

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

In the Matter of
Blue Ridge Free Media
WXRK-LP, Charlottesville, Virginia
Application for Renewal of License
Application File No. 0000072621
Facility ID No. 192547

MEMORANDUM OPINION AND ORDER

Adopted: March 16, 2026

Released: March 16, 2026

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. We have before us an application (Application) filed by Blue Ridge Free Media (Licensee) to renew the license of low power FM (LPFM) station, WXRK-LP, Charlottesville, Virginia (Station). Also before us are a Petition to Deny (Petition) the Application filed by Tidewater Communications, LLC (Petitioner), an Informal Objection (Objection) filed by Petitioner, related

1 Application File No. 0000072621.

2 Consolidated Petition to Deny of Tidewater Commc'ns, LLC, Pleading File No. 0000080850 (filed Sept. 3, 2019) (Petition). Petitioner filed the Petition not only in relation to the Application but also in relation to applications to renew the licenses of four additional LPFM stations: WVAI-LP, WREN-LP, and WPVC-LP, Charlottesville, Virginia, and WKMZ-LP, Ruckersville, Virginia. The licenses of WPVC-LP and WKMZ-LP were subsequently cancelled. See Letter from Lee J. Peltzman, Counsel for Promise Land Commc'ns, to James Bradshaw, Deputy Chief, Audio Div., Media Bureau (dated June 17, 2020) ("turning in" WPVC-LP license for cancellation and "requesting dismissal of any pending Application"); Broadcast Actions, Public Notice, Report No. 49778, at 2 (MB July 13, 2020) (cancelling WPVC-LP license); Broadcast Actions, Public Notice, Report No. 49971, at 1 (MB April 20, 2021) (cancelling WKMZ-LP license). WVAI-LP and WREN-LP remain operational. We addressed Petitioner's allegations regarding WREN-LP and WVAI-LP in earlier decisions. See Genesis Commc'ns, Inc., Memorandum Opinion and Order, 39 FCC Rcd 10796 (MB 2024); Air Mix Virginia, Memorandum Opinion and Order, 40 FCC Rcd 3865 (MB 2025).

3 Consolidated Informal Objection of Tidewater Commc'ns, LLC, Pleading File No. 0000124783 (filed Oct. 19, 2020) (Objection). Petitioner filed the Objection in relation to the Application and the applications to renew the licenses of WVAI-LP and WREN-LP. As noted, we have already addressed Petitioner's allegations regarding WVAI-LP and WREN-LP in separate decisions.

responsive pleadings,⁴ and Licensee's response to our Letter of Inquiry (LOI).⁵ For the reasons discussed below, we grant in part and otherwise deny the Petition, grant the Objection, and adopt the attached Consent Decree, which resolves issues related to the broadcast of commercial advertising on the Station in violation of section 399B of the Communications Act of 1934, as amended (Act), and sections 73.503(d) and 73.801 of the Commission's rules (Underwriting Laws).⁶ We also grant the Application.

II. BACKGROUND

2. In the Petition, Petitioner alleges that (1) the Station is "regularly broadcasting commercial announcements" in violation of the Underwriting Laws,⁷ (2) Licensee is a party "to a prohibited operating agreement or management agreement" in violation of section 73.860(e) of the Commission's rules (Rules),⁸ (3) the Station is not conforming to the educational purpose Licensee outlined in its application for the Station's initial construction permit (Permit Application),⁹ and (4) Licensee made false certifications in the Permit Application.¹⁰ In its Opposition, Licensee disputes all of Petitioner's allegations, except the assertion that Licensee made false certifications in the Application, which Licensee does not discuss.¹¹ Licensee also alleges that Petitioner is abusing the Commission's processes and has lacked candor in the Petition.¹² In its Reply, Petitioner denies abusing the Commission's processes,¹³ and reiterates the claims it made in the Petition.¹⁴ Given the incomplete state of the record, we sent the LOI to Licensee, requesting additional information about the allegations made

⁴ Licensee filed an Opposition to the Petition on September 27, 2019. Opposition to Consolidated Petition to Deny of Blue Ridge Free Media, Inc., Pleading File No. 0000082435 (filed Sept. 27, 2019) (Opposition). Petitioner filed a Reply to the Opposition on November 14, 2019. Consolidated Reply to Oppositions to Consolidated Petition to Deny of Tidewater Commc'ns, LLC, Pleading File No. 0000089453 (filed Nov. 14, 2019); Consolidated Reply to Oppositions to Consolidated Petition to Deny of Tidewater Commc'ns, LLC, Pleading File No. 0000090110 (filed Nov. 15, 2019) (resubmitting pleading filed on November 14, 2019, along with missing declaration) (collectively, Reply). *See also* Letter from Albert Shuldiner, Chief, Audio Div., Media Bureau, to Blue Ridge Free Media et al. (dated Oct. 21, 2019) (extending deadline for oppositions to the Petition until October 25, 2019, and extending deadline for reply to any oppositions until November 14, 2019). The Reply addressed not just the Opposition but oppositions to the Petition filed by Air Mix Virginia, licensee of WVAI-LP, and Genesis Communications, Inc., licensee of WREN-LP. As noted above, we have already addressed Petitioner's allegations about WVAI-LP and WREN-LP in separate decisions.

⁵ Letter from Michael W. Richards, Counsel to Blue Ridge Free Media, to Tom Hutton, Deputy Div. Chief, Audio Div., Media Bureau (dated June 19, 2020) (LOI Response). *See also* Letter from Albert Shuldiner, Chief, Audio Div., Media Bureau, to Blue Ridge Free Media, et al. (dated Jan. 28, 2020).

⁶ 47 U.S.C. § 399B; 47 CFR §§ 73.503(d), 73.801.

⁷ Petition at 8-10.

