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FEDERAL COMMUNICATIONS COMMISSION

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In re: KOFY(AM), San Mateo, California
Application for Modification of Daytime Facilities
File No. BP-960523AC

KPAY(AM), Chico, California
Contingent Surrender of License

Dear Counsel:

We have on file Pacific FM, Inc.'s ("Pacific") above-referenced application for a minor modification of station KOFY(AM), San Mateo, California's daytime facilities. The modification application seeks consent to make changes in the KOFY(AM) directional antenna system. On January 29, 1997, Pacific filed an amendment ("Amendment") to the subject application.¹ We also have on file a Technical Services Agreement ("Agreement") between Pacific and McCoy Broadcasting Company, Inc. ("McCoy"), licensee of KPAY(AM), Chico, California.² Pursuant to the Agreement, McCoy proposes to surrender the KPAY(AM) license for cancellation contingent

¹ Although the Amendment was originally filed as an amendment to a pending application seeking to modify KOFY(AM)'s *nighttime* facilities (File No. BMP-960830AD), on February 21, 1997, Pacific filed a correction to indicate that the Amendment was intended to amend the subject application.

² The Agreement was filed as part of an application to assign the license of KNSN(AM), Chico, California (File No. BAL-960523EB). This application, granted July, 16, 1996, authorized the assignment of the KNSN(AM) license from Alta California Broadcasting, Inc. to McCoy. Our records indicate that this assignment has not yet been consummated.

upon, *inter alia*, the finality of the grant of the subject KOFY(AM) application.³ For the reasons stated below, we grant the subject application conditioned upon the surrender of the KPAY(AM) license prior to the commencement of KOFY(AM) program tests.

The Commission has undertaken significant initiatives to improve and revitalize the AM service. *Review of the Technical Assignment Criteria for the AM Broadcast Service*, 6 FCC Rcd 6273 (1991), *recon. granted in part and denied in part*, 8 FCC Rcd 3250 (1993). One such initiative permits licensees to reach agreements to make facilities changes to reduce interference. *Policies to Encourage Interference Reduction Between AM Broadcast Stations*, 5 FCC Rcd 4492 (1990) ("*Interference Reduction Proceeding*"). In order to encourage such agreements, the Commission's rules were amended to provide for the acceptance of contingent applications that would facilitate a reduction in overall AM interference. *Id.* at 4493. The amended contingent application rule, 47 C.F.R. § 73.3517, applies to both deletions and modifications of existing interfering AM stations. In amending the rule to permit the filing of contingent applications that would "reduce interference to one or more AM stations or . . . otherwise increase the area of interference-free service," the Commission removed regulatory barriers that prevent or discourage individual AM stations from entering into private agreements that would ultimately decrease interstation interference and improve the quality of AM service. *Id.* at 4492. Contingent application arrangements that propose the deletion or modification of an AM station require a case-by-case public interest determination and the parties must demonstrate that a sufficient "local service floor" will be maintained in the community losing a local transmission service and throughout the service area that will experience a reduction in service due to the deletion or modification.

Interference Reduction. The Amendment demonstrates that the cancellation of the KPAY(AM) license will eliminate substantial amounts of mutual interference between KPAY(AM) and KOFY(AM). Moreover, no new interference will be caused or received as a result of the proposed modification of KOFY(AM)'s daytime facilities.⁴

³ The Agreement also calls for surrender of the KPAY(AM) license to be contingent upon certain circumstances involving a modification application for KNSN(AM), Chico, California (File No. BP-960523AA). We find, however, that there is no interference between KPAY(AM) and KNSN(AM) and thus no reason for us to allow any contingency between the KPAY(AM) surrender and the KNSN(AM) modification application. See 47 C.F.R. § 73.3517. See also *Policies to Encourage Interference Reduction Between AM Broadcast Stations*, 5 FCC Rcd 4492 (1990). We note, however, that the KNSN(AM) modification application was granted on February 20, 1997. See *Broadcast Actions*, Report No. 43936 (released February 25, 1997).

⁴ Although the 5 mV/m KOFY(AM) daytime contour proposed in the subject application yielded theoretical overlap with the 5 mV/m daytime contour proposed in a pending modification application (File No. BMP-960807AA) filed by the permittee of unbuilt station KIOQ(AM), Folsom, California, on January 7, 1997, Pacific filed an amendment to the subject application demonstrating an absence of actual overlap between the two proposed daytime contours.

Local Service Floor. The Amendment demonstrates that the deletion of KPAY(AM) will not create any new "white" area within KPAY(AM)'s former service area.⁵ Additionally, although a new 35 km² "grey" area will be created, this "grey" area contains no population.⁶

Conclusion. We have considered (1) the amount of AM interference that will be eliminated by the cancellation of the KPAY(AM) license, (2) the number of aural services that will continue to serve KPAY(AM)'s service area and (3) the service gain proposed by the KOFY(AM) modification application and we find that the public interest will be served by Commission approval of the Agreement.

Accordingly, the Technical Services Agreement between Pacific FM, Inc., and McCoy Broadcasting Company, Inc. is, to the extent indicated herein, APPROVED and the application for a minor modification of station KOFY(AM), San Mateo, California's daytime facilities (File No. BP-960523AC) is GRANTED. This action is conditioned as follows:

This action is conditioned upon the surrender of the KPAY(AM), Chico, California, license to the Commission for cancellation prior to the commencement of Program Test Authority by KOFY(AM), San Mateo, California, with the facilities authorized by this construction permit, pursuant to the discontinuance of operation provisions in 47 C.F.R. § 73.1730.

Sincerely,



Dennis Williams, Assistant Chief
Audio Services Division
Mass Media Bureau

⁵ A "white" area is an area that does not receive interference-free primary service from an authorized AM station or does not receive a signal strength of at least 1 mV/m from an authorized FM service. See 47 C.F.R. § 73.14.

⁶ A "gray" area receives one full-time service. See *Interference Reduction Proceeding*, 5 FCC Rcd at 4496, n. 14.