

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 TWELFTH STREET, SW**  
**WASHINGTON, DC 20554**

**MAY 24 2010**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
**APPLICATION STATUS:** (202) 418-2730  
**HOME PAGE:** [www.fcc.gov/mb/audio/](http://www.fcc.gov/mb/audio/)

**ENGINEER:** GARY A. LOEHRS  
**TELEPHONE:** (202) 418-2700  
**FACSIMILE:** (202) 418-1410/1411  
**MAIL STOP:** 1800B3  
**INTERNET ADDRESS:** [Gary.Loehrs@fcc.gov](mailto:Gary.Loehrs@fcc.gov)

Calvary Chapel of Twin Falls, Inc.  
P.O. Box 391  
Twin Falls, ID

Re: WUJC(FM); St. Marks, FL  
Facility ID No. 122209  
Calvary Chapel of Twin Falls, Inc.  
BPED-20100413ABA

Dear Applicant:

The staff has under consideration the above-captioned minor change application filed on behalf of Calvary Chapel of Twin Falls, Inc. to modify the broadcast facilities of WUJC(FM). The application proposes to increase power and service area and requests waiver of the contour overlap provisions of 47 C.F.R § 73.509. For the reasons stated below, we grant WUJC's waiver request and the application.

**Waiver Request**

An engineering review of the application reveals that it is in violation of 47 C.F.R § 73.509 with respect to third-adjacent channel Class A license (BLED-19910701KB) and construction permit (BPED-20070906ACZ) for WANM(FM), Tallahassee, FL. Specifically, the proposed protected contour (60 dBu) would receive prohibited overlap from WANM's interfering contour (100 dBu). WUJC recognizes this violation and requests waiver of the contour overlap provisions of § 73.509.

In support of its waiver request, WUJC states that it will not cause interference to WANM. WUJC also claims that the total overlap area, constitutes 8.74% of the total area within WUJC's proposed 60 dBu contour. In addition, WUJC believes that the proposed facilities service area would increase by 1,120 square kilometers, an increase of 44%. Furthermore, the application will provide service to an additional 183,249 persons, which is an increase of 2918%. Finally, WUJC cites *Educational Information Corporation*, 6 FCC Rcd 2207 (1991), as evidence of the Commission's willingness to consider waivers of such overlap in certain instances. WUJC states that it considers the affected area as very small when considered along with the increased service area, and concludes that waiver of § 73.509 is warranted in this case.

## Discussion

WUJC's request to receive third-adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case. In that proceeding, the Commission indicated that it was inclined to grant waivers of second- and third-adjacent channel overlap to *existing* stations where the benefit of noncommercial educational service heavily outweighed the potential for interference in very small areas. In the case it was stated that:

The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a *per se* modification of the waiver recipient's license.

Accordingly, in light of the Commission's policy on this matter, the requested waiver of 47 C.F.R. § 73.509 will be granted.

## Conclusion

We have afforded the request for waiver of § 73.509 the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), and find that the facts and circumstances presented in the applicant's justification are sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, WUJC's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20100413ABA IS HEREBY GRANTED subject to the following condition:

Further modification to the facilities of station WANM, Tallahassee, FL will not be construed as a *per se* modification of WUJC's authorization. (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



Edna V. Prado  
Supervisory Engineer  
Audio Division  
Media Bureau