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Creative Educational Media Corporation, Inc
P.O. Box 1924
Tulsa, Oklahoma 74101

In re: WYCS(FM), Yorktown, VA
Facility ID No. 66672
Creative Educational Media
Corporation, Inc. ("CEM")
BPED-20140730AAT

Dear Applicant:

The staff has under consideration the above-captioned minor change application to modify the broadcast facilities of WYCS.¹ The application proposes an increase in the effective radiated power and an increase in the antenna height above average terrain at the licensed transmitter site. CEM requests waiver of the contour overlap provisions of 47 C.F.R. Section 73.509 of the Commission's Rules². For the reasons stated below, we grant CEM's waiver request and the application.

Waiver Request

An engineering review of the application reveals that it is in violation of § 73.509 with respect to the following stations: (1) third-adjacent channel Class B1 license (BLED-20041022ACN) of WCWM(FM), Williamsburg, Virginia; and (2) second-adjacent channel Class B1 license (BLED-19980603KA) of WNSB(FM), Norfolk, Virginia. Specifically, the proposed protected contour (60 dBu) receives prohibited overlap from the interfering contours (100 dBu) of WCWM and WNSB. WYCS recognizes these violations and requests waiver of § 73.509.

In support of its waiver request, WYCS states that it will not cause interference to any of the stations listed above. WYCS also believes that the total area of overlap from both facilities constitutes only 0.3% of the area within WYCS's proposed 60 dBu contour. In addition, WYCS claims that the proposed facilities would increase its overall coverage area from its presently licensed area of 4,960 square kilometers to 7,386 square kilometers (a 49% increase). Furthermore, WYCS indicates that the proposed facilities will increase coverage to 1,033,658 persons, an increase of 71%. Furthermore, WYCS argues that the overlap is very small, and when considered along with the increased service area, is well within the scope of the Commission's waiver policy. Accordingly, WYCS concludes that a waiver of § 73.509 is warranted in this case.

¹ WYCS(FM)'s present authorization, license file No. BLED-20140429AKP.

² See 47 C.F.R. § 73.509

Discussion

WYCS's request to receive second and third-adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in *Educational Information Corporation* case. In that proceeding, 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 WYCS's request for waiver of 47 C.F.R. § 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, WYCS's request for waiver of 47 C.F.R. § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20140715ACC IS HEREBY GRANTED subject to the following condition:

Further modification of station WCWM(FM), Facility ID No. 65555, Williamsburg, Virginia will not be construed as a *per se* modification of WYCS's construction permit (BPED-20140730AAT). (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

Further modifications of station WNSB(FM), Facility ID No. 49021, Norfolk, Virginia will not be construed as a *per se* modification of WYCS's construction permit (BPED-20140730AAT). (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,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Cary S. Tepper, Esq.