

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

In the Matter of)
GLR Southern California, LLC)
Application for a Section 325(c) Permit to Deliver)
Programs to Foreign Broadcast Stations for)
Delivery of Mandarin Chinese Programming to)
Mexican Station XEWW-AM, Rosarito, Baja)
California Norte, Mexico)
IB Docket No. 19-144
File No. 325-NEW-20180614-00001
File No. 325-STA-20180710-00002

ORDER

Adopted: June 22, 2020

Released: June 22, 2020

By the Chief, International Bureau:

1. In this Order, we dismiss without prejudice the application of GLR Southern California, LLC (GLR) and H&H Group, USA LLC (H&H) (collectively, Applicants), to deliver programming to XEWW-AM (Station) in Mexico,1 dismiss the pending request to renew Special Temporary Authority (STA),2 and order all operations being conducted pursuant to this STA to cease within 48 hours. For the reasons explained below, we find that the Application and STA request are deficient as they are missing a key applicant for this section 325(c) permit application and request for STA.

2. The Applicants seek authority to deliver a “full range of Mandarin Chinese language programming” that includes “music, entertainment, weather reports, local (Los Angeles) traffic reports and local Chinese community news” to the Station for rebroadcast into the United States. It appears from the record of this proceeding that the radio broadcast studio (Studio) subject to the pending Application is used and maintained by Phoenix Radio, LLC (Phoenix Radio), and the broadcast programming subject to this section 325(c) request is supplied, created, or produced in the Studio, with the intent that such programming will be transmitted to the Station in Mexico and be broadcast back into the United States.3 Phoenix Radio is not listed as an applicant, however. Based on the record, and applying the specific

1 Form 308 Application for Permit to Deliver Programs to Foreign Broadcast Stations – GLR Southern, LLC – Expedited Approval Requested, IB Docket No. 19-144, at 18 (filed June 20, 2018) (Application).

2 H&H/GLR Request for Extension of Special Temporary Authority to Deliver Programs to Foreign Broadcast Station XEWW-AM, Rosarito, Baja California Norte, Mexico, 325-STA-20180710-00002 (filed Jan. 28, 2019), https://licensing.fcc.gov/myibfs/download.do?attachment_key=1616513 (STA Renewal Request).

3 See 47 U.S.C. § 325(c) (providing that “[n]o person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor.”) (emphasis added). See also 47 CFR § 73.3545 (stating that “[a]pplication under section 325(c) of the Communications Act for authority to locate, use, or maintain a broadcast studio in connection with a foreign station consistently received in the United States, should be made on FCC Form 308, ‘Application for Permit to Deliver Programs to Foreign Broadcast Stations.’”) (emphasis added).

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statutory requirements of section 325(c), we find that the Applicants and Phoenix Radio jointly will be providing the proposed section 325(c) service under the application before us and as such all three entities, GLR, H&H, and Phoenix Radio, must be listed as applicants for this application to be complete.

I. BACKGROUND

3. **The Applicants.** H&H is a New York limited liability company that is owned by Vivian Huo and Julian Sant, each of whom are United States citizens.⁴ GLR is a Delaware limited liability company that is now wholly owned by H&H.⁵ At the time of the Application, GLR was a wholly owned subsidiary of GLR Services providing Spanish-language programming to the Station.⁶ GLR “indirectly owns all of the studio and physical transmission facilities of the Station” in Mexico.⁷

4. **Phoenix Radio and the Programming and Sales Agreement.** Phoenix Radio is a Delaware limited liability company wholly-owned by Phoenix Satellite Television (U.S.) Inc. (Phoenix TV).⁸ Phoenix TV is a content creator that provides Chinese television programming in North America. Phoenix TV purports to be the largest Chinese language television provider in the United States and Canada, transmitting three 24/7 programming channels to more than 200,000 subscribers on cable and satellite systems such as DISH and DIRECTV.⁹

5. Phoenix TV was formed in 2000 as a wholly-owned U.S. subsidiary of Phoenix Media Investment Holdings Co. Ltd., formerly known as Phoenix Satellite Television Holdings Co., Ltd. (Phoenix Satellite).¹⁰ Phoenix Satellite is a publicly-traded company based in Hong Kong.¹¹ The company was formed in 1996 as a 50/50 joint venture between Liu Changle’s Today’s Asia and Rupert Murdoch’s StarTV.¹² Later, China Wise International Limited (China Wise), an advertising sales company also based in Hong Kong, obtained a 10% stake for a share structure of 45/45/10.¹³ Further changes in share structure resulted from Phoenix Satellite’s 2000 IPO on the Hong Kong Stock Exchange. Today’s Asia remains the largest shareholder, holding approximately 37% of Phoenix TV stock.¹⁴ Two entities with Chinese government ownership, Extra Step Investments Limited and China Wise, hold approximately 20% and 8%, respectively.¹⁵ TPG China Media, L.P., is described as the third largest