⁸ *Id.* at 3-8.

⁹ *Id.* at 9-10, 20. *See also* Application File No. BNPL-20131113AXE (Permit Application).

¹⁰ Petition at 17-21. Petitioner also makes a general allegation that Licensee made false certifications in the Application, and its application for the Station's license (License Application). Petition at 2, 10, 17; Reply at 14-15. *See also* Application File No. BLL-20151002AAA. However, all of the specific certifications referenced by Petitioner were made in the Permit Application. Accordingly, we do not discuss certifications made in the Application or the License Application further herein.

¹¹ Opposition at 4-13.

¹² *Id.* at 3-4, 10, 13-14.

¹³ Reply at 3.

¹⁴ *Id.* at 3-8, 12-16.

in the Petition. Licensee submitted its response on June 19, 2020.¹⁵ Subsequently, Petitioner submitted the Objection, which alleges that the Station continues to violate the Underwriting Laws.¹⁶

III. DISCUSSION

A. Standard of Review

3. Under section 309(k) of the Act, the Commission shall grant a station's renewal application if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse.¹⁷ If, however, the licensee fails to meet that standard, the Commission may deny the application—after notice and opportunity for a hearing under section 309(e) of the Act—or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”¹⁸

4. If a petition to deny or informal objection has been filed against a renewal application, the Commission reviews the pleading pursuant to Section 309(d) to determine whether it contains “specific allegations of fact sufficient to show . . . that a grant of the application would be prima facie inconsistent with . . . subsection (k) of this section . . .”¹⁹ If so, the Commission examines the record to determine whether a “substantial and material question of fact is presented to warrant further inquiry in a hearing.”²⁰ If the Commission determines that the record as a whole presents a substantial and material question of fact, or if it is unable to determine that the licensee has met the statutory renewal standard, it will designate the application for hearing.²¹ If it finds that the record does not present any substantial and material questions of fact and that the licensee has met the statutory standard, the Commission will grant the application.²² As an alternative to finding that renewal should be denied where the licensee has failed to meet the statutory standard, the Commission may grant the application subject to conditions, including renewal for less than the maximum term.²³

B. Abuse of Process

5. We reject Licensee's assertion that Petitioner is misusing the Commission's processes to eliminate competition to its radio stations licensed to communities in and around Charlottesville, Virginia.²⁴ “Abuse of process” has been defined as “the use of a Commission process, procedure or rule to achieve a result which that process, procedure or rule was not designed or intended to achieve or, alternatively, use of such process, procedure, or rule in a manner which subverts the underlying intended

¹⁵ Letter from Michael W. Richards, Counsel to Blue Ridge Free Media, to Tom Hutton, Deputy Div. Chief, Audio Div., Media Bureau (rec'd June 19, 2020).

¹⁶ Objection at 2, 8-9.

¹⁷ 47 U.S.C. § 309(k)(1).

¹⁸ *Id.* § 309(k)(2), (3).

¹⁹ *Id.* § 309(d)(1); *Astroline Commc'ns Co. v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988) (*Astroline*). At this stage of the inquiry, the Commission determines whether the alleged facts, if true, “would alter the Commission's public interest calculus.” *Gencom Inc. v. FCC*, 832 F.2d 171, 180-81 (D.C. Cir. 1987) (*Gencom*).

²⁰ *Astroline*, 857 F.2d at 1561. The Commission's focus and discretion are wider at this stage. *Gencom*, 832 F.2d at 181 (stating that, in the second step, the Commission “must consider not only petitioner's evidence, but it must weigh that evidence against the facts offered in rebuttal . . .”).

²¹ 47 U.S.C. § 309(k)(2), (3). *See also* 47 U.S.C. § 309(d)(2), (e).

²² *Astroline*, 857 F.2d at 1561; 47 U.S.C. § 309(k)(1).

²³ 47 U.S.C. § 309(k)(2).

²⁴ Opposition at 1-3.

purpose of that process, procedure, or rule.”²⁵ As the party alleging abuse of process, Licensee needed to make a clear showing that an abuse was actually perpetrated.²⁶ Licensee, though, has offered no specific evidence to support its abuse of process allegation. Further, while Licensee does allege that Petitioner had an economic motive for filing the Petition,²⁷ the mere existence of an ulterior economic motive in the filing of pleadings before this Commission is not sufficient to establish abuse of process without the presence of exacerbating factors.²⁸ Moreover, the Petition does touch upon compliance with the Underwriting Laws and other Commission rules, and thus addresses legitimate public interest concerns. Accordingly, we cannot find that Licensee raised a substantial and material question of fact regarding whether Petitioner abused Commission processes by filing the Petition.

C. Operating Agreement

6. Petitioner has brought to our attention the agreement between Licensee and other LPFM licensees, which formed the Virginia Radio Coop (Coop),²⁹ the agreements regarding the sale of underwriting announcements that Licensee and other LPFM licensees that are also Coop members had with Experience Media, LLC (Experience Media), and the arrangements regarding the sale of underwriting announcements that Licensee and other LPFM licensees that are also Coop members have with Experience Media Sales LLC (Experience Sales).³⁰ These agreements are highly unusual in the context of the LPFM service. For this reason, we have reviewed them carefully to ensure that they do not create common ownership or control of the Station and any other broadcast station, which would violate the LPFM ownership restrictions set forth in sections 73.855 and 73.860 of the Rules.³¹ We note that we

²⁵ *Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, Competing Applicants, and other Participants in the Comparative Renewal Process and to the Prevention of Abuses of the Renewal Process*, BC Docket No. 81-742, First Report and Order, 4 FCC Rcd 4780, 4780, para. 2, n.3 (1989). In dealing with allegations of abuse of process by the filing of petitions to deny, we focus on whether the petition was filed for the primary and substantial purpose of delay. *HATCO-60*, Memorandum Opinion and Order, 60 Rad. Reg. 2d 1521 (1986), *citing Radio Carrollton*, Memorandum Opinion and Order, 69 FCC 2d 1139, 1150-51 (1978) (*Radio Carrollton*), *modified*, 72 FCC 2d 264 (1979), *aff'd sub nom., Faulkner Radio, Inc. v. FCC*, No. 79-1749 (D.C. Cir. 1980), *cert. denied*, 450 U.S. 1041 (1981).

