

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)
)
FAMILY BROADCASTING, INC) EB Docket No. 01-39
)
Order to Show Cause Why the Licenses for)
Stations WSTX(AM) and WSTX-FM,)
Christianstead, U.S. Virgin Islands,)
Should Not Be Revoked)

RECEIVED

MAR 23 2004

Federal Communications Commission
Office of the Secretary

To: Chief Administrative Law Judge
Richard L. Sippel

**ENFORCEMENT BUREAU'S
MOTION TO RECEIVE OFFICIAL NOTICE EXHIBITS INTO EVIDENCE**

1. The Enforcement Bureau (the "Bureau"), pursuant to section 1.361 of the Commission's rules,¹ requests that the Presiding Administrative Law Judge mark for identification and receive into evidence attachments A and B, as Bureau Exhibits 10 and 11 in this hearing proceeding. By *Order*, FCC 04M-10 (rel. Mar. 18, 2004), the Presiding Administrative Law Judge left the hearing record open to permit the Bureau to move documents into evidence "to account for the status of current events."

2. On March 16, 2004, Barbara James-Petersen, President of Family Broadcasting, Inc. ("Family"), testified in this proceeding. Among other things, she responded to questions about the legality of the current operations of Stations WSTX and WSTX-FM, testifying that she believed that Family still had special temporary authorizations ("STAs")² that authorized such operations. Ms. James-Petersen also

¹ 47 C.F.R. § 1.361.

² See 47 C.F.R. § 73.1635.

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acknowledged that the operations of the stations were still as described by the Commission inspector, Reuben Jusino, who found in April 2000 that both Stations WSTX(AM) and WSTX-FM were operating well below licensed parameters and that WSTX-FM was not transmitting from its licensed location. *See* Bureau Ex. 1, p. 5, ¶ 13.

3. Commission records obtained by the Bureau, as contained in the proposed exhibits, indicates that, although Family's most recent STA requests to operate Stations WSTX(AM) and WSTX-FM at variance from their licenses, tendered on September 18, 2002, were granted by the Media Bureau on November 26, 2002, the STAs expired on May 26, 2003. Consequently, Family's current operations are not consistent with the terms of their licenses, nor otherwise authorized. One of the issues to be decided in this proceeding is:

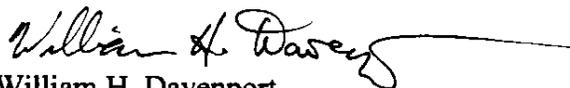
- (i) To determine whether Family Broadcasting, Inc. under the direction of transferee Barbara James-Petersen will operate WSTX(AM) and WSTX-FM in accordance with the rules, the Communications Act, and the terms of their authorizations as required by Sections 73.1350(a), 73.1560(a), 73.1560(b), and 73.1690(b).³

The proposed Bureau Exhibits 10 and 11, which respectively confirm the illegality of the current operations of Stations WSTX(AM) and WSTX-FM, are relevant in assessing whether or not Family, under Ms. James-Petersen, will operate the stations in accordance with the Commission's rules.

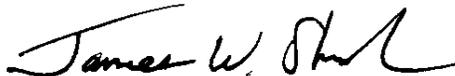
³ *Family Broadcasting, Inc.*, FCC 02-91, p. 13, ¶ 34 (rel. Mar.28, 2002).

4. Accordingly, the Bureau requests that the attached exhibits be received into evidence as Bureau Exhibits 10 and 11.

Respectfully submitted,



William H. Davenport
Chief, Investigations and Hearings Division
Enforcement Bureau



James W. Shook
Romanda Williams
Attorneys

Federal Communications Commission
445 12th Street, S.W., Room 3-B443
Washington, D.C. 20554
(202) 418-1420

March 23, 2004

CERTIFICATE OF SERVICE

Moris Martinez, a staff assistant in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has, on this 23rd day of March, 2004, sent by first class United States mail, or by hand, copies of the foregoing "Enforcement Bureau's Motion to Receive Official Notice Exhibits into Evidence" to:

Daniel A. Huber, Esquire (by hand and first class mail)
560 N Street, S.W., Suite 501
Washington, D.C. 20024