⁴ See Application at Exhibit A. See also Applicant’s Response to Information Request, IB Docket No. 19-144, at 40 (filed Mar. 22, 2019), <https://ecfsapi.fcc.gov/file/10621092118045/GLR%20Redacted%20Public%20Filing%20for%20Protective%20Order%20for%20IB%20Docket%20No.%2019-144%3B%20IBFS%20File%20No.%20325-NEW-20180614-00001.pdf> (H&H/GLR Response to IR).

⁵ See H&H/GLR Response to IR at 40.

⁶ See Application at Exhibit B.

⁷ Opposition to Petition to Deny, IB Docket No. 19-144, at 6 (filed Aug. 29, 2018), <https://ecfsapi.fcc.gov/file/10606195739627/19-144%2020.pdf> (H&H/GLR Opposition).

⁸ See *supra* note 10.

⁹ See, e.g., H&H/GLR Response to IR at 42; Response To Unauthorized Filings, IB Docket No. 19-144, at 9 (filed Sept. 24, 2018), <https://ecfsapi.fcc.gov/file/1060638752908/19-144%2016.pdf> (H&H/GLR Response to Unauthorized Filings).

¹⁰ See, e.g., H&H/GLR Response to IR at 42.

¹¹ See, e.g., *id.* at 41.

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*, at Exh. A, Affidavit of Xiaoyong Wu para. 2.

¹⁵ See *id.*

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shareholder, with approximately 12% stock ownership.¹⁶

6. On April 18, 2018, H&H entered into a programming and sales agreement with Phoenix Radio in anticipation of acquiring GLR and obtaining a permit to deliver programming to the Station for broadcast into the United States.¹⁷ On June 13, 2018, GLR submitted an application for transfer of control of GLR's existing section 325(c) license,¹⁸ as H&H aimed to purchase GLR from GLR Network Services, LLC. On June 20, 2018, Applicants submitted the Application seeking a permit to deliver programs to a foreign station for broadcast into the United States, as required by section 325(c) of the Communications Act of 1934, as amended (the Act).¹⁹

7. ***Chinese Sound of Oriental and West Heritage Inc. Petition to Deny.*** On July 9, 2018, the International Bureau (Bureau) accepted the Application for filing and placed it on public notice for thirty days.²⁰ On July 20, 2018, to ensure continuity of service for XEWW-AM listeners in the area, the Bureau granted an STA to the Applicants to permit the Applicants to engage in regulated activities pending Commission action on their Application.²¹ On July 26, 2018, H&H purchased GLR from GLR Network Services, LLC and provided that, under H&H ownership, GLR would deliver Chinese-language programming to XEWW-AM, located in Rosarito, Baja California Norte, Mexico.

8. On August 8, 2018, Chinese Sound of Oriental and West Heritage (CSO) filed a Petition to Deny the Application, stating that grant of the application might allow the government of the People's Republic of China (PRC) to "provide its own propaganda programming" and asking the Bureau to conduct "an inquiry into the possible relationship between H&H and [PRC]."²² On August 29, 2018,

¹⁶ H&H/GLR Response to Unauthorized Filings, at Exhibit C, 2-3. According to the Applicants, TPG China Media, L.P. "is controlled by TPG Asia Advisors VI DE, Inc., which in turn is ultimately controlled by David Bonderman and James G. Coulter. Messrs. Bonderman and Coulter are co-founders of TCP Capital (formerly the Texas Pacific Group), a U.S.-based company that is one of the world's largest private equity firms." *Id.* at 3.

¹⁷ See H&H/GLR Response to IR, at Appendix, Tab 1: Station Programming and Sales Agreement between Phoenix Radio, LLC and H&H Group USA LLC, effective April 18, 2018; H&H/GLR Response to IR at Appendix, Tab 1: Amended and Restated Station Programming and Sales Agreement between Phoenix Radio, LLC, GLR Southern California, LLC, and H&H Group USA LLC, effective August 28, 2018 (Amended Programming Agreement); and Letter from Paige K. Fronabarger, Wilkinson Barker Knauer, LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, H&H/GLR Second Response to IR, at Exhibit C. (filed Jan. 7, 2020) (Station Programming and Sale Agreement).