²⁶ *HATCO-60*, 60 Rad. Reg. 2d at 1521, para. 22, *citing Ralph C. Wilson Indus., Inc.*, 91 FCC 2d 139, 143 (1982). *See also WWOR TV, Inc.*, Decision 7 FCC Rcd 636, 638, para. 24 (1992) (noting that abuse of process is “not an easy matter prove”); *Evansville Skywave, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 1699, 1702 n.10 (1992) (stating that a finding of abuse of process must be based on “more than a generalized concern” and that a conclusion that an entity abused the Commission’s process requires a “specific finding, supported by the record, of abusive intent.”).

²⁷ Opposition at 1, n.1, and 2, n.3. (noting that Petitioner “owns half of the full power stations licensed to Charlottesville,” “controls more than 2/3 of Charlottesville’s commercial radio stations,” and refers to “listener and advertiser losses” in the Petition).

²⁸ *See Radio Carrollton*, 69 FCC 2d at 1151, n.25, *citing Gill Indus.*, Memorandum Opinion and Order, 56 FCC 2d 765, 769, para. 10 (1975).

²⁹ The legal name of this entity is the Virginia Radio Coalition LLC but the entity does business as Virginia Radio Coop.

³⁰ It appears that Experience Sales replaced Experience Media but that both entities assisted Licensee with the sale of underwriting announcements. *See* Opposition at 11, n.24.

³¹ *See* 47 CFR §§ 73.855(a) (generally prohibiting grant of an LPFM authorization “to any party if the grant of that authorization will result in any such party holding an attributable interest in two or more LPFM stations”); 73.860(a) (generally prohibiting grant of an LPFM license “to any party if the grant of such authorization will result in the same party holding an attributable interest in any other non-LPFM broadcast station, including any FM translator or low power television station, or any other media subject to our broadcast ownership restrictions”), 73.860(e) (prohibiting an LPFM licensee from “enter[ing] into an operating agreement of any type, including a time brokerage or management agreement, with either a full power broadcast station or another LPFM station”).

will scrutinize any agreement of a similar nature that involves an LPFM applicant or licensees to ensure that it does not contravene those restrictions.

7. In this case, Petitioner alleges³² that the agreements noted in the preceding paragraph violate section 73.860(e) of the Rules. That section prohibits an LPFM licensee from “enter[ing] into an operating agreement of any type, including a time brokerage or management agreement, *with either a full power broadcast station or another LPFM station.*”³³ None of the Coop, Experience Media, or Experience Sales hold any Commission authorizations. Further, as detailed below, Petitioner has not raised a substantial and material question of fact regarding whether (1) the Coop holds an attributable interest in Licensee, any of its other LPFM licensee members, or any other individual or entity that holds FCC broadcast authorizations,³⁴ or (2) Experience Media held, or Experience Sales holds, an attributable interest in Licensee or any other individual or entity that holds FCC broadcast authorizations.³⁵ Accordingly, while we believe that Petitioner raised valid concerns about Licensee’s relationships with the Coop and its members, Experience Media and Experience Sales, we find that there is not a substantial and material question of fact as to whether the prohibition set forth in section 73.860(e) bars Licensee’s membership in the Coop, Licensee’s agreement with Experience Media, or Licensee’s arrangement with Experience Sales.³⁶

8. *Coop.* We acknowledge that the Coop operating agreement is highly unusual and that Petitioner has identified issues that we will bear in mind should we be called upon to examine a similar agreement in the future. However, the Coop operating agreement itself does not contain any provisions that allow the Coop to control the programming, personnel, or finances of any Station operated by its members that are Commission licensees. The agreement specifically states: “Nothing in this Operating Agreement shall supersede or violate any FCC, IRS, or federal, state, or local statute, rule or regulation pertaining to the separate and distinct business and operational integrity of its members.”³⁷ In addition, Licensee has confirmed that “[n]othing in the [Coop] arrangements allows [the Coop] to choose programming, establish broadcast standards or hire the people who make those decisions at any member LPFM.”³⁸ Further, nothing in the record suggests that the day-to-day operation of the Coop involves the Coop exercising control over Licensee’s programming, personnel or finances. In fact, Licensee has

³² Petition at 3-8.

³³ 47 CFR § 73.860(e) (emphasis added). Petitioner focuses on the fact that the agreement forming the Coop is entitled “Operating Agreement.” Reply at 4. Licensee disputes that any agreement referred to as an “operating agreement” is subject to the prohibition. Opposition at 6-7. Given our finding that the prohibition does not apply here because the Coop itself is not an FCC licensee and does not hold an attributable interest in any full power broadcast or LPFM station, we do not address this issue herein.

³⁴ We acknowledge that Licensee, like all of the Coop members, holds an interest in the Coop because the Coop is a limited liability company and the Coop’s organizational document does not contain any provisions insulating any member from any of the Coop’s activities. See LOI Response at Attach. 5. However, because we do not find that the Coop itself holds an attributable interest in any entity that holds broadcast authorizations, the fact that Licensee holds a cognizable interest in the Coop has no impact on Licensee’s compliance with the multiple ownership, cross-ownership and operating agreement prohibitions set forth in sections 73.855 and 73.860 of the Rules. 47 CFR §§ 73.855(a), 73.860(a), 73.860(e).

