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Educational Media Foundation
5700 West Oaks Blvd.
Rocklin, CA 95765

Re: WQRA(FM), Greencastle, IN
Facility ID No. 93526
Educational Media Foundaton
File No. BPED-20100506AGI

Dear Applicant:

The staff has under consideration the above-captioned minor change application filed on behalf of Educational Media Foundation to modify the broadcast facilities of WQRA(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 WQRA's waiver request and the application.

Waiver Request

An engineering review of the application reveals that it is in violaton of 47 C.F.R § 73.509 with respect to second-adjacent channel Class A license (BLED-19781214AB) for WBDG(FM), Indianapolis, IN. Specifically, the proposed protected contour (60 dBu) would receive prohibited overlap from WBDG's interfering contour (100 dBu). WQRA recognizes this violation and requests waiver of the contour overlap provisions of § 73.509.

In support of its waiver request, WQRA states that it will not cause interference to WBDG. WQRA also claims that the total overlap area, constitutes 1% of the total area within WQRA's proposed 60 dBu contour. In addition, WQRA believes that the proposed facilities service area would increase by 365 square kilometers, an increase of 12%. Furthermore, the application will provide service to an additional 194,823 persons, which is an increase of 96%. Finally, WQRA 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. WQRA 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

WQRA's request to receive second-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 are sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, WQRA's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20100506AGI IS HEREBY GRANTED subject to the following condition:

Further modification of WBDG, (facility ID No. 41317), Indianapolis, IN will not be construed as a *per se* modification of WQRA'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

cc: Karen A. Ross, Esq.