¹⁸ On June 13, 2018, GLR held a section 325(c) permit to deliver programming to the Station in Mexico, initially granted by the Commission on March 2, 2007, for the Station (then operating under the call sign XETRA (AM)), and last renewed on June 14, 2017, under the Station's current call sign XEWW-AM. See Permit To Deliver Programs To Foreign Broadcast Stations re: Action Taken GLR Southern California LLC, Public Notice, Report No. 325-00117 (IB Mar. 2, 2007) and Permit To Deliver Programs To Foreign Broadcast Stations re: Action Taken GLR Southern California LLC, Public Notice, Report No. 325-00210 (IB June 14, 2017).

¹⁹ See Application at Exhibit D. Given the extent of the changes, the Application was treated as a new request for a permit under section 325(c).

²⁰ GLR Southern California, LLC Application for a Section 325(c) Permit to Deliver Programs to Foreign Broadcast Stations for Delivery of Mandarin Chinese Programming to Mexican Station XEWW-AM, Rosarito, Baja California Norte, Mexico, Public Notice, Report No. 325-00213 (IB July 9, 2018); 47 U.S.C. § 325(c).

²¹ GLR Southern California, LLC Special Temporary Authority to Deliver Programs to Foreign Broadcast Stations to Deliver Cross-Border Transmissions of Broadcast Programs to Mexican Station XEWW-AM, Rosarito, Baja California Norte, Mexico, Public Notice, Report No. 325-00216 (IB July 24, 2018) https://licensing.fcc.gov/ibfsweb/ib.page.FetchPN?report_key=1471630 (STA Grant PN).

²² Petition to Deny, IB Docket No. 19-144, at 8 (filed Aug. 8, 2018), <https://ecfsapi.fcc.gov/file/10606123893372/19-144%2011.pdf>.

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GLR filed an Opposition attempting to refute the claims in the Petition.²³ On September 4, 2018, CSO filed a “Supplement” to its Petition,²⁴ and on September 11, 2018, CSO filed a Reply to Applicants’ Opposition to the Petition to Deny seeking to incorporate the Supplement by reference.²⁵ United States Senator Ted Cruz also filed a letter urging the Commission to reject the application “given the unresolved and undisclosed details” surrounding the application.²⁶ In the letter, Senator Cruz stated that “[t]hough ‘Phoenix Satellite TV’ does not appear anywhere in the H&H Group’s application, the address listed for programing content - 3810 Durbin St., Irwindale, CA 91706 - is a building owned by Phoenix Satellite TV USA.”²⁷ On September 24, 2018, GLR filed a Response to the Supplement, which it characterized therein as “Unauthorized Filings.”²⁸ On October 17, 2018, CSO responded to GLR’s submission.²⁹

9. **International Bureau Investigation.** On February 15, 2019, the Bureau sent an Information Request to the Applicants to ensure a complete record on which to make the necessary public interest finding under section 309 of the Act.³⁰ On March 22, 2019, the Applicants provided a response to the Information Request including a request that the response remain confidential.³¹ On May 24, 2019,

²³ H&H/GLR Opposition.

²⁴ Supplement To Petition To Deny, IB Docket No. 19-144 (filed Sept. 4, 2018), <https://ecfsapi.fcc.gov/file/10606678412990/19-144%2017.pdf>.

²⁵ Reply To Opposition To Petition To Deny, IB Docket No. 19-144 (filed Sept. 11, 2018), <https://ecfsapi.fcc.gov/file/106062671205148/19-144%2013.pdf>.

²⁶ Letter from Ted Cruz, U.S. Senator, to Ajit Pai, Chairman, Federal Communications Commission (September 11, 2018) (Cruz Letter) (<https://docs.fcc.gov/public/attachments/DOC-355457A2.pdf>). In the letter, Senator Cruz expresses concerns about the role of the PRC in Phoenix’s operations, specifically government ownership interests and the possibility that grant of the application would allow the Chinese Communist Party (CCP) “to broadcast government-approved propaganda into Southern California.” *Id.* at 2. For Chairman Pai’s response letter, Letter from Ajit Pai, Chairman, Federal Communications Commission, to Ted Cruz, U.S. Senator (Nov. 26, 2018) (<https://docs.fcc.gov/public/attachments/DOC-355457A1.pdf>).