Chief Administrative Law Judge Richard L. Sippel (by hand)
Federal Communications Commission
445 12th Street, S.W., Room 1-C749
Washington, D.C. 20054


Moris Martinez

ATTACHMENT A

PROPOSED ENFORCEMENT BUREAU EXHIBIT 10

DBU50 CRM

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET SW
WASHINGTON DC 20554

EB10

MASS MEDIA BUREAU
AUDIO SERVICES DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mmb/asd/

PROCESSING ENGINEER: CHARLES N (NORM) MILLER
TELEPHONE: (202) 418-2767
FACSIMILE: (202) 418-1411
MAIL STOP: 1800B2
INTERNET ADDRESS: cnmiller@fcc.gov

November 26, 2002

Lauren A. Colby, Esq.
Box 113
Frederick, Maryland 21705-0113

Re: WSTX(AM), Christiansted, Virgin Islands
Facility Identification Number: 20589
Family Broadcasting, Inc.
Special Temporary Authorization

Dear Mr. Colby:

This is in reference to your letter dated September 17, 2002, filed on behalf of Family Broadcasting, Inc. (FB). A third extension is requested of the special temporary authority (STA) originally granted on June 12, 2000, to operate Station WSTX with an emergency antenna pursuant to Section 73.1680.¹

In support of the request, FB states that it has filed an application, BP-20010622AAF, for construction permit for a new tower, that the application has been granted but that it has not yet constructed the facilities.

Requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Our review indicates that, by Summary Decision issued August 3, 2001, in EB Docket No. 01-39, the license of Station WSTX was revoked. FB appealed the Summary Decision, and by Memorandum Opinion and Order adopted March 22, 2002, the Commission set aside the Summary Decision in part and designated, *inter alia*, the license revocation issue and the pending application for transfer of control, File No. BTC-20010315AAJ, for hearing. Pending the outcome of the hearing, FB continues to operate Station WSTX. Construction Permit BP-20010622AAF, granted on May 14, 2002, is conditioned on the final outcome of the proceeding.

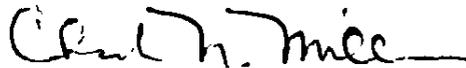
¹ WSTX is licensed for operation on 970 kHz with 5 kilowatts daytime and 1 kilowatt nighttime, employing a nondirectional antenna (ND-1-U). Construction Permut BP-20010622AAF authorizes a reduction in tower height.

Thus, the licensee has been prevented from restoring licensed operation due to causes beyond its control, and extension of STA is warranted.

Accordingly, the request for extension of STA IS HEREBY GRANTED. Station WSTX may continue to operate with an emergency long wire antenna. It will be necessary to further reduce power or cease operation if complaints of interference are received. FB must notify the Commission when licensed operation is restored.² FB must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. See 47 CFR § 1.1310. The authority granted herein is without prejudice as to whatever final action the Commission may take in EB Docket No. 01-39. In the event that revocation of FB's license for Station WSTX becomes administratively final, this authority will terminate immediately.

Unless otherwise terminated earlier, this authority expires on May 26, 2003.

Sincerely,



f Edward P. De La Hunt
Assistant Chief
Audio Services Division
Mass Media Bureau

cc: Family Broadcasting, Inc.

² See 47 CFR §§ 73.45(c), 73.51, 73.54, 73.61(b).

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Application Search Results

BR	20030930BCN	E	WSTX	20589	AM	ACCEPTED FOR FILING	10/02/2003	Info Application
	20020918ABH	P	WSTX	20589	AM	GRANTED	11/26/2002	Info Application
BSTA	20011220ABO	P	WSTX	20589	AM	GRANTED	03/18/2002	Info Application
BP	20010622AAF	E	WSTX	20589	AM	GRANTED	05/14/2002	Info Application
	20010402AIT	P	WSTX	20589	AM	GRANTED	06/21/2001	Info Application
BTC	20010315AAJ	E	WSTX	20589	AM	ACCEPTED FOR FILING	03/19/2001	Info Application
BSTA	20000522AAG	P	WSTX	20589	AM	GRANTED	06/12/2000	Info Application
BR	19951204YL	P	WSTX	20589	AM	GRANTED	07/19/1996	Info Application
BLSTA	19951018AAA	P	WSTX	20589	AM	ACCEPTED FOR FILING		Info Application
BAL	19900420HE	P	WSTX	20589	AM	GRANTED	08/14/1990	Info Application
BR	19880930WV	P	WSTX	20589	AM	GRANTED	02/23/1989	Info Application
BTC	19861203HI	P	WSTX	20589	AM	GRANTED	12/31/1986	Info Application
BAL	19850726HI	P	WSTX	20589	AM	GRANTED	09/18/1985	Info Application
BTC	19850514HN	P	WSTX	20589	AM	GRANTED	05/22/1985	Info Application
BAL	19830331FR	P	WSTX	20589	AM	GRANTED	04/21/1983	Info Application
BTC	19830318EP	P	WSTX	20589	AM	GRANTED	04/18/1983	Info Application
BAL	19821215EB	P	WSTX	20589	AM	GRANTED	02/07/1983	Info Application