³⁵ See 47 CFR § 73.858 (providing that, with a few exceptions not applicable here, “[o]wnership and other interests in LPFM station permittees and licensees will be attributed to their holders and deemed cognizable for the purposes of §§ 73.855 and 73.860, in accordance with the provisions of § 73.3555”).

³⁶ Because we find that the agreements at issue do not involve an LPFM licensee and another full power FM or LPFM licensee, we need not reach Petitioner’s and Licensee’s arguments about whether the agreements are the types of agreements prohibited by section 73.860(e). Petition at 3-6; Opposition at 6-10; Reply at 4-5, 7, 8-10, 12-13, 21.

³⁷ LOI Response at Attach. 5.

³⁸ See Opposition at 5, 7, 9, and Decl. of Michael Friend; LOI Response, Second Decl. of Michael Friend, at 1, 3, 5.

explicitly stated that is not the case.³⁹ The record supports Licensee's claim, and includes evidence that Licensee maintains its own bank account, pays its apportioned share of any costs incurred by the Coop on behalf of it and the other Coop members, purchased all equipment used solely for its own operations, and pays all of its own programming costs.⁴⁰

9. We acknowledge that, as Petitioner points out, Licensee and the other Coop members formed the Coop in order to share "a transmitter site, antenna, studio and office facilities."⁴¹ We agree with Petitioner that this sort of arrangement is unconventional and warrants greater scrutiny to ensure that it does not result in violations of the restrictions on LPFM ownership. However, after reviewing the record, we conclude that the Coop operating agreement is akin to a shared services agreement. As such, on its own, it does not give the Coop an attributable interest in Licensee or its other members, and thus does not alter our conclusion that Petitioner has not raised a substantial and material question of fact as to whether section 73.860(e) bars the agreement by which Licensee and other LPFM licensees formed the Coop.⁴²

10. Finally, to the extent that Petitioner alleges that Licensee and other Coop members collaborated and consulted with each other about their LPFM applications,⁴³ we note that the Commission believes that "allowing and encouraging applicants to collaborate" can help ensure increased service to the public.⁴⁴ Petitioner has failed to explain how the pre-filing activities of the Licensee and the other Coop members demonstrate that the Coop agreement is an operating agreement prohibited by section 73.860(e).

11. *Experience Media.* We agree with Petitioner that Licensee's agreement with Experience Media was unusual and that close scrutiny of the relationship between Experience Media and Licensee is warranted, especially since other Coop members had similar agreements with Experience Media. Additionally, we acknowledge that—as Petitioner points out—some of the marketing materials distributed by Experience Media use language suggesting that the Station was under "common ownership" or "common management" with the LPFM stations of other Coop members.⁴⁵ However, Licensee's agreement with Experience Media specified that Experience Media was "acting as an independent contractor and not as an employee" and explicitly stated that it did "not create a partnership

³⁹ *See id.*

⁴⁰ LOI Response at 4-5. We note that other LPFM licensee members of the Coop have affirmed Licensee's statements. *See also* Opposition to Consolidated Petition to Deny of Air Mix Virginia, Pleading File No. 0000087383, at Decl. of Joseph Middleton (filed Oct. 25, 2019) ("Neither the Coop nor any of the other members of the Coop has any involvement in the management or execution of WVAI-LP's programming, finances or personnel."); Opposition to Consolidated Petition to Deny of Genesis Commc'ns, Inc., Pleading File No. 0000087324, at 3-4 (filed Oct. 25, 2019) ("None of the members of the Coop have any type of control or influence over the on-air broadcast programming of the other members. None of the members of the Coop exercise managerial influence over the other members.").

⁴¹ Petition at 5; Reply at i.

⁴² *2014 Quadrennial Regulatory – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, MB Docket Nos. 14-50, 09-182, 07-294 and 04-256, Second Report and Order, 65 Comm. Reg. (P & F) 553, 559, para. 368 (2016) (declining to adopt even a disclosure requirement for shared services agreements involving radio stations, and explaining that radio shared services arrangements did not appear to present "potential public interest concerns").

⁴³ Reply at 6.

⁴⁴ *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educ. Broad. Stations and Low Power FM Stations*, MB Docket No. 19-3, Report and Order, 34 FCC Rcd 12519, 12534, para. 37 (2019). Specifically, "[b]y allowing organizations interested in filing an LPFM application the leeway to communicate with other eligible organizations, they can maximize their chances of acquiring LPFM construction permits and explore potential time-share construction and operating efficiencies." *Id.*

⁴⁵ Petition at 4, 6, and Attach. 1.

or joint venture” between the parties and is “exclusively a contract for service.”⁴⁶ Moreover, the marketing materials specified different rates for underwriting announcements at each station, and did not indicate that the purchase of underwriting announcements on one station was tied to the purchase of announcements on any other station or that a discount was being offered for the purchase of underwriting announcements on more than one of the stations.⁴⁷ Given the information provided by Licensee and discussed above, we find that there is no substantial and material question of fact regarding whether, based on the agreement between Licensee and Experience Media, that entity holds an attributable interest in Licensee. We note, though, that we remain concerned about these types of arrangements and will subject any similar arrangements to careful scrutiny going forward.