²⁷ *See* Cruz Letter at 2.

²⁸ Response To Unauthorized Filings, IB Docket No. 19-144 (filed Sept. 24, 2018), <https://ecfsapi.fcc.gov/file/1060638752908/19-144%2016.pdf>; 47 U.S.C. § 1.45.

²⁹ Reply To Response To Unauthorized Filings, IB Docket No. 19-144 (filed Oct. 17, 2018), <https://ecfsapi.fcc.gov/file/106060510306893/19-144%2015.pdf>.

³⁰ Letter from Thomas Sullivan, Chief, International Bureau, FCC, to David Oxenford, Paige K. Fronabarger, Wilkinson Barker Knauer, LLP (Feb. 15, 2019) (on file in IB Docket No. 19-144); 47 U.S.C. § 309.

³¹ H&H/GLR Response to IR; Request for Confidential Treatment, IB Docket No. 19-144 (filed Mar 22, 2019), <https://ecfsapi.fcc.gov/file/10606148479158/19-144%2018.pdf>. Applicants requested an extension of time to respond to the Information Request to which CSO objected. Letter from Paige K. Fronabarger, David D. Oxenford, Christopher D. Bair, Attorneys for GLR Southern California, LLC and H&H Group USA LLC, to Thomas Sullivan, Chief, International Bureau, FCC (Mar. 1, 2019), (on file in IB Docket No. 19-144); OPPOSITION TO REQUEST FOR EXTENSION OF TIME, IB Docket No. 19-144 (filed Mar. 4, 2019), <https://ecfsapi.fcc.gov/file/10606206324851/19-144%209.pdf>. On March 14, the Bureau granted a four-day extension. On April 16, CSO filed a Motion for Production of Documents requesting access to the Response. Motion For Production Of Documents, IB Docket No. 19-144 (filed Apr. 16, 2019), <https://ecfsapi.fcc.gov/file/1060625682287/19-144%207.pdf>. On May 1, Applicants filed an Opposition to the Motion for Document Production and Request for Protective Order, which also removed their prior confidentiality request for a number of documents. Opposition To Chinese Sound Motion For Document Production; Request For Protective Order, IB Docket No. 19-144, at 1, n.1 (filed May 1, 2019), <https://ecfsapi.fcc.gov/file/106061942121052/19-144%2019.pdf>. On May 24, 2019, the International Bureau established an IB docket and permit-but-disclose ex-parte status for the Application. International Bureau Establishes IB Docket No. 19-144 and Announces Permit-But-Disclose Ex Parte Status for the Application Filed by GLR Southern California, LLC For A Section 325(c) Permit, Public Notice, DA 19-461 (IB May 24, 2019).

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the International Bureau issued a Protective Order for the proceeding,³² making certain information in the record subject to the *Protective Order*.³³ Applicants last updated the record subject to the *Protective Order* in January 2020.

II. DISCUSSION

10. Section 325(d) states that grants and denials of section 325(c) applications are subject to the requirements of section 309.³⁴ Section 309(a) directs the Commission to grant applications that it finds are in the public interest, convenience, and necessity.³⁵ We use the same criteria for meeting the programming standards component of the public interest, convenience, and necessity requirement in both a domestic broadcast license proceeding under section 309 and a cross-border broadcast license proceeding under section 325(c).³⁶ Before we can apply our public interest analysis, however, we must ascertain that the application is complete and includes all needed parties and information. Unlike domestic broadcast station license applications, section 325(c) is not an authorization for a broadcast station (which in the section 325(c) context is in a foreign country) but an authorization to allow the applicant to locate, use, or maintain a broadcast studio or apparatus for the purpose of delivering programming to a foreign station that broadcasts the programming back into the United States.³⁷

11. Section 325(c) of the Act, provides that “[n]o person shall be permitted to *locate, use, or maintain* a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being

³² In the Matter of GLR Southern California, LLC Application for a Section 325(c) Permit to Deliver Programs to Foreign Broadcast Stations for Delivery of Mandarin Chinese Programming to Mexican Station XEWW-AM, Rosarito, Baja California Norte, Mexico, Protective Order, DA 19-462 (IB May 24, 2019), <https://docs.fcc.gov/public/attachments/DA-19-462A1.pdf> (*Protective Order*). The *Protective Order* was responsive to earlier filings by the Parties, and documents filed in this proceeding were made available to CSO pursuant to the *Protective Order*.