BTC	19821101HI	P	WSTX	20589	AM	GRANTED	11/08/1982	Info
BZ	19820409AI	P	WSTX	20589	AM	GRANTED	04/19/1982	Info
BR	19810922UL	P	WSTX	20589	AM	GRANTED	01/27/1982	Info
BR	19780927UR	P	WSTX	20589	AM	GRANTED	11/27/1979	Info
BL		P	WSTX	20589	AM	GRANTED		Info



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Application Search Details

File Number:	-20020918ABH
Call Sign:	WSTX
Facility Id:	20589
FRN:	
Applicant Name:	FAMILY BROADCASTING, INC.
Frequency:	
Channel:	
Community of License:	CHRISTIANSTED, VI
Application Type:	EXTENSION OF STA
Status:	GRANTED
Status Date:	11/26/2002
Expiration Date:	05/26/2003
Tolling Code:	
Application Service:	AM
Disposed Date:	11/26/2002
Accepted Date:	
Last Public Notice:	
Last Report Number:	
Authorization	View Authorization
Legal Actions	View Legal Actions
PN Comment	Public Notice Comment

ATTACHMENT B

PROPOSED ENFORCEMENT BUREAU EXHIBIT 11

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET SW
WASHINGTON DC 20554

BURD CRM

EB 11

MEDIA BUREAU / OFFICE OF BROADCAST LICENSE POLICY
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

ENGINEER: CHARLES N. (NORM) MILLER
TELEPHONE: (202) 418-2767
FACSIMILE: (202) 418-1410
INTERNET ADDRESS: crmiller@fcc.gov

November 26, 2002

Lauren A. Colby, Esq.
Box 113
Frederick, Maryland 21705-0113

Re: WSTX-FM, Christiansted, Virgin Islands
Facility Identification Number : 20601
Family Broadcasting, Inc.
Special Temporary Authorization

Dear Mr. Colby:

This is in reference to your letter dated September 17, 2002, filed on behalf of Family Broadcasting, Inc. (FB). A third extension is requested of the special temporary authority (STA) originally granted on June 12, 2000, to operate Station WSTX-FM with an emergency antenna pursuant to Section 73.1680.¹

In support of the request, FB states that Application BPH-20010316AAD, for construction permit to relocate the WSTX-FM transmitter, has been granted, but that it still has a problem with an FAA interference issue.

Requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Our review indicates that, by Summary Decision issued August 3, 2001, in EB Docket No. 01-39, the license of Station WSTX was revoked. FB appealed the Summary Decision, and by Memorandum Opinion and Order adopted March 22, 2002, the Commission set aside the Summary Decision in part and designated, *inter alia*, the license revocation issue and the pending application for transfer of control, File No. BTCH-20010315AAK, for hearing. Pending the outcome of the hearing, FB continues to operate Station WSTX. Construction Permit BPH-20010316AAD, granted on May 14, 2002, is conditioned on the final outcome of the proceeding.

¹ WSTX-FM is licensed for operation on Channel 262B (100.3 MHz) with effective radiated power (ERP) of 50 kilowatts (H&V) and antenna height above average terrain (HAAT) of 314 meters. Construction Permit BPH-20010316AAD, granted May 14, 2002, authorizes a downgrade to Class B1, relocation of the transmitter and operation with ERP of 7 kilowatts (H&V) and HAAT of 247 meters.