12. *Experience Sales.* Like Licensee’s agreement with Experience Media, Licensee’s arrangement with Experience Sales is unconventional. Given that other Coop members have similar arrangements with Experience Sales, careful review of Licensee’s arrangement with Experience Sales is warranted. In discussing its arrangement with Experience Sales, Licensee has explained that it “sets i[t]s own underwriting standards,” “any referrals from [Experience Sales] must comply with them,” and Licensee “maintains the right to reject any underwriting or underwriter.”⁴⁸ Further, while Petitioner asserts that Licensee’s arrangement with Experience Sales is problematic because the owner of that entity is also an on-air personality at another LPFM station that is a Coop member,⁴⁹ being an employee at a station does not give someone an attributable interest in that station.⁵⁰ Given the information before us, we find that Petitioner has not raised a substantial and material question of fact regarding whether Experience Sales holds an attributable interest in Licensee or any other entity holding FCC authorizations. We remain troubled by this type of arrangement, and will continue to subject any similar agreements to careful review. We caution Licensee to ensure that any marketing materials created by itself, Experience Sales or any other entity do not imply or state that the Station is commonly owned, managed or marketed with any other broadcast station.

D. Educational Programming

13. We find Petitioner did not raise a substantial and material question of fact regarding whether the Station’s programming qualifies as educational. Besides Petitioner’s allegations regarding the Station’s underwriting announcements (which we address separately below) and its general assertion that the Station broadcasts “alternative rock/active rock music,”⁵¹ Petitioner does not offer any specific evidence to support its arguments that the Station is not being used for an educational purpose.⁵²

⁴⁶ See LOI Response at Attach. 17.

⁴⁷ Petition at Attach. 1.

⁴⁸ Opposition at 10-11, and Exhs. B and C.

⁴⁹ Petition at 5-6.

⁵⁰ See *The Helpline*, Letter Order, 23 FCC Rcd 12665, 12670 (MB 2008), citing *State of Oregon Acting by and through the State Board of Higher Educ. for the Benefit of S. Oregon Univ.*, Letter Order, 22 FCC Rcd 17663, 17665 (MB 2007) (“A mere employment relationship is not cognizable under the NCE attribution standards.”).

⁵¹ Petition at 10.

⁵² To the extent that Petitioner focuses on the fact that the Station primarily broadcasts music, we note that it is not necessary that a station’s programming be exclusively, or even primarily, educational in nature in order for the station to qualify as an educational station. See *Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, DA 23-642, at n. 30 (MB July 31, 2023), citing *Lower Cape Commc’ns, Inc.*, Memorandum Opinion and Order, FCC 80-453, 47 Rad. Reg. 2d 1577, 1579 (1980). Further, on at least one occasion, the Commission has found that use of an NCE station to create and disseminate “specially formatted classical music programming” advances an educational program. *Univ. of San Francisco & Classical Pub. Radio Network, LLC*, Memorandum Opinion and Order, 30 FCC Rcd 10530, 10534-35, para. 8 and n.34 (2015).

14. We also note that Petitioner misses the mark with its argument that the Station is not providing the type of educational programming that Licensee specified in the Permit Application.⁵³ The Commission has long recognized that licensees are entitled to broad discretion in the scheduling, selection, and presentation of programming,⁵⁴ and has found that this is particularly true with regard to the programming decisions of noncommercial educational stations, such as LPFM stations.⁵⁵ Nothing in the Act, or the Rules bars Licensee—or any other LPFM station—from modifying its program offerings so long as those offerings continue to advance the educational objectives of its licensee.

E. Misrepresentations⁵⁶

15. We find Petitioner has failed to either make a prima facie case or raise a substantial and material question of fact regarding whether Licensee made false statements and/or false certifications in the Permit Application.⁵⁷ For instance, Petitioner suggests that Licensee may have falsely certified that it and all parties to the Permit Application complied with the Commission’s policies regarding investor insulation and the non-participation of non-party investors or creditors.⁵⁸ However, Petitioner offers no evidence to support this claim.⁵⁹

16. In addition, as noted above, Petitioner has not raised a substantial and material question of fact regarding Licensee’s compliance with the operating agreement prohibition set forth in section 73.860(e) of the Rules. Nor has Petitioner offered any evidence suggesting Licensee violated the cross-ownership prohibition set forth in section 73.860(a) of the Rules. Accordingly, there is no evidence in the

⁵³ Petition at 9-10.

⁵⁴ See, e.g., *License Renewal Applications of Certain Commercial Radio Stations Serving Philadelphia, Pennsylvania*, Memorandum Opinion and Order, 8 FCC Rcd 6400, 6401, para. 7 (MB 1993).

⁵⁵ *Pittsburg State Univ.*, Letter Order, 22 FCC Rcd 12983, 12985 (MB 2007). The Commission has made clear that it defers to a licensee’s editorial judgment as to what constitutes “educational” programming, unless that judgment is arbitrary or unreasonable. *Enid Public Radio Ass’n*, Memorandum Opinion and Order and Notice of Apparent Liability, 25 FCC Rcd 9138, 9141, n.23 (MB 2010); *WQED Pittsburgh and Cornerstone Television, Inc.*, Order on Reconsideration, 15 FCC Rcd 2534, 2535, para. 3 (2000). The Commission historically “has had the appropriately limited role of facilitating the development of the public broadcasting system rather than determining the content of its programming.” *Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting Licensees*, Notice of Proposed Rule Making, 87 FCC 2d 716, 732, para. 36 (1981).

⁵⁶ A misrepresentation is a false statement of fact or false certification made with intent to deceive the Commission. *Fox River Broad., Inc.*, Order, 93 FCC 2d 127, 129, para. 6 (1983); *San Francisco Unified Sch. Dist.*, Hearing Designation Order and Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 13326, 13334, nn.40-41 (2004) (subsequent history omitted). Intent to deceive is established if a licensee or applicant knowingly makes a false statement (or false certification) and can also be inferred when the surrounding circumstances clearly show the existence of intent to deceive. *Leflore Broad. Co., Inc. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980); *American Int’l Dev., Inc.*, Memorandum Opinion and Order, 86 FCC 2d 808, 816, n.39 (1981), *aff’d sub nom. KXIV, Inc. v. FCC*, 704 F.2d 1294 (D.C. Cir. 1983).