³³ In this Order, Highly Confidential Information, as defined in the *Protective Order*, will be marked by the terms “[BEGIN HIGHLY CONFIDENTIAL INFORMATION]” and “[END HIGHLY CONFIDENTIAL INFORMATION],” Confidential Information, as defined in the *Protective Order*, will be marked by the terms “[BEGIN CONFIDENTIAL INFORMATION]” and “[END CONFIDENTIAL INFORMATION].” Such information will be redacted from the publicly available version of this Order. The unredacted version will be available upon request to persons qualified to view it under the *Protective Order*.

³⁴ 47 U.S.C. § 325(d).

³⁵ 47 U.S.C. § 309(a).

³⁶ See e.g., *Fox Television Stations, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 14870, 14875-78, paras. 16-25 (D.C. Cir. 1996), *aff’d sub nom, Radio Television S.A. de C.V. et al. v. FCC*, 130 F.3d 1078 (D.C. Cir. 1997). See also *American Broadcasting Cos., Inc.*, Decision, 35 FCC 2d 1, 5-6, para. 9 (1972).

³⁷ Although the Commission eliminated the obligation to maintain a main studio for domestic broadcasters in 2017, that decision is not applicable in the context of determining who needs a section 325(c) authorization in light of the statutory language of section 325(c). *In the Matter of Elimination of Main Studio Rule*, Report and Order, 32 FCC Rcd 8158 (2017). Section 325(c) applications were outside of the scope of that proceeding and no changes were proposed or contemplated with respect to section 325(c) applications and section 73.3545 of Commission rules stating that “[a]pplication under section 325(c) of the Communications Act for authority to locate, use, or maintain a *broadcast studio* in connection with a foreign station consistently received in the United States, should be made on FCC Form 308, “Application for Permit to Deliver Programs to Foreign Broadcast Stations” (emphasis added). See 47 CFR § 73.3545 (emphasis added). See also *Remote Control Border Stations Hearings Before The Committee on Merchant Marine, Radio, And Fisheries*, 73 Cong. 78 (1934) (Statement of Hon. R. E. Thomason, A Representative in Congress from the State of Texas) (“The passage of this bill is directed only at the maintenance of studios in the production of the programs in the United States.”).

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broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, *without first obtaining a permit from the Commission upon proper application therefor.*³⁸ This statutory provision is directed to entities which locate, use, or maintain a radio broadcast studio or other place or apparatus to undertake the activities outlined in this provision. The Commission's rules state that FCC Form 308, Application for Permit to Deliver Programs to Foreign Broadcast Stations, under section 325(c) of the Act, is "for authority to locate, use, or maintain a broadcast studio in connection with a foreign station consistently received in the United States."³⁹

12. In determining whether the Application is deficient, and in light of the provisions of section 325(c), we focus on the specific facts and circumstances of this case with respect to the use of the studio to produce programming (i.e., convert sound waves into electrical energy). Specifically, we have examined the facts to determine the extent to which the Applicants and Phoenix Radio, respectively, are using the Studio to perform the functions for which a permit is necessary.⁴⁰ And as discussed below, the record in this proceeding demonstrates that the Application is missing one of the key parties, Phoenix Radio, whose activities at the Studio are such that, without reviewing its role as an applicant, we cannot evaluate the proposed service.

13. Under the Applicants' agreement with Phoenix Radio, Phoenix Radio creates and provides the programming subject to this application using its own Studio. Applicants have no presence at the Studio other than through Phoenix Radio, and their presence and activities at the Studio are insufficient to make them the sole user of the Studio for purposes of this Application. Moreover, once the Station receives the programming, Phoenix Radio's role does not end there.⁴¹ The Applicants and Phoenix Radio have entered into a business arrangement with certain specific provisions that allow them to perform the proposed service together [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION].⁴² Only when taken together do their actions result in a complete set of activities necessary to locate, use, or maintain the Studio in order to provide the proposed service under the Application at issue—performing activities at the Studio to create programming, delivering the programming to the Station in Mexico with intent that it be broadcast back to the United States, and ensuring compliance with our rules and any section 325(c) permit conditions. Accordingly, we are unable to evaluate whether this Application, as filed, would serve the public interest given that Phoenix Radio, a necessary party, is not before us as an applicant, although it performs certain key activities necessary to locate, use, or maintain the Studio in order to provide the proposed service under this section 325(c) application.

