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

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In re Applications of)	MM DOCKET NO. 92-121 ✓
)	
ROSAMOND RADIO, INC.)	File No. BPH-910225MG
)	
JAMIE LEIGH COBERLY)	File No. BPH-910225MH
)	
DIANE K. HITT)	File No. BPH-910225MI
)	
For Construction Permit for a)	
New FM Station on Channel 228A)	
in Rosamond, California)	

MEMORANDUM OPINION AND ORDER

Issued: August 10, 1992; Released: August 11, 1992

Under consideration is the Joint Petition for Approval of Settlement Agreement filed by Rosamond Radio, Inc. (Rosamond) and Diane K. Hitt (Hitt) on July 1, 1992; the Joint Petition for Approval of Settlement Agreement filed by Rosamond and Jamie Leigh Coberly (Coberly) on July 1, 1992; the Petition for Leave to Amend filed by Rosamond on July 15, 1992, as supplemented on July 16, 1992; the Joint Request for Deletion of Issue filed by Rosamond and Hitt on July 20, 1992; and the Mass Media Bureau's Consolidated Comments on Joint Petitions for Approval of Settlement Agreements, Petition for Leave to Amend, and the Motion for Deletion of Issue filed on July 29, 1992.

Petition for Leave to Amend

Rosamond seeks leave to amend its application to reflect a change in the ownership structure of the applicant and a name change to Waremar Communications, Inc. In addition, the amendment withdraws the commitment of Rosamond and the Rosamond shareholders to divest their ownership interests in, and employment and other connections with Station KUTY(AM), Palmdale, California.

For good cause shown, the Petition will be granted and the amendment accepted.

Joint Request For Deletion of Issue

Rosamond, Coberly, and Hitt request that the Presiding Judge delete the issue concerning coverage of the community of Rosamond, California which was specified as Issue 1 in the Hearing Designation Order (DA 92-640), released in the above-entitled proceeding on June 11, 1992. In support of

their request, Petitioners state the following: that the issue was added as the result of a predesignation objection filed by Hitt against Coberly's technical proposal, not Rosamond's technical proposal; that the three mutually exclusive applicants have reached a settlement agreement whereby Rosamond's technical proposal will prevail; that Rosamond, California is a United States Census designated place with no specific legal boundaries; and that Rosamond's 70 dBu signal will cover more than 80 percent of the residential area of Rosamond, California regardless of whether the boundaries of Rosamond are defined by the Rosamond Water and Sewer Districts (Rosamond's proposal), the United States Census Designated Boundaries (Coberly's proposal), or the United States Post Office service area (Hitt's proposal). They submit, therefore, that there is no question of fact as to the boundaries of the community of Rosamond, California or the adequacy of Rosamond's proposed service to the community, and that good cause exists for the deletion of the city grade coverage issue.

There has been no showing that the city grade coverage issue was designated in error, therefore deletion of the issue is not warranted. However, Petitioners have properly shown that Rosamond's proposal satisfies the Commission's city grade coverage requirements. The Presiding Judge finds, therefore, that there being no genuine issue of material fact remaining with respect to this issue, summary decision in Rosamond's favor of the city grade coverage issue is warranted, and it will be so ordered.

Joint Petitions for Approval of Settlement Agreements

Rosamond and Hitt seek approval of a settlement agreement which provides, in pertinent part, for the dismissal of Hitt's application in return for the payment by Rosamond of Hitt's legitimate and prudent expenses incurred in preparing and prosecuting her application in the amount of \$20,879.42. Similarly, Rosamond and Coberly seek approval of their agreement which calls for the dismissal of Coberly's application in return for an ownership interest in a new corporate entity to be formed by Rosamond, and to be called Waremar Communications, Inc. All of the Parties to the agreements state that approval of the settlement agreements would serve the public interest by hastening the earlier institution of a new FM radio service in Rosamond, California, and all declare that their respective applications were not filed for the purpose of reaching or carrying out a settlement agreement.

The Presiding Judge finds that the Petitioners are in substantial compliance with the requirements of Section 73.3525 of the Commission's Rules; and that Petitioners have established that approval of the agreements would serve the public interest, and that none of the applications were filed for an improper purpose. Accordingly, the Petitions will be granted, and the settlement agreements approved.

Rulings

IT IS ORDERED, that the Joint Request for Deletion of Issue filed by Rosamond Radio, Inc., Jamie Leigh Coberly, and Diane K. Hitt on July 20, 1992 IS DENIED; and that the Presiding Judge, on his own motion, grants summary decision in Rosamond Radio, Inc.'s favor of the city grade coverage issue designated against the application of Rosamond Radio, Inc., by the Hearing Designation Order released in this proceeding on June 11, 1992 (DA 92-640).

IT IS FURTHER ORDERED, that the Petition for Leave to Amend filed by Rosamond Radio, Inc. on July 15, 1992, as supplemented on July 16, 1992, IS GRANTED, and the amendment IS RECEIVED.

AND IT IS FURTHER ORDERED, that the Joint Petition for Approval of Settlement Agreement filed by Rosamond Radio, Inc., and Diane K. Hitt on July 1, 1992 and the Joint Petition for Approval of Settlement Agreement filed by Rosamond Radio, Inc. and Jamie Leigh Coberly on July 1, 1992 ARE GRANTED and the settlement agreements ARE APPROVED; that the applications of Diane K. Hitt (File No. BPH-910225MI) and of Jamie Leigh Coberly (File No. BPH-910225MH) ARE DISMISSED with prejudice; that the application of Waremar Communications, Inc., formerly Rosamond Radio, Inc., for a construction permit for a new FM station on Channel 228A in Rosamond, California (File No. BPH-910225MG) IS GRANTED; and that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Joseph P. Gonzalez
Administrative Law Judge