Thus, the licensee has been prevented from restoring licensed operation due to causes beyond its control, and extension of STA is warranted.

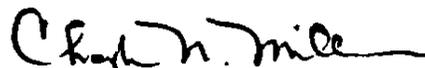
Accordingly, the request for extension of STA IS HEREBY GRANTED. Station WSTX-FM may continue to operate with the following facilities:

Coordinates:	17° 45' 23" NL, 64° 41' 38" WL (NAD 1927)
Frequency:	Channel 262 (100.3 MHz)
Transmitter Output Power:	100 watts
Antenna:	one-bay
Overall tower height	14 meters (45')

FB must notify the Commission when licensed operation is restored. FB must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. See 47 CFR § 1.1310. The authority granted herein is without prejudice as to whatever final action the Commission may take in EB Docket No. 01-39. In the event that revocation of FB's license for Station WSTX-FM becomes administratively final, this authority will terminate immediately.

Unless otherwise terminated earlier, this authority expires on **May 26, 2003**.

Sincerely,



f Edward P. De La Hunt, Associate Chief
Audio Division
Office of Broadcast License Policy
Media Bureau

cc: Family Broadcasting, Inc.

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BRH	20040219AAE	E	WSTX-FM	20601	FM	ACCEPTED FOR FILING	02/20/2004	Info Application
BALH	20030304AAW	E	WSTX-FM	20601	FM	DISMISSED	10/27/2003	Info Application
	20020918ABI	P	WSTX-FM	20601	FM	GRANTED	11/26/2002	Info Application
	20011220ABP	P	WSTX-FM	20601	FM	GRANTED	03/19/2002	Info Application
	20010402AIU	P	WSTX-FM	20601	FM	GRANTED	06/21/2001	Info Application
BPH	20010316AAD	E	WSTX-FM	20601	FM	GRANTED	05/14/2002	Info Application
BSTA	20000522AAS	P	WSTX-FM	20601	FM	GRANTED	06/12/2000	Info Application
BRH	19961204YE	P	WSTX-FM	20601	FM	GRANTED	06/18/1997	Info Application
BLSTA	19941015AAA	P	WSTX-FM	20601	FM	DISMISSED	02/22/2002	Info Application
BLSTA	19931201AAA	P	WSTX-FM	20601	FM	ACCEPTED FOR FILING		Info Application
BALH	19900420HF	P	WSTX-FM	20601	FM	GRANTED	06/14/1990	Info Application
BMPH	19881122IC	P	WSTX-FM	20601	FM	GRANTED	01/27/1989	Info Application
BRH	19880930WW	P	WSTX-FM	20601	FM	GRANTED	04/03/1988	Info Application
BLH	19880317KA	P	WSTX-FM	20601	FM	GRANTED	04/04/1989	Info Application
BTCH	19861203HJ	P	WSTX-FM	20601	FM	GRANTED	12/31/1986	Info Application
BPH	19860514IC	P	WSTX-FM	20601	FM	GRANTED	10/01/1986	Info Application
BALH	19850726HJ	P	WSTX-FM	20601	FM	GRANTED	09/18/1985	Info Application

3

BTCH	19850514HO	P	WSTX-FM	20601	FM	GRANTED	05/22/1986	Info Application
BLH	19841017CC	P	WSTX-FM	20601	FM	GRANTED	12/21/1984	Info Application
BMPH	19840409AT	P	WSTX-FM	20601	FM	GRANTED	07/18/1984	Info Application
BPH	19811216AK	P	WSTX-FM	20601	FM	GRANTED	03/08/1984	Info Application



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Application Search Details

File Number:	-20020918ABI
Call Sign:	WSTX-FM
Facility Id:	20601
FRN:	
Applicant Name:	FAMILY BROADCASTING, INC.
Frequency:	
Channel:	
Community of License:	CHRISTIANSTED, VI
Application Type:	EXTENSION OF STA
Status:	GRANTED
Status Date:	11/26/2002
Expiration Date:	05/26/2003
Tolling Code:	
Application Service:	FM
Disposed Date:	11/26/2002
Accepted Date:	
Last Public Notice:	
Last Report Number:	
Authorization	View Authorization
Legal Actions	View Legal Actions
PN Comment	Public Notice Comment