14. The record in this proceeding includes the following facts: (1) as the owner of the Studio in California, including the equipment, and the employer of all technical and creative personnel that work within the Studio, Phoenix Radio uses and maintains the Studio relevant to the pending section 325(c) permit application to convert sound waves into electrical energy; (2) pursuant to the terms of the Station Programming and Sale Agreement, the programming (i.e., sound waves converted into electrical energy) is delivered to the Station in Mexico and from there is transmitted into and consistently received in the United States; and (3) the Applicants' actual studio use and maintenance is minimal.

15. With respect to broadcast studio operations under this application, Phoenix Radio, at its

³⁸ See 47 U.S.C. § 325(c) (*emphasis added*).

³⁹ See 47 CFR § 73.3545.

⁴⁰ Cf. *Application of Joe Tom Easley, Eagle Pass, Tex.*, Decision, 25 F.C.C. 1410, 1416 (1958) (examining facts surrounding studio and equipment).

⁴¹ See *infra* paras. 15-17.

⁴² See Station Programming and Sale Agreement.

Studio, performs activities of programming creation and is responsible [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]⁴³ Under the Station Programming and Sale Agreement, [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION].⁴⁴ These arrangements demonstrate Phoenix Radio's vital role in the use and maintenance of the Studio for the purpose of delivering the programming to the Station.

16. To be sure, the Applicants have a contractual right to use space at the Studio and use [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] an agent to facilitate transmission of the Phoenix Radio programming to the Station from the Studio.⁴⁵ However, Applicants' contractual right to use the space at the Studio does not serve to negate Phoenix Radio's vital section 325(c) role given the circumstances in this case. The agent uses the Studio [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]⁴⁰ The Agent Letter Agreement states that [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]⁴¹ Although Applicants assert that they [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]⁴⁸ the Applicants also concede that they [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]⁴⁹ Nevertheless, Applicants suggest that this Agent Letter Agreement [BEGIN CONFIDENTIAL INFORMATION]

⁴³ Station Programming and Sale Agreement at 3.2.

⁴⁴ *Id.* at 2.2.1.

⁴⁵ H&H/GLR Response to IR at 22.

⁴⁶ See Station Programming and Sale Agreement at 2.1.5; H&H/GLR Response to IR at Appendix: Tab 5, Attachment B.

⁴⁷ H&H/GLR Response to IR at Appendix: Tab 5.

⁴⁸ *Id.* at 34.

⁴⁹ *Id.*

(continued....)

[END
CONFIDENTIAL INFORMATION]

⁵⁰ But the Agent's role does not negate Phoenix Radio's vital role in the use and maintenance of the Studio to create programming for delivery to the Station as contemplated by section 325(c).

17. With respect to the transmission of programming from the Studio to the Station, the Station Programming and Sale Agreement states that [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]⁵¹ Further, the Applicants state that [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]⁵²

18. Under the Station Programming and Sale Agreement, the Applicants [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]⁵³

19. We note that our rules do not prohibit applicants from using a shared studio or require an applicant to have a separate and independent studio for purposes of section 325(c) to produce the programming at issue. Here, however, the record indicates that the Applicants and Phoenix Radio each perform certain key activities for the provisioning of the proposed service within the scope of section 325(c). Accordingly, we find that Phoenix Radio must be included as an applicant based on the facts contained in the record and dismiss the Application without prejudice to a new application being filed by all of the proper applicants.

20. *STA*. On July 9, 2018, Applicants filed a request for an STA, which the Commission granted on July 20, 2018, effective July 25, 2018.⁵⁴ On January 28, 2019 GLR timely requested an extension of the STA, "until the FCC acts on the underlying 325(c) permit application in FCC File No.

⁵⁰ *Id.* at 32.

⁵¹ Station Programming and Sale Agreement at 1.4.

⁵² H&H/GLR Response to IR at 16-17. Applicants state that [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] *Id.*

⁵³ Station Programming and Sale Agreement at 1.1. [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION] *Id.* at 1.1.

⁵⁴ STA Grant PN (stating that STA grant is effective July 25, 2018 for the period during which the Commission is processing GLR's application for regular authority or 180 days, whichever comes first).

