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In the matter of:

St. Paul's Parish/St. Paul's Episcopal Church (*assignor*) WMJS-LP File # 0000214919
Strategic Music Partnerships (*proposed assignee*)

INFORMAL OBJECTION

In accordance with §73.3587 of the Commission's Rules, REC Networks ("REC") is filing an *Informal Objection* on the above captioned application for St. Paul's Parish/St. Paul's Episcopal Church ("SPP") and Strategic Music Partnerships ("SMP") (*collectively, "Applicant"*) for the reasons herein.¹ In this proceeding, REC reaches the conclusion that this application must be dismissed for violations of Sections 73.853(b) and 1.17(a) of the Commission's Rules.²

Background

WMJS-LP is an LPFM station, currently authorized at geographic coordinates 38-32-13.4 N latitude, 76-35-12.8 W longitude.³ The station has been silent since May 21, 2023.⁴ The station is physically located in Prince Frederick, Maryland, which is in Calvert County. Calvert County, Maryland is considered by Nielsen Audio to be in the Washington, DC metropolitan market. Washington, DC is considered market number 8 by Nielsen Audio.⁵

The instant application suggests that SMP has three board members with equal voting percentages. This includes Joseph Sims of Washington, DC and Jason Harris of Fort Washington Maryland, whom both provided physical addresses and Henry Harris, whom provided only a post office box in Oxon Hill, Maryland and does not provide a physical address.

A public records search at the State of Maryland show that SMP as a tax-exempt corporation in good standing. The Articles of Incorporation, suggest that the principal office of the corporation is at 2007 High Timber Road, Fort Washington, Maryland.

§73.853(b) of the Commission's Rules ("Rules") states that only local applicants will be permitted to submit applications and hold authorizations in the LPFM service.⁶ The Rules define a local applicant as one where the applicant, its local chapter or branch is physically headquartered or

¹ See 47 C.F.R. §73.3587 ("Before FCC action on any application for an instrument of authorization, *any person* may file informal objections to the grant.") (emphasis added) Unlike *Petitions to Deny, Informal Objections* do not require the formal requirements for standing such as geographic location. In order to maintain the integrity of the LPFM service as a form of local community broadcasting, all assignment and transfer applications are reviewed by REC to assure compliance with the Commission's rules.

² 47 C.F.R. §§ 73.853(b), 1.17(a).

³ See File No. BLL-20040707AAL.

⁴ See File No. 0000215048.

⁵ See Appendix C.

⁶ 47 C.F.R. §73.853(b).

has a campus within 16.1 kilometers (10 miles) of the transmitting antenna for applicants within the top 50 urban markets or within 32.1 kilometers (20 miles) outside of the top 50 urban markets ("headquarters requirement"); has 75 percent of its board members residing within 16.1 kilometers (10 miles) of the transmitting site for applicants in the top 50 urban markets, and 32.1 kilometers (20 miles) for applicants outside of the top 50 urban markets ("board member requirement"); or in the case of a public safety applicant, legal jurisdiction within the service area of the LPFM station or; in the case of a Tribal Applicant, has Tribal Lands within the service area of the LPFM station.⁷ In the instant application, the applicant certified that they meet either the headquarters requirement or the board member requirement.

Discussion

When the LPFM service was created in 2000, the Commission stated that the intention of the service was to serve the particular needs by organizations with local familiarity and that a localism requirement, such as the one outlined in §73.853(b) maximizes the likelihood that LPFM stations are operated by entities grounded in the communities they serve.⁸ Further, the Commission stated that one of the goals of the LPFM service was to "create opportunities for new voices on the airwaves and to allow local groups, including schools, churches, and other community-based organizations, to provide programming responsive to local community needs and interests."⁹

For the purpose of this discussion, we can conclude that the authorized facility in the above captioned application is within a Top-50 Nielsen Audio media market and therefore is considered a "top 50 urban market" for the purpose of §73.853(b).

In order for an applicant to qualify for licensing in the LPFM service, they must meet one of the four prongs of §73.853(b).

The first prong requires the applicant, its local chapter or branch to be physically headquartered within 16.1 kilometers (10 miles) of the of the transmitting antenna. In this case, the applicant provides only a post office box for their headquarters and no physical address. In *Substance of Life Enterprises*, in the determination of headquarters, the Audio Division applied the full-service noncommercial educational ("NCE") context when faced with a post office box as a headquarters.¹⁰ In the *NCE Context*, the Commission held that a headquarters must be a primary place of business and not, for example a post office box, vacation home, attorney's office, or branch office, which would not provide sufficient contact between the station's decision makers and the area to be served.¹¹ Upon review of the records on file with the State of Maryland, it suggests that the principal office for SMP is at 2007 High Timber Road, Fort Washington, Maryland ("High Timber address").¹² The measured distance between the authorized transmitting antenna and the High Timber address is 44.7 kilometers (27.8 miles). As the application, *prima facie*, fails to meet the the basic requirement for establishing a headquarters and further research indicates the perception that the headquarters well exceeds 10 miles from the transmitting antenna, we can conclude that the proposed assignee fails the first prong.

