

# FEDERAL COMMUNICATIONS COMMISSION

445 12<sup>th</sup> STREET SW  
WASHINGTON DC 20554

APR 02 2007

MEDIA BUREAU  
AUDIO DIVISION  
APPLICATION STATUS: (202) 418-2730  
HOME PAGE: WWW.FCC.GOV/MMB/ASD

PROCESSING ENGINEER: Edna Prado  
TELEPHONE: (202) 418-2609  
FACSIMILE: (202) 418-1410  
MAIL STOP: 1800B3  
INTERNET ADDRESS: Edna.Prado@fcc.gov

CSN International  
3232 W. MacArthur Blvd.  
Santa Ana, CA 92704

In re: WUJC(FM), St. Marks, FL  
Facility ID# 122209  
CSN International ("CSN")  
BPED-20070108ACC

Dear Applicant:

This letter is in reference to: (1) the above captioned minor change application; (2) the Informal Objection filed by Florida A & M University ("A & M") on February 12, 2007; and (3) all other related pleadings. For the reasons stated below, we grant WUJC's waiver request and application, and dismiss the Informal Objection.

## Informal Objection

On February 12, 2007, A & M, licensee of station WANM(FM), filed an informal objection stating that CSN's application was in violation and failed to request a waiver of 47 C.F.R. § 73.509 with respect to its third-adjacent channel Class A license (BLED-19910701KB). Specifically, the proposed protected contour (60 dBu) would receive prohibited overlap from the interfering contour (100 dBu) of WANM. Therefore, A & M claims that CSN falsely certifies compliance with Section 73.509. However, in response to the informal objection, CSN requested a waiver of Section 73.509.

## Waiver Request

In support of the waiver request, WUJC states that it will not cause interference to WANM. WUJC also believes that the total area of overlap constitutes only 0.446% of the area within WANM's 60 dBu contour. In addition, WUJC claims that the proposed facilities would increase its overall coverage area by 1,574 square kilometers (a 60% increase). Furthermore, WUJC indicates that the proposed facilities will provide new service to an estimated 241,353 persons, which is an increase of 3,672%. Finally, WUJC 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. WUJC considers the affected area to be *de minimis*, and when considered along with the increased service area, WUJC concludes that waiver of § 73.509 is warranted in this case.

## Discussion

WUJC's request to receive 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 justifications are sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, WUJC's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20070108ACC IS HEREBY GRANTED subject to the following condition:

Further modifications of WANM (Facility Id# 21755), Tallahassee, FL, will not be construed as a *per se* modification of WUJC's construction permit (BPED-20070108ACC). (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991)).

In light of the above, the Informal Objection filed by A & M on February 12, 2007 and all other related pleadings ARE HEREBY DISMISSED.

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: Lauren A. Colby  
James L. Winston  
Florida A & M University