

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
February 10, 1998

In Reply Refer to:
1800B3-MFW

Dennis J. Kelly, Esq.
P.O. Box 6648
Annapolis, MD 21401

In re: WKTP(AM), Jonesborough, TN
Holston Valley Broadcasting Corporation

Request for Special Temporary
Authorization

Dear Mr. Kelly:

This letter responds to the request, filed on December 19, 1987 on behalf of Holston Valley Broadcasting Corporation ("HVBC"), for special temporary authorization ("STA") to operate the main studio of station WKTP(AM), Jonesborough, Arkansas at variance with the Commission's main studio rule, 47 C.F.R. §73.1125. Specifically, HVBC seeks authorization to co-locate the WKTP main studio with co-owned station WKPT(AM), Kingsport, Tennessee, outside of WKTP's principal community contour.¹

In support of the STA request, HVBC initially notes that, while it has maintained a studio for WKTP at 1907 North Roan Street, Johnson City, Tennessee, within the station's principal community contour, it is losing its lease on that site effective February 9, 1998.² HVBC states that most of its local programming originates from remote locations within the principal community contour, not from the existing main studio location; the majority of the station's programming actually originates from the WKPT studio in Kingsport. HVBC states that support for its request may be found in the pending Notice of Proposed Rule making which contemplates allowing licensees greater flexibility in selecting a location for a station's main studio. See Review of the Commission's Rules Regarding the Main Studio and Public Inspection Files of Broadcast Television and Radio Stations, 12 FCC Rcd 6993 (1997) ("NPRM"). HVBC claims that the co-location of the WKTP studio with that of WKPT would be consistent with the proposals set forth in the rule making. HVBC emphasizes that it is not technically asking for a permanent or temporary waiver of Section 73.1125, but "simply

¹The WKPT studio is located at 222 Commerce Street in Kingsport.

²HVBC's counsel informed the staff orally on February 4, 1998 that the licensee had secured a one-month extension on its lease.

wishes to avoid the expense of establishing a new main studio within WKTP's [principal community contour] should the outcome of the current proceeding make such action unnecessary."

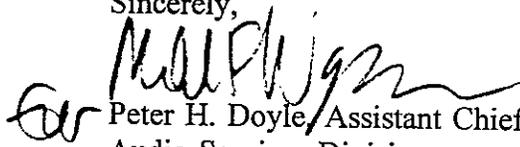
An STA is authority granted to a licensee to permit operation of a broadcast facility for a limited period at a specified variance from the requirements of the Commission's Rules. See 47 C.F.R. §73.1635(a). Pursuant to Section 309(f) of the Communications Act of 1934, as amended, the Commission is authorized to grant an STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest." Temporary authorizations may only be granted if a statement accompanying the request is provided explaining in detail the circumstances under which the request is needed. When proper circumstances have been shown, the Commission is authorized to grant special temporary authorizations for up to 180 days. See 47 C.F.R. §73.1635(a)(4).

Section 309(f) is not a means by which a broadcaster may enhance his facility, nor is it a means to make operation more convenient for the broadcaster. Rather, it is only applicable in those situations where broadcasters find themselves in extenuating circumstances, e.g., to avoid an interruption in service of a community's only broadcast station. See Man Corp., 39 RR 2d 748 (1976).

We deny HVBC's request for STA, as the licensee has failed to demonstrate "extraordinary circumstances." Moreover, HVBC has not represented that its departure from the main studio rule will be on a temporary basis. Rather, HVBC simply states that it wishes to avoid the expense of constructing and operating a new main studio for WKTP upon the expiration of the lease for the current studio site. This argument does not support a deviation from Section 73.1125 requirements. See, e.g., Maines Broadcasting, Inc., 8 FCC Rcd 5501 (1993). Neither does pendency of the NPRM provide support for HVBC's request. The range of possible changes to the main studio rule identified in the NPRM simply reflect the Commission's determination, subject to the comments gathered in the proceeding, that some change in the main studio rule is warranted. Until Section 73.1125 is modified or changed, it must be applied according to its terms. See Palm Beach Cable Television Co., 78 FCC 2d 1180, 1183 (1980) (the mere pendency of a rule making proceeding does not affect the application of current substantive or procedural rules). Consequently, HVBC's claim that co-locating the WKTP studio with that of WKPT in Kingsport is consistent with the proposed changes is irrelevant.

Accordingly, the request for special temporary authorization filed by Holston Valley Broadcasting Corporation on December 19, 1997 IS DENIED.

Sincerely,


Peter H. Doyle, Assistant Chief
Audio Services Division
Mass Media Bureau