

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 12<sup>th</sup> STREET SW**  
**WASHINGTON DC 20554**

**MEDIA BUREAU**  
**AUDIO DIVISION**  
APPLICATION STATUS: (202) 418-2730  
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**PROCESSING ENGINEER:** Edna Prado  
**TELEPHONE:** (202) 418-2609  
**FACSIMILE:** (202) 418-1410  
**MAIL STOP:** 1800B3  
**INTERNET ADDRESS:** Edna.Prado@fcc.gov

Community Broadcasting, Inc.  
10550 Barkley, Suite 108  
Overland Park, KS 66212

In re: KMCV(FM), High Point, MO  
Facility ID No.: 84371  
Community Broadcasting, Inc. ("CBI")  
BMPED-20091130ANK

Dear Applicant:

This letter is in reference to the above-captioned minor change application to modify height and directional antenna pattern. KMCV also requests waiver of the contour overlap provisions of 47 C.F.R. § 73.509. For the reasons stated below, we grant KMCV's waiver request and application.

**Waiver Request**

An engineering study of the application reveals that it is in violation of 47 C.F.R. § 73.509 with respect to the following stations: (1) second adjacent channel Class A license (BLED-19980909KB) and Class C3 construction permit (BPED-20070907AAN) for KCRL(FM), Sunrise Beach, MO; and (2) third adjacent channel Class A license (BLED-19820715AE) and construction permit (BPED-20010521ABX) for KWWC-FM, Columbia, MO. In each instance, the proposed protected contour (60 dBu) would receive prohibited overlap from the interfering contours (100 dBu) of the facilities listed above. KMCV recognizes these violations and requests waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, KMCV states that it will not cause interference to KCRL or KWWC-FM. KMCV claims that the grant of this waiver will extend its overall coverage area by 1,731 square kilometers, an increase of 42.4%. KMCV also indicates that this benefit heavily outweighs the potential for interference in a total area that constitutes 0.53% of the station's proposed service area. Furthermore, KMCV argues that the overlap area is very small and well within the scope of the Commission's waiver policy. Moreover, KMCV claims that this waiver request is nearly identical to the requests made by the licensees of WCPE(FM) and WCCE(FM) in *Educational Information Corporation*, 6 FCC Rcd 2207 (1991). Accordingly, KMCV concludes that a waiver of Section § 73.509(a) of the Commission's rule is justified in this instance.

**Discussion**

KMCV's request to receive second and third adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case. In that 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 is sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, CBI's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, Application File No. BPED-20091130ANK IS HEREBY GRANTED subject to the following conditions:

Further modification of KCRL(FM), (Facility ID No. 85069), Sunrise Beach, MO will not be construed as a *per se* modification of KMCV's construction permit (BMPED-20091130ANK). (*See Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

Further modification of KWWC-FM, (Facility ID No. 63328), Columbia, MO will not be construed as a *per se* modification of KMCV's construction permit (BMPED-20091130ANK). (*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

cc: Harry C. Martin