⁵⁷ Petition at 17-19. Grant of the Permit Application is final. However, Licensee’s character is relevant to our consideration of the Application. Accordingly, we herein consider Petitioner’s allegations that Licensee made misrepresentations and false certifications in those applications. See, e.g., *Lighthouse Christian Ctr.*, Memorandum Opinion and Order, 32 FCC Rcd 6244, 6249, para. 15 and n. 45 (MB 2017); *Lazer Licenses, LLC*, Memorandum Opinion and Order, 30 FCC Rcd 6357, 6359, para. 5 (MB2015); *Applications for Consent to Transfer of Control from License Subsidiaries of Allbritton Commc’ns Co. to Sinclair Television Grp., Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 9156 (MB 2014); *Apple 107.1, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 15722 (MB 2013) (all considering character-related allegations made in relation to other applications in evaluating the applications under consideration).

⁵⁸ Petition at 17-18, Permit Application, Section II – Legal, Item 5 – Ownership.

⁵⁹ Petitioner did offer a vague allegation that “the Coop charade is in violation of the Commission’s policies relating to investor insulation and non-participation of non-party investors or creditors” but offered no details. Petition at 18.

record raising a substantial and material question of fact regarding whether Licensee falsely certified that it and all parties to the Permit Application complied with the LPFM cross-ownership limits.⁶⁰

17. Finally, we find that Petitioner has failed to make a prima facie case that Licensee made a misrepresentation in the Permit Application when it pledged to air at least eight hours of locally originated programming per day.⁶¹ Petitioner suggests that Licensee made this pledge in order to obtain a comparative advantage in the event the Permit Application was mutually exclusive with any other applications for LPFM station construction permits, and implies Licensee never intended to honor the pledge.⁶² However, Petitioner offers no evidence to support its allegations. Indeed, it is hard to envision how Petitioner could offer such evidence since the Permit Application was granted as a singleton and Licensee therefore was not required to honor its pledge to air locally originated programming.

F. Underwriting Announcements

18. As noted above, we have negotiated—and herein adopt—the Consent Decree with Licensee. Therein, Licensee acknowledges that it has violated the Underwriting Laws, and agrees to adopt a compliance plan to prevent further violations of the Underwriting Laws. After reviewing the terms of the Consent Decree, we find the public interest would be served by its approval and by terminating the Bureau’s investigation of Licensee’s violations of the Underwriting Laws, subject to the terms of the Consent Decree.⁶³ We note that, given the findings made herein, we grant the Petition in part and grant the Objection.

G. Renewal Application

19. We have reviewed the Application in accordance with section 309(k) of the Act⁶⁴ and find that the Station has served the public interest, convenience, and necessity during the subject license term. We find that nothing in the record creates a substantial or material question of fact calling for further inquiry regarding the Application. After reviewing the record and the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree, terminating the Bureau’s investigation of the issues raised in the Petition and Objections, and granting the Application.

IV. CONCLUSION/ACTIONS

20. **IT IS ORDERED** that, pursuant to Section 4(i), 4(j) and 309(k) of the Communications Act of 1934, as amended,⁶⁵ and by the authority delegated by Sections 0.61 and 0.283 of the FCC’s Rules,⁶⁶ the Consent Decree attached hereto **IS ADOPTED** and its terms incorporated by reference.

21. **IT IS FURTHER ORDERED** that the Petition to Deny (Pleading File No. 0000080850) filed by Tidewater Communications, LLC, on September 3, 2019, **IS GRANTED TO THE EXTENT INDICATED HEREIN**, and the Informal Objection (Pleading File No. 0000124783) filed by Tidewater Communications, LLC, on October 19, 2020, **IS GRANTED**.

⁶⁰ Permit Application, Section II – Legal, Item 5 – Ownership.

⁶¹ Petition at 19; Reply at 14-15. *See also* Permit Application, Section III—Point System Factors, Item 2—Local program origination.

⁶² Petition at 19.

⁶³ We note that consent decrees involving violations of the Underwriting Laws generally require a payment to the U.S. Treasury in addition to implementation of a compliance plan. The Consent Decree in this case does not include such a payment because Licensee has demonstrated that it lacks the ability to pay such a penalty.

⁶⁴ 47 U.S.C. § 309(k)(1).

⁶⁵ 47 U.S.C. §§ 154(i), 154(j), 309(k).

⁶⁶ 47 CFR §§ 0.61, 0.283.

22. **IT IS FURTHER ORDERED** that the application of Blue Ridge Free Media, for renewal of license for noncommercial educational low power FM station WXRK-LP, Facility ID No. 192547 (Application File No. 0000072621) **IS GRANTED**.

23. **IT IS FURTHER ORDERED** that the investigation by the Bureau of the matters noted above **IS TERMINATED**.

24. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order and Consent Decree shall be sent via e-mail to Michael Friend, President, Blue Ridge Free Media, and Aaron Shainis, Counsel, Blue Ridge Family Media.

25. **IT IS FURTHER ORDERED** that, pursuant to 47 CFR § 73.878, a copy of this Memorandum Opinion and Order and Consent Decree, and as otherwise required all related investigatory materials, **SHALL BE RETAINED** in the station records for WXRK-LP, until grant of the next license renewal application for that station.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

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

In the Matter of)	
)	
Blue Ridge Free Media)	Application File No. 0000072621
WXRK-LP, Charlottesville, Virginia)	Facility ID No. 192547
Application for Renewal of License)	

CONSENT DECREE

1. The Media Bureau (hereinafter Bureau, as defined below) of the Federal Communications Commission and Blue Ridge Free Media (hereinafter Licensee, as defined below), licensee of low power FM station WXRK-LP, Charlottesville, Virginia (hereinafter Station, as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau's investigation into whether Licensee broadcast underwriting announcements that failed to comply with sections 399B of the Communications Act of 1934, as amended (hereinafter Act, as defined below), and 73.503(d) and 73.801 of the Commission's rules (hereinafter Rules, as defined below).¹ To resolve this matter, Licensee agrees to implement a comprehensive plan to ensure its future compliance with its underwriting obligations.