⁷ See *Id.*

⁸ *Creation of a Low Power Radio Service*, Report and Order, 14 FCC Rcd. 2471, 2485 (2000).

⁹ See *Id.* at 2479.

¹⁰ See *Substance of Life Enterprises, Inc.*, Letter, File No. BNPL-20131113BTG (MB, Jan. 9, 2015).

¹¹ *Reexamination of Comparative Standards for Noncommercial Educational Applicants*, Report and Order, 15 FCC Rcd. 7386, 7410 (2000) ("NCE Context").

¹² See Appendix A.

The second prong requires that the organization has 75 percent of its board members residing within 16.1 kilometers (10 miles) of the transmitting antenna. Joseph Sims specifies a residential address of 4418 A Street SE, Washington, DC. That address is located 49.9 kilometers (31 miles) from the transmitter site. Jason Harris specifies the High Timber address as his residential address. As already established, this address is 44.7 kilometers (27.8 miles) from the transmitting antenna. Henry Harris provides a post office box as his residential address. Consistent with the *NCE Context*, such an address is not sufficient to establish residency and local presence. Even if we were to only consider Joseph Sims and Jason Harris, who represents 66.7% of the board membership, we have established that both members reside at locations well in excess of the the 16.1 kilometer (10 mile) localism requirement for LPFM licensees in top 50 urban areas. Therefore, we can conclude that the proposed assignee fails the second prong.¹³

The third prong requires that if an organization is proposing a public safety radio service, that the applicant has jurisdiction within the service area of the proposed LPFM station. In this case, the proposed assignee does not identify as a state, county or local agency that provides public safety services, nor a non-government public safety provider, such as a volunteer fire department, which has a contract or compact with a competent authority to provide public safety services within a predefined jurisdiction. As such, we can conclude that the proposed assignee fails the third prong.

The fourth prong requires that the proposed assignee be a Tribe or entity that is 51 percent or more owned or controlled by a Tribe or Tribes as defined in §73.7000 and that the service area includes Tribal lands. As the proposed assignee is not a Tribe, they fail the fourth prong.

As the proposed assignee does not meet any of the four prongs required under §73.853(b), we can conclude that proposed assignee does not meet the basic eligibility requirements to be a licensee in the LPFM service for this station.¹⁴ We further conclude that the instant application contains a false statement, in violation of §1.17(a) of the Commission's Rules by falsely certifying that the proposed assignee has a physical headquarters or 75 percent of the board members within 10 miles of the transmitting antenna.¹⁵

Conclusion

REC Networks has been involved with LPFM since prior to the creation of the service in 2000. During this entire time, REC, as well as other advocacies have supported LPFM to be a locally-based service to assure that local neighborhoods and small towns are represented on the radio with local representation and oversight, free of any influence from outside areas consistent with the community radio model. Maryland stations such as WHCP-LP, Cambridge, MD are providing a true local service within their community and without outside influence from Salisbury, Washington or Baltimore. This is exactly the community radio model that the Commission envisioned when LPFM was created. As a matter of policy, while we encourage diversity in content and ownership, which the proposed assignee appears to provide, we also encourage localism, which is the bedrock of the LPFM service and is a vital area where this proposed assignee falls well short of.

¹³ A map showing these locations in respect to the authorized facility is included as Appendix B.

¹⁴ Even if a minor modification was filed, pursuant to §73.870(a) of the Commission's Rules in order to move the station closer to the High Timber address, it would still not meet the 10-mile localism requirements.

¹⁵ 47 C.F.R. §1.17

With the nearest board member residing over 28 miles from the transmitting antenna and without the headquarters being within 20 miles, this organization fails to meet the local needs of Prince Frederick, even if Calvert County was not a Nielsen Audio top 50 urban market county. As such, we must conclude that the proposed assignee meet the basic qualifications to be an LPFM licensee for a station in Prince Frederick and we encourage the Commission to DISMISS this application due to violations of §73.853(b) and §1.17(a) of the Commission's Rules.

We do encourage SPP to seek a different faith-based or secular organization that meets the 10-mile requirement and is a bona-fide nonprofit organization with an educational purpose and proposes a service consistent with the community radio model. SPP can always contact REC Networks if they would like for us to communicate within the extended LPFM community the availability of the station for assignment.

