

FCC MAIL SECTION

FEDERAL COMMUNICATIONS COMMISSION

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IN REPLY REFER TO:
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DISPATCHED
Margaret L. Miller, Esquire
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1200 New Hampshire Ave., NW, Suite 800
Washington, DC 20036-2222

In re: WMLZ(AM), Jupiter, Florida
Application for Modification of Construction Permit
File No. BP-961101AB

WKYB(AM), Hemingway, South Carolina
Contingent Surrender of License

Dear Ms. Miller:

We have on file SSS Broadcasting, Inc.'s ("SSS") above-referenced application for a minor modification of construction permit for unbuilt station WMLZ(AM), Jupiter, Florida. The modification application seeks consent to change transmitter location, add nighttime power and construct a new tower. In conjunction with this application, SSS has filed an Interference Reduction Agreement ("Agreement") whereby the licensee of WKYB(AM), Hemingway, South Carolina,¹ surrenders the WKYB(AM) license for cancellation contingent upon the grant of WMLZ(AM)'s subject application.² For the reasons stated below, we will simultaneously cancel the WKYB(AM) license and grant the subject application.

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

¹ WKYB(AM) has been silent since January 1991.

² On January 14, 1997, SSS filed a supplement to the Agreement ("*Supplement*")

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 Supplement demonstrates that the cancellation of the WKYB(AM) license will eliminate interference that is currently caused to WRTG(AM), Garner, North Carolina. Moreover, no new interference will be caused or received as a result of the proposed modification to the WMLZ(AM) construction permit.

Local Service Floor. The Supplement demonstrates that the deletion of WKYB(AM) will not create any new "white" or "gray" area within WKYB(AM)'s former service area.³ Moreover, the community of Hemingway, South Carolina, will continue to receive at least eleven other primary aural services. Accordingly, Hemingway will continue to receive an ample number of aural services. *See Bay City, Brenham, Cameron, etc., Texas*, 10 FCC Rcd 3337, 3337 (1995) (affirming Commission policy that five receptive services is considered adequate).

We find that the Agreement demonstrates compliance with the local service floor guidelines with respect to Hemingway, South Carolina, after the cancellation of the WKYB(AM) license. Our staff has examined the Supplement, and the exhibits provided therewith, and finds that evidence has been provided which supports the conclusion that a net decrease in interference will result. Based upon its showing, we believe that SSS has demonstrated that the public interest will be served by Commission approval of the Agreement.

Accordingly, the WKYB(AM), Hemingway, South Carolina, license is CANCELLED, the WKYB(AM) call sign is DELETED and the application for a minor modification of construction permit for unbuilt station WMLZ(AM), Jupiter, Florida (File No. BP-961101AB) is GRANTED.

Sincerely,



Dennis Williams, Assistant Chief
Audio Services Division
Mass Media Bureau

cc: Robert D. Fogel, Esq.

³ 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. A "gray" area receives one full-time service. *See Interference Reduction Proceeding*, 5 FCC Rcd at 4496, n. 14.