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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

DEC 20 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re
Request Amendment of the)
Commission's Rules to Permit) RM - 10609
Satellite Feeds to Noncommercial)
Educational FM Translators)
Operating on Noncommercial)
Frequencies)

To: The Commission

COMMENTS SUPPORTING PETITION FOR RULE MAKING

The Association for Community Education, Inc., ("ACE") by its attorneys, hereby supports the Petition for Rule Making filed in the above-referenced matter.

ACE is the licensee of eight FM translator stations operating on reserved band frequencies, seven FM translators operating on non-reserved band frequencies, and three full powered, non-commercial, educational stations. These stations operate with the express goal of serving the residents of southern California with noncommercial, Spanish language educational, cultural and entertainment programming. Starting initially with one station, KMRO(FM-ed) Camarillo, California, in 1987, ACE has developed this network of stations to serve the growing public demand for ACE's program service.

As expressed in the engineering statements attached to the Petition for Rulemaking, signal delivery via a satellite feed will significantly improve the quality of the Translator signal. With regard to its own network of translator stations, ACE has

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observed that terrain and varying environmental factors can adversely affect the off-air translator signal. Signals delivered to the translator input via satellite are less subject to distortion and result in a higher quality output signal and improved public service.

As expressed at Page 9 of the Petition for Rulemaking, adopting the proposal would result in direct cost savings for certain noncommercial stations. ACE concurs with this observation and notes that such a result would further a significant public interest goal. The Commission has long recognized that noncommercial educational stations have ongoing problems raising the necessary funds to expand and provide noncommercial educational programming to as many listeners as possible. Sound of Life, Inc. 4 FCC Rcd 8273, ¶4 (1989) Savings realized from not having to construct unnecessary facilities can be utilized to assist noncommercial stations in expanding quality programming to a greater number of listeners. Id. Due to the difficulty in attracting revenues, "noncommercial stations must necessarily find ways to get cost-efficient programming to as many viewers as possible." Lift Him Up Outreach Ministries, Inc. 3 FCC Rcd 5571, ¶9 (1988) As expressed in these and similar cases, the Commission encourages noncommercial stations to expand coverage to as many people as possible in conjunction with carefully managing related costs. Adopting the proposed rule making will assist noncommercial stations in addressing this goal

with no harm to the public interest.

ACE has installed costly high gain receive antennas at various locations in order for its translators operating on commercial frequencies to receive signals directly through space in compliance with §74.1231(b). These antennas have a large profile and are often pushed out of alignment by heavy winds. In the last 24 months ACE has directed staff to realign these antennas no fewer than 10 times. This is a recurring strain on resources to assign personnel to realign these antennas to the correct path. These high gain antennas, and the related expenses to purchase, install and maintain them could be avoided by adopting the subject Petition for Rule Making and allowing ACE to deliver the signal by satellite feed.

ACE concurs that adopting the Petition for Rulemaking would also result in a more efficient use of broadcast spectrum (Petition@ 9). For example, ACE has often been faced with the dilemma of installing and maintaining an FM Translator in a sparsely populated area for the sole purpose of transmitting a terrestrial signal to a translator operating on a commercial frequency in an area where there is a demand for ACE's programming. The expense and need for intermediate translators could be avoided and service demands could be met with no harm to the public by adopting the subject Petition for Rule Making.

Adopting the Petition for Rulemaking would also allow ACE to expand its service to areas where residents are pleading to

receive ACE's unique programming. The reason why ACE cannot serve these areas at present is because the translator station cannot receive a listenable off-air signal, there are not sufficient alternate channels available to develop an intermediate series of relay stations, or available transmitter sites are not close enough to relay a usable off-air signal using intermediate stations. This problem could be resolved and the service demands met, if the rules allowed ACE to deliver the signal via satellite.

The topic of intermediate translators is more than a matter of mere conjecture for ACE. KMRO's signal is delivered via satellite to station K219DK Victorville, California, which, in turn, delivers a terrestrial off-air signal to station K295AI Muscoy, California, which, in turn, delivers a terrestrial off-air signal to station K251AH Grand Terrace, California.

