



Federal Communications Commission
Washington, D.C. 20554

August 21, 2008

DA 08-1948

In Reply Refer to:

1800B3-MFW

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Christopher G. Wood, Esq.
Univision Radio Puerto Rico, Inc.
5999 Center Drive
Suite 4083
Los Angeles, California 90045

In re: WUKQ-FM, Mayaguez, PR
Facility ID No. 54818
File No. BPH-20080208AEW

Application for Minor Modification
of Facilities

Dear Mr. Wood:

We have before us a February 8, 2008 application (the "Application") of Univision Radio Puerto Rico, Inc. ("Univision") for minor modification of facilities for Station WUKQ-FM, Mayaguez, Puerto Rico. The Application was filed to implement a channel change adopted in MM Docket No. 91-259. As specified below, we grant the Application and, because the Application proposes only a change from Channel 256B to 254B, we include a condition requiring the completion of the modification of the WUKQ-FM facilities within six months of the issuance of this letter decision.

Background. On June 22, 1995, the Media Bureau issued a *Report and Order* in MM Docket No. 91-259.¹ The *Report and Order* requires a series of coordinated facility modifications, including the modification of Univision station WUKQ-FM to specify operation on Channel 254B at Mayaguez. The *Report and Order* required all affected licensees to file either Form 301 or 302 applications, as appropriate, within 90 days of the effective date of the *Report and Order*, or within 10 days of the commencement of program tests, respectively.

Univision filed the Application to implement its part of MM Docket No. 91-259 on February 8, 2008, eight and one-half years after this proceeding became final. The Application proposes operation on Channel 254B at Mayaguez, but proposes no other changes to WUKQ-FM's licensed facilities.²

¹ *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Canovanas, Culebra, Las Piedras, Mayaguez, Quebradillas, San Juan, and Vieques, Puerto Rico, and Christiansted and Frederiksted, Virgin Islands)*, Report and Order, 10 FCC Rcd 6673 (MMB 1995) ("Report and Order"), recon. denied, Memorandum Opinion and Order, 11 FCC Rcd 16392 (MMB 1996), app. for review denied, Memorandum Opinion and Order, 12 FCC Rcd 10055 (1997) and Memorandum Opinion and Order, 1999 WL 409511, FCC 99-147 (rel. Jun. 21, 1999).

² BLH-19850301KP.

Discussion. Section 73.3598(a) of the Commission’s Rules (the “Rules”)³ states that a construction permit to make changes in an existing station “shall specify a period of three years . . . within which construction shall be completed and a license application filed.” Thus, we would ordinarily accord Univision three years to “construct” the modified WUKQ-FM facilities, *i.e.*, commence operation on its new channel. However, the Communications Act of 1934, as amended, and the Commission’s Rules permit the Commission to waive its rules and condition authorizations to promote the public interest.⁴

WUKQ-FM’s commencement of operation on Channel 254B is one of the first steps necessary to accomplish the long-delayed and long-overdue implementation of MM Docket No. 91-259. The “construction” involved here requires extremely minor modifications to the WUKQ-FM transmission system. Given Univision’s excessive delay in the filing of the Application, a delay that has prevented improved radio service to several communities, an expedited construction period is particularly warranted. The policy behind the three-year construction period – to “allow sufficient time for a diligent permittee to complete construction of a facility, even if the permittee encounters significant construction difficulties”⁵ -- would not be undermined by an abbreviated construction period for WUKQ-FM.

We have examined the Application, and we find that it complies with all pertinent statutory and regulatory requirements and that its grant, as conditioned herein, would further the public interest, convenience, and necessity.⁶ Accordingly we will grant the Application below and, pursuant to Section 1.3 of the Rules, include a condition requiring the completion of the modification of the WUKQ-FM facilities within six months of the date of grant of the Application. We believe this to be sufficient time for Univision to implement the mandated frequency change and to publicize and promote the change to its listeners.

Conclusion/Actions. For the reasons set forth above, the application (File No. BPH-20080208AEW) IS GRANTED. The Construction Permit issued concurrently with this letter will expire at 3:00 a.m. local time on February 21, 2009.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Scott R. Flick, Esq.

³ 47 C.F.R. § 73.3598.

⁴ *See, e.g., Mobile Communications Corp. of America v. FCC*, 77 F.3d 1399, 1404-07 D.C. Cir. 1996) (the “necessary and proper clause” in 47 U.S.C. § 154(i) permits the Commission to impose conditions on grants when warranted by the public interest, convenience, and necessity). *See also* 47 C.F.R § 1.3 and *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (“*WAIT Radio*”); *Northeast Cellular Telephone Co.*, 897 F.2d 1164 (D.C. Cir. 1990) (*Northeast Cellular*”).

⁵ *See 1998 Biennial Regulatory Review: Streamlining of Mass Media Applications, Rules, and Processes*, Report and Order, 13 FCC Rcd 23056, 23089 ¶ 80 (1998).

⁶ *See* 47 U.S.C. §309(a).