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FCC MAIL SECTION

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

APR 28 2 16 PM '93

FCC 93M-203
31369

In re Applications of)
DISPATCHED BY)
BARBARA BRINDISI)
LAURYN BROADCASTING CORPORATION)
For Construction Permit for a New)
FM Station on Channel 265A)
in Beaumont, California)
and)
KAY SADLIER-GILL)
For Modification of Facilities For)
Station KATY-FM, Idyllwild, California)

MM DOCKET NO. 92-310 ✓
File No. BPH-910703MI
File No. BPH-910703MJ
File No. BPH-910611IF

MEMORANDUM OPINION AND ORDER

Issued: April 26, 1993 ; Released: April 28, 1993

1. Kay Sadlier-Gill (Sadlier-Gill) seeks a ruling on a "Motion for Severance and Grant" that she filed on February 19, 1993. The two remaining Beaumont applicants, Barbara Brindisi and Lauryn Broadcasting Corporation, seek a ruling on a "Joint Request for Approval of Agreement" that they filed on April 7, 1993.

2. The Mass Media Bureau commented favorably on Sadlier-Gill's severance request on March 2, 1993, and on the "Joint Request" on April 21, 1993. So both motions stand unopposed.

Rulings

Sadlier-Gill's Motion for Severance and Grant

3. Ms. Sadlier-Gill's severance motion will be granted, and her application granted. On February 19, 1993, she moved to amend her application to relocate her transmitter in such a way as to remove the mutual exclusivity between her Idyllwild application and the two remaining captioned Beaumont applications. That relocation removed the de minimis short-spacing involved; i.e., two seconds (2") of latitude (about 150 feet). The Trial Judge granted that amendment on April 27, 1993. See FCC 93M-194.

¹ Any oppositions to Sadlier-Gill's motion were due on or before March 2, 1993, and any oppositions to the Brindisi-Lauryn Joint Request were due on April 21, 1993.

4. With the grant of Sadlier-Gill's February 19, 1993 amendment, her application can be severed from this proceeding and granted subject to the condition that she file with the Commission an FAA air hazard clearance for the relocated site. See FCC 93M-194 supra. at Fn.2.

The Beaumont Joint Request

5. Brindisi and Lauryn have settled their differences. Lauryn has agreed to dismiss their application. In return Brindisi has agreed to reimburse Lauryn up to \$5,000 in reasonable and prudent expenses.

6. The joint request will be granted. The two applicants have submitted the appropriate documents. Lauryn has established its right to the \$5,000 reimbursement it seeks. Neither Brindisi nor Lauryn have filed their applications for an improper purpose. Also, with the severance and grant of Sadlier-Gill's application, approval of the agreement can close out the case and speed up the start up of an FM station on Channel 265A in Beaumont, California. So, the public interest is furthered.

7. The sole remaining applicant, Barbara Brindisi faces no basic qualifying issues, has furnished the information called for by the HDO, and is qualified to construct and operate as proposed. See FCC 93M-193 released April 27, 1993, and DA 92-1733 released January 21, 1993 at paras. 3, 7 and 8. So she can be granted now.

SO the "Motion for Severance and Grant" that Kay Sadlier-Gill filed on February 19, 1993, IS GRANTED; BPH-9106111F IS SEVERED from this proceeding; and BPH-9106111F IS GRANTED subject to the following condition:

Kay Sadlier-Gill will not start construction of its modified facilities until it has filed with the FCC an FAA air hazard clearance for its relocated site.

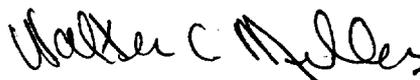
The "Joint Request for Approval of Settlement Agreement" filed by Barbara Brindisi and Lauryn Broadcasting Corporation on April 7, 1993, IS GRANTED; and the accompanying settlement agreement IS APPROVED;

Lauryn Broadcasting Corporation's application (BPH-910703MJ) IS DISMISSED with prejudice;

Barbara Brindisi's application (BPH-910703MI) IS GRANTED; and

This proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Walter C. Miller
Administrative Law Judge