt</u>	Applicant	All Purpose	EMPOWERMENT CENTER	Done with Virus Scan and/or Conversion
<u>569934_28050.txt</u>	Applicant	All Purpose	ARTICLES OF INCORPORATION / 56-145-2283	Done with Virus Scan and/or Conversion