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325-NEW-20180614-0000[1].”⁵⁵ On January 29, CSO filed an Opposition to the request.⁵⁶ On February 8, 2019, GLR filed a Reply.⁵⁷ On February 19, 2019, CSO filed a supplement to its Opposition.⁵⁸ On April 16, 2019, CSO filed a Motion to terminate the STA.⁵⁹ On May 1, 2019, GLR filed an Opposition to the Motion.⁶⁰ The STA renewal request remains pending before us, and the Applicants continue to operate during the pendency of their renewal request. Given that we are dismissing the underlying Application because Applicants filed a deficient application, we do not believe that it would be appropriate to allow Applicants to continue operating pursuant to an STA request that suffers from the same deficiency. Moreover, we believe that it would not serve the public interest to allow the Applicants to continue operating pursuant to an STA because that STA is no longer associated with a valid section 325(c) application pending before us. Accordingly, we deny the STA renewal request and provide Applicants with 48 hours to cease operations. To the extent that a new section 325(c) application is filed with the Commission by the proper applicants, those proper applicants are also free to file a request for a new STA.

III. ORDERING CLAUSES

21. ACCORDINGLY, pursuant to sections 309, and 325(c)-(d) of the Act, as amended, 47 U.S.C. §§ 309, 325(c)-(d), IT IS ORDERED THAT the Application, File No. 325-NEW-20180614-00001, requesting a section 325(c) permit is dismissed without prejudice, as deficient. Any refiled application must include Phoenix Radio, LLC as one of the applicants as well as all supporting documents showing why the grant of the amended application would serve the public interest, convenience, and necessity under the Communications Act.⁶¹

22. Pursuant to sections 309, and 325(c)-(d) of the Act, as amended, 47 U.S.C. §§ 309, 325(c)-(d), IT IS ORDERED THAT the Special Temporary Authority renewal request, File No. 325-STA-20180710-00002, is dismissed as moot and/or deficient and all operations being conducted pursuant to this STA must cease within 48 hours. Any new request must include all relevant entities as applicants as well as all supporting documents showing why the grant of the request would serve the public interest,

⁵⁵ STA Renewal Request. https://licensing.fcc.gov/myibfs/download.do?attachment_key=1616513.

⁵⁶ CSO Opposition to Request for Extension of Special Temporary Authority to Deliver Programs to Foreign Broadcast Station XEWW-AM, Rosarito, Baja California Norte, Mexico, 325-STA-20180710-00002 (filed Jan. 29, 2019), https://licensing.fcc.gov/myibfs/download.do?attachment_key=1627124.

⁵⁷ H&H/GLR Reply to Opposition to Request for Extension of Special Temporary Authority to Deliver Programs to Foreign Broadcast Station XEWW-AM, Rosarito, Baja California Norte, Mexico, 325-STA-20180710-00002 (filed Feb. 8, 2019), https://licensing.fcc.gov/myibfs/download.do?attachment_key=1622571.

⁵⁸ CSO Supplement to Opposition to Request for Extension of Special Temporary Authority to Deliver Programs to Foreign Broadcast Station XEWW-AM, Rosarito, Baja California Norte, Mexico, 325-STA-20180710-00002 (filed Feb. 19, 2019), https://licensing.fcc.gov/myibfs/download.do?attachment_key=1627623.

⁵⁹ CSO Motion to Terminate Unlawful Operation, 325-STA-20180710-00002 (filed Apr. 16, 2019), https://licensing.fcc.gov/myibfs/download.do?attachment_key=1769690.

⁶⁰ H&H/GLR Opposition to Motion to Terminate Unlawful Operation, 325-STA-20180710-00002 (filed May 1, 2019), https://licensing.fcc.gov/myibfs/download.do?attachment_key=1670971.

⁶¹ 47 U.S.C. § 325(d). In this regard, note that the Commission may evaluate an applicant’s foreign ownership as part of its overall public interest assessment. *Applications of Sin, Inc. 460 W. 42nd St. New York, New York 10036 for Auth. to Deliver Programming to Mexican Television Stations Pursuant to Section 325(b) of the Commc’ns Act*, 101 F.C.C.2d 823 (1985). Based on the information provided in the record to date, we believe additional information about the nature of foreign government ownership in Phoenix and the attendant rights of such owners would be relevant to the public interest inquiry. A specific request for such additional information would be based on review of information provided in any amended or new application.

(continued....)

convenience, and necessity under the Communications Act.⁶²

23. These actions are taken under delegated authority pursuant to section 0.261(a) of the Act, 47 U.S.C. 0.261(a).

⁶² *Id.*