Station K295AI commenced initial program test operations in November 1998 and served its listening audience with interference free operation for nearly three years. In July 2001, ACE observed significant signal degradation and interference to station K295AI, and received numerous complaints from listeners who could no longer receive KMRO programming from stations K295AI or K251AH.

A thorough inspection revealed that the signal from station XHTIM(FM) 91.7 MHz, Tijuana, Mexico, was significantly stronger at the K295AI transmitter site than would normally be expected

from a Class B FM station, such as XHTIM, operating with 140 m. HAAT, 15 kW E.R.P. and a transmitter site over 110 miles away. The XHTIM signal strength was measured on three separate occasions to be between .59 MV and .61 MV at the K295AI transmitter site. This excessive power level completely overrides the co-channel, over the air, input signal from station K219DK at the K295AI transmitter site. Such dominance makes it impossible for K295AI to isolate a usable over-the-air signal from K219DK for rebroadcast. In fact, the Mexican station is so dominant that it is received on K295AI's coax cable, without need of any antenna.

Over the course of several months, ACE explored the following solutions, none of which resolved the matter:

- inspected all equipment and found it to be in good operating condition
- tried direct off-air reception of KMRO, but the signal from the primary station was too weak and thready for a successful solution
- tested the K295AI receive antenna orientation in multiple directions and polarity at the authorized height, but which did not overcome the signal override
- tested a lower gain receive antenna which did not overcome the signal override
- explored the feasibility of terrain shielding options which may be available from an alternate antenna location, and discovered that such was unavailable due to a moratorium on new antenna sites on U.S. Forest Service-controlled land surrounding the existing K295AI transmitter site
- explored the feasibility of a phased-array with Scala Antenna Company, but was advised that such would offer little if any relief due to the angles of the desired signal

from K219DK and the undesired signal from XHTIM

-tested a phased array receive antenna which did not resolve the interference

-explored and ruled out the possibility of increasing the power of station K219DK, due to protection requirements to other stations

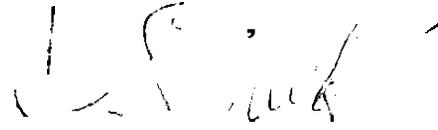
-explored and ruled out the possibility of changing the output channel for station K219DK because there were no vacant frequencies available

-ruled out that the interference was the result of a temperature inversion when it was observed that the interference occurs in morning, afternoon and evening day parts

As a last resort, ACE filed an application for minor modification of licensed facilities for station K295AI Muscoy, California, FCC File No. BPFT-20020806AAC. The application requests a waiver of §74.1231(b) of the Commission's rules to allow ACE to deliver the input signal to the translator using satellite facilities. While the waiver is justified on its own accord due to circumstances beyond ACE's control such as the Mexico station's overpower operation. However, adopting the proposed rulemaking would resolve this and similar situations.

Accordingly, the Commission is respectfully requested to issue a Notice of Proposed Rule Making incorporating the pending Petition for Rule Making.

Respectfully Submitted,
ASSOCIATION FOR COMMUNITY EDUCATION, INC.

By 

John S. Neely
Its Attorney

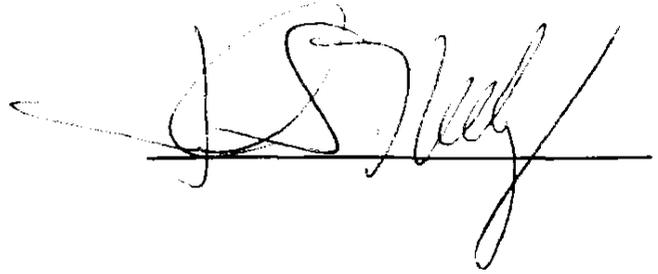
December 20, 2002

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CERTIFICATE OF SERVICE

I hereby certify that on this 20 day of DECEMBER, 2002, a copy of the foregoing document was placed in the United States mail, first class postage prepaid, addressed to the following:

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A handwritten signature in black ink, appearing to read "J. S. Kelly", is written over a horizontal line. The signature is stylized and cursive.