Respectfully submitted,

/S/

Michelle Bradley, CBT
Founder
REC Networks

June 2, 2023

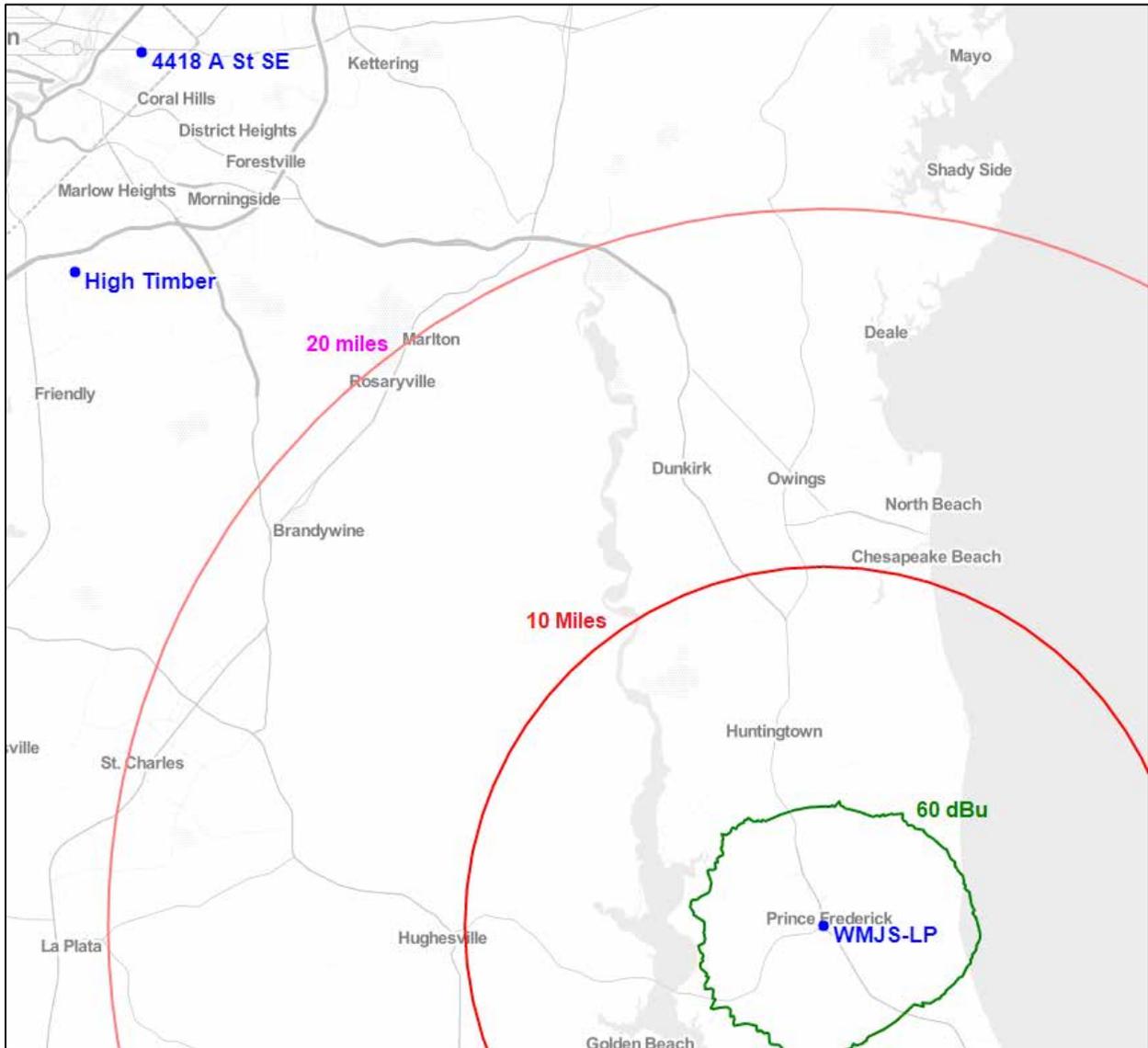
APPENDIX A

The screenshot shows a web browser window with the URL `egov.maryland.gov/BusinessExpress/EntitySearch/Business`. The page header includes the Maryland.gov logo and navigation tabs for "General Information", "Filing History", and "Annual Report/Personal Property". The "General Information" tab is active, displaying the following details for a business:

- Department ID Number:** D17676271
- Business Name:** STRATEGIC MUSIC PARTNERSHIPS, INC.
- Principal Office:** 2007 HIGH TIMBER ROAD, FORT WASHINGTON MD 20744
- Resident Agent:** HENRY HARRIS, 2007 HIGH TIMBER ROAD, FORT WASHINGTON MD 20744
- Status:** INCORPORATED
- Good Standing:** THIS BUSINESS IS IN GOOD STANDING
- Business Type:** CORPORATION
- Business Code:** 04 ORDINARY BUSINESS - NON-STOCK
- Date of Formation/ Registration:** 12/20/2016
- State of Formation:** MD
- Stock Status:** NONSTOCK
- Close Status:** NO

An "Options for this Business" dropdown menu is visible in the top right corner. A red "Ask Our Business Chatbot" button is located in the bottom right corner of the page content area.

APPENDIX B



Locations include:

The authorized site for WMJS-LP.

4418 A Street SE, Washington, DC

2007 High Timber Road, Fort Washington, Maryland (High Timber)

APPENDIX C

Nielsen Audio - Washington, DC Metro counties

including Calvert County

