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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DISPATCHED BY

In re Applications of)	MM DOCKET NO. 92-1071
)	
BIBLE BROADCASTING NETWORK, INC.)	File No. BPED-900816MA
Channel 209A)	
Fort Smith, Arkansas)	
)	
NATIONAL CHRISTIAN NETWORK, INC.)	File No. BPED-900823MA
Channel 207C2)	
Fayetteville, Arkansas)	
)	
For Construction Permit for a New)	
Noncommercial Educational FM Station)	

MEMORANDUM OPINION AND ORDER

Issued: June 29, 1992

Released: July 1, 1992

1. Bible Broadcasting Network, Inc. (BBN) and National Christian Network, Inc. (NCN) seek rulings on a settlement package they have submitted to the Trial Judge. If that package is accepted it will result in a universal settlement, and this case can be terminated.

2. The package consists of: (1) A Petition for Leave to Amend filed by BBN on June 12, 1992; (2) A Petition for Leave to Amend filed by NCN on June 9, 1992; (3) A Joint Petition for Approval of Settlement Agreement (and the accompanying papers) filed by BBN and NCN on June 12, 1992; and (4) A Supplement to the Joint Petition for Approval of Joint Settlement Agreement filed by BBN on June 9, 1992.

3. The Mass Media Bureau filed generally favorable comments on the Settlement Package on June 23, 1992.

Background

4. BBN and NCN have settled their differences. They have agreed to amend their technical proposals so as to eliminate prohibited contour overlap and the mutual-exclusivity that exists between them. NCN has agreed to reduce its effective radiated power from 5.0 to 4.5 KW; BBN will reduce its effective radiated power from 1.0 to 0.8KW.

Rulings

NCN's June 9, 1992 Petition

5. NCN proposes two engineering changes. First they intend to reduce their antenna height above average terrain. This will permit them to meet the concerns that the Chief, Audio Services Division expressed at paragraphs 2 and 10 of the Hearing Designation Order. See DA 92-558 released May 14, 1992.

6. Secondly they want to reduce their effective radiated power from 5.0 to 4.5 KW. This reduction, along with a correlative reduction in effective radiated power for NCN's mutually-exclusive opponent, BBN, will eliminate the mutual-exclusivity between them and make the grant of both applications possible.

7. NCN's petition will be granted. They've shown good cause for amending. Accepting NCN's amendment will permit this case to be settled and both applications to be granted. In addition it will eliminate the need for a hearing, conserve the Commission's adjudicatory resources, and speed up the start up of a new non-commercial FM service to Fayetteville, Arkansas, and Fort Smith, Arkansas. That's good cause.

BBN's June 12, 1992 Petition

8. BBN proposes to reduce their effective radiated power from 1.0 to 0.8KW. This reduction, along with a correlative reduction of radiated power by NCN (See para. 6 supra.) will eliminate the mutual-exclusivity between them and make a grant of both applications possible.

9. BBN's petition will be granted. They've shown good cause for amending. Accepting BBN's amendment will permit this case to be settled, and both applications to be granted. In addition it will eliminate the need for a hearing, conserve the Commission's adjudicatory resources, and speed up the start up of a new non-commercial FM service to both Fayetteville, Arkansas, and Fort Smith Arkansas.

The Joint Request for Approval of Settlement Agreement

10. The power reduction amendments having been granted, the Joint Petition for Approval of Settlement Agreement, as supplemented, will be approved. The parties have submitted the appropriate documents. See Oak Television of Everett, Inc., 53 RR 2d 995 (1983). Neither applicant has filed their applications for an improper purpose. And as previously noted (paras. 7 and 9 supra.) approval of the agreement will close out the case and speed up the start up of non-commercial educational FM stations in both Fort Smith, Arkansas, and Fayetteville, Arkansas. So the public interest is furthered.

11. The contingent environmental issue (Issue 1 at DA 92-558 released May 14, 1992) has been deleted. See FCC 92M-725, and FCC 92M-732, both released July 1, 1992. The approval of the agreement and acceptance of the power reduction amendments moots the 47 USC 307(b) and the non-commercial educational comparative issue. So both applicants can now be granted subject to the environmental condition the Mass Media Bureau recommends.

SO the Petition for Leave that BBN filed on June 12, 1992, I GRANTED; and the accompanying power-reduction amendment IS ACCEPTED;

The Joint Petition for Approval of Settlement Agreement filed on June 12, 1992, and supplemented on June 19, 1992, IS GRANTED; and the accompanying Settlement Agreement IS APPROVED;

Bible Broadcasting Network, Inc.'s application (BPED-900816MA) IS GRANTED subject to the following condition:

"THE AUTOMATIC PROGRAM TEST PROVISIONS OF 47 C.F.R. §73.1620 DO NOT APPLY IN THIS CASE. A FORMAL REQUEST FOR PROGRAM TEST AUTHORITY MUST BE FILED IN CONJUNCTION WITH FCC FORM 302, APPLICATION FOR LICENSE, BEFORE PROGRAM TESTS WILL BE AUTHORIZED. This request should be made at least 10 days prior to the date on which program tests are desired to commence. This request must contain documentation which demonstrates compliance with the following special operation condition.

"Prior to the commencement of construction, the permittee shall certify that an agreement is in effect requiring all stations to reduce power or cease operations as necessary to assure worker safety with respect to radio-frequency radiation when maintenance is to be performed at the site.

"Documentation demonstrating compliance with the ANSI radio-frequency radiation limit may be submitted in advance of the filing of FCC Form 302. The Commission's staff will review it for compliance and respond by letter stating whether automatic PTA has been reinstated."

National Christian Network, Inc's application (BPED-900823MA) IS GRANTED subject to the following condition.

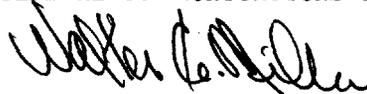
"THE AUTOMATIC PROGRAM TEST PROVISIONS OF 47 C.F.R. § SECTION 73.1620 DO NOT APPLY IN THIS CASE. A FORMAL REQUEST FOR PROGRAM TEST AUTHORITY MUST BE FILED IN CONJUNCTION WITH FCC FORM 302, APPLICATION FOR LICENSE, BEFORE PROGRAM TESTS WILL BE AUTHORIZED. This request should be made at least 10 days prior to the date on which program tests are desired to commence. This request must contain documentation which demonstrates compliance with the following special operation condition:

Prior to commencement of construction, the permittee shall certify that an agreement is in effect requiring all stations to reduce power or cease operations as necessary to assure worker safety with respect to radiofrequency radiation when maintenance is to be performed at the site.

Documentation demonstrating compliance with the ANSI radiofrequency radiation limit may be submitted in advance of the filing of FCC Form 302. The Commission's staff will review it for compliance and respond by letter stating whether automatic PTA has been reinstated.

This proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Walter C. Miller
Administrative Law Judge