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February 21, 2013

Washington State University
Edward R. Murrow College of Communication
P.O. Box 642530
Pullman, WA 99164-2530

In re: KMRW(FM), Pullman, WA
Washington State University
Facility ID No.: 171613
BMPED-20121207AAE

Dear Applicant:

This letter is in reference to the above-captioned minor change application, filed by Washington State University ("WSU"), for noncommercial educational FM Station KMRW(FM) to change the effective radiated power, transmitter location, antenna height and the directional antenna. In the application, WSU requests a waiver of the contour overlap provisions of 47 C.F.R. § 73.509. For the reasons stated below, we will grant the waiver request and the application.

Waiver Request

An engineering study of the application reveals that the proposed facility would receive prohibited contour overlap, in violation § 73.509, from the following stations: (1) the licensed facility (BLED-19950227KB) of third adjacent channel Class A FM Station KUOI-FM, Moscow, Idaho (Facility ID No. 69362) on Channel 207A; and (2) the authorized construction permit facility (BMPED-20110621ACO) of second adjacent channel Class C3 FM Station KRFP(FM), Moscow, Idaho (Facility ID No. 172586) on Channel 212C3 . Specifically, KMRW's proposed 60 dBu protected contour would completely encompass the 100 dBu interfering contours of both KUOI and KRFP. WSU recognizes these violations and requests waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, WSU states that KMRW's proposed facility will not cause interference to KUOI.[1] WSU also states that the population within KMRW's proposed 60 dBu contour is 59,364 people. This constitutes an increase in population served of 26,187 people or 78.9%.[2] Furthermore, WSU states that the proposal would increase the 60 dBu coverage area from 779.96 square kilometers to 974.4 square kilometers, an increase in coverage area of 194.44 square kilometers or 24.9%). WSU states that the total area of interference received is only 13.43 square kilometers or 1.38% of the proposed 60 dBu coverage area. WSU argues that the proposed increase in the 60 dBu coverage area would "provide significant public interest benefits through the increased availability of the noncommercial services provided by KMRW." WSU 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.

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[1] By Construction Permit BMPED-20110621ACO, granted November 1, 2011, KRFP was granted a waiver of § 73.509 to receive interference from KMRW.

[2] WSU states that the population within the 60 dBu contour of KMRW's authorized construction permit facility (BNPED-20071022AVN) is 33,177 people.

Discussion

WSU'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 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 the grant of the requested waiver would be in the public interest. Accordingly, Washington State University's request for waiver of 47 C.F.R. § 73.509 IS HEREBY GRANTED. Furthermore, Application File No. BMPED-20121207AAE IS HEREBY GRANTED subject to the following conditions:

> Further modifications of FM Station KUOI-FM, Moscow, Idaho (Facility ID No. 69362) will not be construed as a "*per se*" modification of KMRW's facility. (*See Educational Information Corporation*, 6 FCC Rcd 2207 (1991)).
>
> Further modifications of FM Station KRFP(FM), Moscow, Idaho (Facility ID No. 172586) will not be construed as a "*per se*" modification of KMRW's facility. (*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,

Arthur E. Doak

Arthur E. Doak
Senior Engineer
Audio Division
Media Bureau

cc: Dow Lohnes PLLC
Mr. Martin Gibbs

enclosure