

In re: Application of
Central Baptist Theological Seminary of
Minneapolis
For Minor Change to FM Translator Station
K250BY, Plymouth, MN

² *In re Application of Park Public Radio, Inc. for Minor Change*, File No. 0000142335, Central Baptist's Petition to Deny (Apr. 12, 2021) ("Central Baptist Petition").

Reply³ to PPR's application, PPR's application was prematurely filed on March 31, 2021, before KQEP-LP's license expired, and thus should not be entitled to the benefit of the "first come/first served" procedure set forth in section 73.3573(f).⁴ Had PPR followed the Commission's rules and filed its application after KQEP-LP's license expired, Central Baptist and PPR would have equal chances for consideration as anticipated by *Ashbacker*⁵ and the Commission's rules and procedures. As noted in Central Baptist's Reply, however, PPR was aware that Central Baptist was planning to file an application as soon as possible after the KQEP-LP license expired, respecting the Commission's rules and procedures.⁶ In an attempt to undercut Central Baptist's chances for fair consideration, PPR filed its application before KQEP-LP's license expired, so as to improperly obtain the benefit of section 73.3573.⁷ As noted in Central Baptist's pleadings before the PPR application, such gamesmanship of the Commission's rules should not be permitted or rewarded.⁸ Allowing PPR's application to proceed undermines the Commission's established rules and processes and would set a precedent that would result in uncertainty and confusion about application timing.⁹ Such uncertainty would deprive qualified applicants of fair consideration, and thereby undermine the Commission's primary goal of ensuring that the scarce resource it has been

³ *In re Application of Park Public Radio, Inc. for Minor Change*, File No. 0000142335, Central Baptist's Reply (May 7, 2021) ("Central Baptist Reply").

⁴ 47 C.F.R. § 73.3573(f) provides that "[p]rocessing of these applications will be on a 'first come/first served' basis with the first acceptable application cutting off the filing rights of subsequent applicants."

⁵ *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945).

⁶ Central Baptist Reply at 6.

⁷ *Id.*; see also Central Baptist Petition at 2-5.

⁸ Central Baptist Petition at 3-5; Central Baptist Reply at 3-6.

⁹ Central Baptist Petition at 4-5.

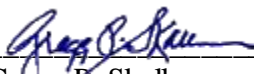
directed to manage is allocated to the person who will put it to the best possible use.¹⁰ PPR's Informal Objection should thus be denied, and Central Baptist's application granted.

At minimum, the Commission should resolve the dispute regarding the acceptability of PPR's application before taking any action on Central Baptist's application.¹¹ Should the Commission dismiss Central Baptist's application and subsequently find that PPR's application is improper, Central Baptist will have been deprived of the fair opportunity to be considered as the first validly filed application.

WHEREFORE, for the reasons above and outlined in the record before the application of Park Public Radio, Inc. for a minor modification, Park Public Radio, Inc.'s Informal Objection should be dismissed and Central Baptist's application should be granted.

Respectfully submitted,

CENTRAL BAPTIST THEOLOGICAL SEMINARY
OF MINNEAPOLIS

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¹⁰ *Id.*

¹¹ In addition to the premature filing, Central Baptist has also raised concerns regarding invalid short spacing that would result if PPR's application were granted. Were the Commission to permit PPR's premature application to proceed, regardless of the procedural defects, PPR would still need to comply with the technical rules and requirements; the application as proposed does not currently comply. *See* Central Baptist Petition at 5-7.

CERTIFICATE OF SERVICE

I, Gregg P. Skall, with the law firm of Telecommunications Law Professionals PLLC, do hereby certify that a true and correct copy of the foregoing "Petition to Deny" was served by U.S. mail, first class, postage-prepaid on the 7th day of May, 2021, on the following individuals:

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Federal Communications Commission
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