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

FCC 92M-852

03793

MM DOCKET NO. 92-339

In re Applications of)	
)	
CENTRAL FLORIDA EDUCATIONAL FOUNDATION, INC.))	File No. BPED-881207MA
Channel 202C3)	
Union Park, Florida)	
)	
BIBLE BROADCASTING NETWORK, INC.))	File No. BPED-890412MJ
Channel 202C2)	
Conway, Florida)	
)	
SOUTHWEST FLORIDA COMMUNITY RADIO, INC.))	File No. BPED-891127MC
Channel 202C2)	
Conway, Florida)	
)	
MIMS COMMUNITY RADIO, INC.))	File No. BPED-891127MD
Channel 202C1)	
Oak Hill, Florida)	
)	
HISPANIC BROADCAST SYSTEM, INC.))	File No. BPED-891128ME
Channel 202C3)	
Lake Mary, Florida)	
)	
For Construction Permit for a New, Noncom-)	
mercial, Educational FM Station)	

MEMORANDUM OPINION AND ORDER

Issued: August 6, 1992; Released: August 7, 1992

1. Under consideration are Petition for Leave to Amend, filed July 13, 1992 by Mims Community Radio, Inc.; Petition to Intervene, filed July 9, 1992 by First Media Corporation; Request for Dismissal, filed July 13, 1992 by Mims Community Radio; Petition for Leave to Amend, filed July 1, 1992 by Mims Community Radio, Inc.; Request for Extension of Time, filed July 17, 1992 by First Media Corporation; Petition to Enlarge Issues, filed July 9, 1992 by Central Florida Educational Foundation, Inc.; Dismissal of Petition to Enlarge, filed July 27, 1992 by Central Florida Educational Foundation, Inc.

2. Mims petitions for leave to amend to change its transmitter site and designate a new community, Samsula, Florida, and a new Channel, 204, in order to eliminate mutual exclusivity with the other applicants in this proceeding. The Mass Media Bureau has found that Mims' amended site is in compliance with the technical rules and is not mutually exclusive with the other applicants in this proceeding. It urges that there is good cause for granting Mims' petition. Central opposes Mims' request because Mims has not shown good cause for granting the amendment. Contrary to Central's argument, Mims' petition demonstrates that its amendment is supported by good cause: granting the amendment will not disrupt this proceeding and will enhance service to the public. Moreover, there is no evidence that Mims delayed filing its amendment. While Central argues that Samsula is not a community for §307(b) purposes, it lacks standing to raise that issue since its proposal is not mutually exclusive with Mims' new proposal and it has not demonstrated an interest in Mims' new proposal. In addition, because Mims' proposal will expedite resolution of this proceeding, a waiver of §73.3571(j)(1) is warranted. The petition will be granted.

3. On July 1, 1992, Mims petitioned to move its transmitter and it now requests dismissal of that amendment. Mims' request to dismiss will be granted. Central, First Media, and the Bureau oppose the petition to amend and their oppositions are now moot. First Media also petitioned to intervene and that request is also moot.

4. Central petitions to enlarge issues against Mims on the ground that Mims did not have reasonable assurance for its original antenna site. Central petitions to withdraw its petition because it has determined that its request was based on a mistake about the facts. Central concedes that Mims did have reasonable assurance for its site. The petition will be dismissed.

ACCORDINGLY, IT IS ORDERED that the request for dismissal of the July 1, 1992 petition for leave to amend, filed July 13, 1992 by Mims Community Radio, Inc. IS GRANTED and the petition for leave to amend, filed July 1, 1992 IS DISMISSED.

IT IS FURTHER ORDERED that the petition for leave to amend filed July 13, 1992 by Mims Community Radio, Inc. IS GRANTED and the amendment IS ACCEPTED.

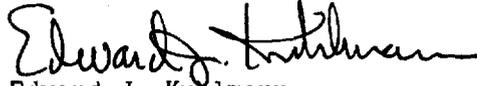
IT IS FURTHER ORDERED that the petition to intervene, filed July 9, 1992 by First Media Corporation IS DISMISSED AS MOOT.

IT IS FURTHER ORDERED that the dismissal of petition to enlarge, filed July 27, 1992 by Central Florida Educational Foundation, Inc. IS GRANTED and the petition to enlarge, filed July 9, 1992 by Central IS DISMISSED.

IT IS FURTHER ORDERED that the application of Mims Community Radio, Inc. (File No. BPED 891127MD) for noncommercial educational FM Channel 204, at Samsula, Florida IS GRANTED and the application IS DELETED from the caption of this proceeding.

IT IS FURTHER ORDERED that the request for extension of time, filed July 17, 1992 by First Media Corporation IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION



Edward J. Kuhlmann
Administrative Law Judge