

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

In the Matter of)
)
REVITALIZATION OF THE AM) MB Docket No. 13-249
RADIO SERVICE)

TO: The Commission

**COMMENTS ON
FIRST REPORT AND ORDER, FURTHER NOTICE OF
PROPOSED RULE MAKING, AND NOTICE OF INQUIRY**

IHR Educational Broadcasting, a California non-profit corporation, licensee of AM Broadcast Stations KAHI, 950 kHz, Auburn, California and KSMH, 1620 kHz, West Sacramento, California, hereby respectfully submits its Comments on the "First Report and Order, Further Notice of Proposed Rule Making and Notice of Inquiry" in the above-entitled matter, FCC 15-142, 30 FCC Rcd 12145 (October 23, 2015), 81 Fed. Reg. 2818 (January 19, 2016). In so doing, the following is shown:

Comments on the Expanded Band

1. IHR's particular interest in this proceeding are the matters discussed at ¶¶75-84, which propose to terminate the operating authority of Station KAHI, the only AM broadcast station licensed to Auburn, California, the seat of Placer County, California. Auburn had a 2010 Census population of

13,330, and Placer County had a 2010 Census population of 348,432. IHR hereby incorporates by reference the arguments it made on August 18, 2006 in its *Request for Relief from Condition or, in the Alternative, Request for Waiver*, which the Commission acknowledges in footnote 199 on page 33 of FCC 15-142. Station KAHI is programmed separately from IHR's so-called "paired" expanded band station in metropolitan Sacramento, KSMH, 1620 kHz, and provides programming of particular interest to Auburn and surrounding Placer County.

2. If KAHI's operating authority is taken away by the FCC, there is no guarantee that this service to the public will ever be restored. The last nationwide application window for new AM broadcast station construction permit applications closed on January 30, 2004, over twelve years ago. Using the CDBS on-line application search feature, by January 31, 2007, three years after the close of the window, by the undersigned's count only 69 new construction permits were granted from what was believed to be more than 1,200 applications filed in that window. Of those applications, we could find only 23 applications that were granted where the proposed facilities were ultimately constructed, licensed and are on the air today¹.

¹KKNI; KIHG; KBNW; KHTC; KVOG; KXXJ; WMIN; WJUL; KSAM; WTQS; WNPL; WVAX; WCDS; WAVQ; KDIL; KJNT; KTXV; WGUY; KQJZ; WKDR; KWES; KCPX; and KJCV.

3. The regulatory climate is different today than it was in the 1980s when the expanded band concept was devised. For one, in those days, a broadcaster could only own one AM and one FM station in a given market. The concepts of joint sales agreements and time brokerage agreements can be traced to that time period. Now, we have "duopolies" where up to eight broadcast stations in a given market can be owned by one company. This has given rise to the likes of Clear Channel, Viacom/CBS and Entercom, to name three publicly traded broadcast station owners who own multiple radio stations in the Sacramento market. Therefore, allowing one broadcasting company, such as non-profit non-commercial IHR, to own two AM stations in the Sacramento, California region (Auburn is approximately 32 highway miles from downtown Sacramento), is not inimical to the public interest.

4. Because of the inherent public interest problem in forcible withdrawal of service from the public, IHR calls on the FCC to permit station KAHI to permanently remain on the air, either in the name of IHR, or in the name of a qualified assignee. One alternative would be to permit IHR to assign KAHI to a qualified third party buyer for a consideration equal to sixty percent (60%) of what IHR paid for KAHI in 1999. This would be consistent with the resolution of the so-called RKO cases, where the Commission approved settlement agreements where disqualified erstwhile licensee RKO General, Inc. was permitted

to keep sixty percent (60%) of the proceeds of the sales of its various broadcast station to so-called "white knight" third party purchasers. See e.g. *RKO General, Inc. (WAXY-FM)*, 5 FCC Rcd 642 (1990). Here, everyone wins. The public would be able to keep its existing broadcast service, and Auburn, California, a community in the Sierra Nevada foothills with its own problems, interests and needs separate from those of Sacramento, would retain its only AM radio station. IHR would receive compensation for the physical facility of KAHI, which it can use to keep its existing group of stations on the air. A new broadcast voice, independent of IHR and all other broadcasters in the Sacramento market, would be in a position to acquire an AM station and commence service to the public immediately. Further, scarce Commission resources would be preserved by not having to conduct a potentially lengthy proceeding to determine the identity of a new permittee, who may or may not end up constructing a new station on 950 kHz in the Sierra Nevada foothills.

5. IHR agrees with and associates with the Comments being jointly filed today by Baybridge Communications, LLC; Chesapeake-Portsmouth Broadcasting Corporation; Chisholm Trail Broadcasting Co.; Inspiration Media, Inc.; KRIZ Broadcasting, Inc.; Multicultural Radio Broadcasting Licensee, LLC; NRG License Sub, LLC; Salem Media of Colorado, Inc.; Way Broadcasting Licensee, LLC and Multicultural Media, Telecom and Internet Council. Particularly, IHR, like the joint commenters, is an Expanded Band

"pioneer" and should be rewarded for its investment, perseverance, and commitment in the face of a declining AM service, and not be punished for what it did. As pointed out by the joint commenters, IHR and the other twenty-four "paired" station licensees should be treated like the AM station licensees who were pioneers in FM broadcasting and built their stations between 1945 and 1970, despite having few listeners or FM tuners in existence. The AM broadcasters that kept their FM stations were not required to surrender one of the two stations after a period of time. They were rewarded for developing the FM band. The same treatment should be accorded to the AM licensees here. Without them, further utilization of the Expanded Band would simply not be possible. Receiver penetration would not be as extensive as it is today, nor would the Expanded Band enjoy its present levels of listenership. Allowing IHR, the joint commenters and the other Expanded Band pioneers to retain their dual authorizations is indeed within the public interest.

Other AM Matters

6. IHR supports comments being filed this date by KD Radio, Inc., licensee of Class C AM Broadcast Station KDSK, Los Ranchos de Albuquerque, New Mexico, relative to permitting Class C AM stations to increasing daytime power to as much as 4,000 watts. IHR is the licensee of three Class C stations: KIH(AM), 1400 kHz, Eureka, California; KWG(AM), 1230 kHz, Stockton,

California; and KJOP(AM), 1240 kHz, Lemoore, California. Each of these stations could greatly benefit from increased power.

7. IHR also supports comments filed by Martha Whitman d/b/a Isleta Radio Company, licensee of AM Broadcast Station KOAZ, Milan, New Mexico, particularly as they propose the elimination of reduction of power during critical hours. IHR is licensee of AM Broadcast Station KIHU, 1010 kHz, Tooele, Utah, which is required to reduce power during critical hours. Being able to stay at full daytime power through local sunset would help IHR serve the greater Salt Lake City market in both morning and evening rush hours.

Respectfully submitted,

IHR EDUCATIONAL BROADCASTING

A handwritten signature in black ink, appearing to read "D. Kelly", written in a cursive style.

By _____
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