I. DEFINITIONS

2. For purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended.²
 - (b) "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Application" means the pending application for renewal of license for low power FM station WXRK-LP, Charlottesville, Virginia, Facility ID No. 192547 (Application File No. 0000072621).
 - (d) "Bureau" means the Media Bureau of the Federal Communications Commission.
 - (e) "Commission" and "FCC" means the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Licensee is subject by virtue of being a Commission licensee, including, but not limited to, section 399B of the Act,³ and sections 73.503(d) and 73.801 of the Rules.⁴
 - (g) "Compliance Plan" means the compliance obligations, program and procedures described in this Consent Decree at paragraph 14.

¹ See 47 U.S.C. §399B; 47 CFR §§ 73.503(d), 73.801.

² 47 U.S.C. §151 *et. seq.*

³ 47 U.S.C. § 399B.

⁴ 47 CFR §§ 73.503(d) and 73.801.

- (h) “Covered Employees” means all employees and agents of Licensee who perform, supervise, oversee, or manage the performance of, duties that relate to Licensee’s responsibilities under the Communications Laws, including the Underwriting Laws.
- (i) “Effective Date” means the date on which both the Bureau and Licensee have signed the Consent Decree and the Bureau has released an Adopting Order.
- (j) “Informal Objection” means the informal objection to the Application (Pleading File No. 0000124784) filed by Tidewater Communications, LLC, on October 19, 2020.
- (k) “Investigation” means the investigation of commenced by the Bureau regarding whether Licensee complied with the Underwriting Laws.
- (l) “License” refers to the license authorization for low power FM station WXRK-LP, Charlottesville, Virginia, Facility ID No. 192547.
- (m) “Licensee” means Blue Ridge Free Media, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (n) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Licensee to implement the Compliance Plan.
- (o) “Parties” means Licensee and the Bureau, each of which is a “Party.”
- (p) “Petition to Deny” means the petition to deny the Application (Pleading No. 0000080851) filed by Tidewater Communications, LLC, on September 3, 2019.
- (q) “Rules” means the Commission’s regulations, found in Title 47 of the Code of Federal Regulations.
- (r) “Station” means low power FM station WXRK-LP, Charlottesville, Virginia, Facility ID No. 192547.
- (s) “Underwriting Laws” means section 399B of the Act,⁵ and sections 73.503(d) and 73.801 of the Rules,⁶ and the decisions and orders of the Commission interpreting these provisions.

II. BACKGROUND

3. Noncommercial educational broadcasters, including low power FM stations, are licensed to use spectrum that is specifically reserved for them, and they benefit from lower regulatory fees and fewer requirements than those imposed on commercial entities, in recognition of their noncommercial and non-profit nature. That flexibility, however, is not unlimited, and noncommercial educational broadcasters cannot air commercial advertising.⁷ The Underwriting Laws help “protect the public’s use and enjoyment of commercial-free broadcasts” and “provide a level playing field for the noncommercial broadcasters that obey the law and for the commercial broadcasters that are entitled to seek revenue from advertising.”⁸ Noncommercial educational broadcasters are licensed to provide noncommercial, locally-oriented programming for their communities, and the Commission acts when necessary to enforce the

⁵ 47 U.S.C. § 399B.

⁶ 47 CFR §§ 73.503(d), 73.801.

⁷ 47 U.S.C. § 399B(b)(2).

⁸ *Syner Foundation, Inc.*, Order and Consent Decree, 30 FCC Rcd 1780, 1780, para. 1 (EB 2015).

laws prohibiting noncommercial educational stations from airing announcements that promote for-profit advertisers.

4. The Underwriting Laws define an advertisement as, among other things, programming material broadcast “in exchange for any remuneration” and intended to “promote any service, facility, or product” of for-profit entities.⁹ Section 399B(b)(2) of the Act specifically provides that noncommercial educational stations may not broadcast advertisements.¹⁰ Although contributors of funds to such stations may receive on-air acknowledgements of their support, the Commission has held that such acknowledgements are for identification purposes only and must not promote the contributors’ products, services, or businesses.¹¹ Specifically, such announcements must not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent, or lease.¹²

5. The Commission received a Petition to Deny and later an Informal Objection filed against the Application alleging that Licensee violated the Underwriting Laws by broadcasting advertisements, which impermissibly promoted their for-profit underwriters’ products or services and contained comparative and qualitative descriptions, pricing information, calls to action, and inducements to buy the products or services.¹³ Both the Petition to Deny and the Informal Objection included full written transcripts of the alleged advertisements.¹⁴

6. Based on the foregoing, the Bureau’s Audio Division commenced the Investigation, issuing a letter of inquiry to gather additional information concerning the allegations and suspending processing of the Application.¹⁵ Licensee now admits to airing the underwriting announcements identified in the Petition to Deny and Informal Objection, and acknowledges that those announcements failed to comply with the Underwriting Laws.

7. The Parties acknowledge that any further proceedings related to the Investigation would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, resolve the matters, and promote compliance with the Underwriting Laws, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

III. TERMS OF AGREEMENT

8. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

9. **Jurisdiction.** Licensee agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

⁹ 47 U.S.C. § 399B(a).

¹⁰ 47 U.S.C. § 399B(b)(2).

