

**FEDERAL COMMUNICATIONS COMMISSION**  
445 Twelfth Street, S.W.  
WASHINGTON DC 20554

DEC 27 2012

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

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Board of Regents, Nevada System of Higher Education  
c/o Franklin Mueller, General Manager  
4505 Maryland Parkway, Box 2010  
Las Vegas, NV 89154

In re: KUNV(FM), Las Vegas, NV  
Facility ID No. 68921  
Board of Regents, Nevada System of  
Higher Education  
BPED-20121106ACG

Dear Applicant:

This letter is in reference to the above-captioned minor change application to modify the effective radiated power (ERP), antenna height above average terrain (HAAT), and move to a new transmitter site. KUNV(FM) also requests waiver of the contour overlap provisions of 47 C.F.R § 73.509 with respect to third-adjacent Class C1 license for KVKL(FM), Las Vegas, NV. For the reasons stated below, we deny KUNV(FM)'s waiver request and dismiss the application.

*Educational Information Corporation (WCPE)*, 6 FCC Rcd 2207 (1991) permits the staff to consider requests for waiver of Section 73.509 for second- and third-adjacent channel noncommercial educational stations, "where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas." The applicant must provide sufficient justification to meet this criterion. Absent such information, "when faced with a choice between increased coverage with increased interference on one hand, and lesser but adequate coverage without prohibited interference on the other, the Commission favors the latter." 6 FCC Rcd at 2208, quoting from *Board of Education of the City of Atlanta (WABE-FM)*, 82 FCC 2d 125 (1980). Evidence supporting a request for waiver typically consists of computations of area and population gained within the proposed 60 dBu contour (as compared to the existing area and population), area and population within the opposite station's 100 dBu interfering contour, and discussion of any other factors that support grant of a waiver. The waiver request should also acknowledge that any future modifications by the opposite station (KVKL) would not be construed as a *per se* modification of KUNV's license. The fact that KVKL has consented to the prohibited overlap does not in itself warrant a waiver of the rule.<sup>1</sup> Thus, KUNV has provided insufficient justification in support of its request for waiver. Consequently, waiver of Section 73.509 is not warranted, and the request for waiver IS DENIED.

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<sup>1</sup> See *Open Media Corp.*, 8 FCC Rcd 4070 (1993) (The Commission has stated that the public interest is not served by allowing applicants and licensees to negotiate among themselves which areas may receive interference.)

Accordingly, application BPED-20121106ACG IS HEREBY DISMISSED as unacceptable for filing.  
These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci". The signature is stylized and written in a cursive-like font.

Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

cc: Timothy A. Hunt