¹¹ *Noncommercial Educ. Broad. Serv.; Clarification of Underwriting Guidelines*, Public Notice, 51 Fed. Reg. 21800 (June 16, 1986), *republished*, *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice, 7 FCC Red 827 (1992).

¹² *Id.*

¹³ See Tidewater Commc'ns, LLC, Consolidated Petition to Deny, Pleading File No. 0000080850 (filed Sept. 3, 2019) (Petition); Tidewater Commc'ns, LLC, Consolidated Informal Objection, Pleading File No. 0000124783 (filed Oct. 19, 2020) (Objection).

¹⁴ See Petition, Attach. 5; Objection, Attach.

¹⁵ See Letter from Albert Shuldiner, Chief, Audio Div., Media Bureau, to Blue Ridge Free Media, et al. (dated Jan. 28, 2020).

10. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation, and to take the action specified in paragraph 17. In consideration for the termination of the Investigation and the Bureau taking the action specified in paragraph 17, Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against Licensee concerning the matters that were the subject of the Investigation, or to set for hearing the question of Licensee's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.¹⁶

12. **Admission of Liability.** Licensee admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 11 herein, that paragraphs 5 and 6 are a true and accurate description of the facts underlying the Investigation.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Licensee shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Underwriting Laws prior to assuming his/her duties.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, Licensee agrees that, it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws, and the terms and conditions of this Consent Decree. With respect to the Underwriting Laws, Licensee will implement, at a minimum, the following procedures.

- (a) **Consultation with Counsel.** If the Compliance Officer is not an FCC regulatory counsel or in-house counsel, Licensee shall consult with outside FCC regulatory counsel regarding Licensee's overall compliance with the Underwriting Laws. Such consultations shall occur on an annual basis, if not more frequently.
- (b) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, Licensee shall establish Operating Procedures that all Covered Employees must follow to ensure Licensee's compliance with the Underwriting Laws. Licensee's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Licensee complies with the Underwriting Laws. Licensee shall also develop a Compliance Checklist that a Covered Employee must follow to ensure compliance with the Underwriting Rules.
- (c) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Underwriting Laws and set forth the Operating Procedures that Covered Employees shall follow to help ensure Licensee's compliance with the Underwriting Laws. Licensee shall periodically review and revise the Compliance Manual as

¹⁶ See 47 CFR § 1.93(b).

necessary to ensure that the information set forth therein remains current and accurate. Licensee shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

- (d) **Compliance Training Program.** The Compliance Plan shall establish and implement a Compliance Training Program on compliance with the Underwriting Laws and Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be of Licensee's obligation to report any noncompliance with the Underwriting Laws under Paragraph 15 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Licensee shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

15. **Reporting Noncompliance.** Licensee shall report any noncompliance with the Underwriting Laws, and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance at any station of which Licensee is or becomes the licensee. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Licensee has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Licensee has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Albert Shuldiner, Chief, Audio Division, Media Bureau, Federal Communications Commission, at Albert.Shuldiner@fcc.gov; and Heather Dixon, Audio Division, Media Bureau, Federal Communications Commission, at Heather.Dixon@fcc.gov.

16. **Compliance Reports.** Licensee shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Licensee's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Underwriting Laws. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Licensee, stating that the Compliance Officer has personal knowledge that Licensee: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in Paragraph 15 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.¹⁷
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Licensee, shall provide the

¹⁷ 47 CFR § 1.16.

Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that Licensee has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Licensee has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

- (d) All Compliance Reports shall be submitted via email to: Albert Shuldiner, Chief, Audio Division, Media Bureau, Federal Communications Commission, at Albert.Shuldiner@fcc.gov; and Heather Dixon, Audio Division, Media Bureau, Federal Communications Commission, at Heather.Dixon@fcc.gov.

17. **Qualifications; Grant of Application.** The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether Licensee possesses the basic qualifications, including those relating to character, to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Application after the Effective Date, provided that there are no issues that would preclude grant of the Application.

18. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 13 through 16 of this Consent Decree shall expire twenty-four (24) months after the Effective Date, *provided* the Bureau is satisfied that Licensee has demonstrated substantial compliance with its obligations under the terms of the Consent Decree. If the Bureau is not satisfied that Licensee has demonstrated substantial compliance with the terms of the Consent Decree, the Bureau may, within its sole discretion and authority, extend the termination date of this Consent Decree for an additional period of time as the Bureau deems appropriate.

19. **Waivers.** As of the Effective Date, Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Licensee shall waive any statutory right to a trial *de novo*. Licensee hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act¹⁸ relating to the matters addressed in this Consent Decree.

20. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

21. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

22. **Subsequent Rule or Order.** The Parties agree that if any provision of this Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Licensee does not expressly consent), that provision will be superseded by such Rule or order.

23. **Successors and Assigns.** Licensee agrees that this Consent Decree shall be binding on its successors, assigns, and transferees, and on the successors, assigns, and transferees of all broadcast

¹⁸ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

stations of which it is and becomes the licensee.

24. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

25. **Modifications.** This Consent Decree may not be modified without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

28. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: Albert Shuldiner
Albert Shuldiner
Chief, Audio Division, Media Bureau

Date: 3/16/2026

BLUE RIDGE FREE MEDIA

By: _____
Mike Friend
President, Blue Ridge Free Media

Date: _____

23. **Successors and Assigns.** Licensee agrees that this Consent Decree shall be binding on its successors, assigns, and transferees, and on the successors, assigns, and transferees of all broadcast stations of which it is and becomes the licensee.

24. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

25. **Modifications.** This Consent Decree may not be modified without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

28. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
Albert Shuldiner
Chief, Audio Division, Media Bureau

Date: _____

BLUE RIDGE FREE MEDIA

By: _____
Mike Friend
President, Blue Ridge Free Media

Date: 3/02/2026