

# FEDERAL COMMUNICATIONS COMMISSION

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June 28, 2005

Michael A. Stanton, President  
Southeast University Neighborhood Association (SEUNA)  
P.O. Box 6658  
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Mr. Mark Van Bergh  
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Arlington, VA 22206

In re: WAER(FM), Syracuse, NY  
Syracuse University  
Facility ID No. 64354  
License Application BLED-19950203KA  
Renewal Application BRED-19980202ZE

Gentlemen:

This letter refers to the above-captioned applications for license and renewal for WAER (FM), Syracuse, NY. By letter dated March 3, 2005 (the "March 2005 letter") we addressed numerous issues raised in various and voluminous pleadings filed over the past ten years, leaving a single issue to be decided. We directed Syracuse University to file a pleading no later than May 2, 2005 (60 days after the March 3, 2005 staff letter) on the issue of whether the University's efforts constituted "effective technical assistance" as called for by the blanketing interference rule, Section 73.318.

The March 2005 letter afforded all interested parties a further 30 day period, until June 1, 2005, to respond to Syracuse University's May 2, 2005 filing on the "effective technical assistance" issue. Of the large number of parties who have been involved in this protracted proceeding, only Oldfield/SEUNA filed a timely response.<sup>1</sup> Subsequently, Syracuse University filed its final response on June 16, 2005, as called

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<sup>1</sup> SEUNA's June 1, 2005 filing was submitted under the signature of Michael A. Stanton, President of the association. However, the staff received a faxed copy of this pleading from Dr. Oldfield under Dr. Oldfield's signature "[f]or the Board of Directors, SouthEast University Neighborhood Association", and other material in the pleading shows the duplication in positions between SEUNA and Dr. Oldfield. Consequently, as in our March 2, 2005 letter, we will continue to use notation here that shows the relationship between these entities, "Oldfield/SEUNA".

Oldfield/SEUNA's June 1, 2005 filing states that it plans to address the "full extent of the Division's decisions in a 'Petition for Extraordinary Reconsideration'" at some unspecified future date. However, Oldfield/SEUNA does not indicate why it could it not have provided such response timely within the fixed framework for pleadings set forth in the March 2, 2005 letter. Oldfield/SEUNA has already had 90 days in which to prepare a filing. Further, Oldfield/SEUNA's more recent pleadings tend to rehash old information and to raise previously decided issues. Consequently, we here render our decision without reference to any promised filing by Oldfield/SEUNA.

for by the March 3, 2005 letter. Under the streamlined procedure set forth in the March 3, 2005 letter, Syracuse University's June 16, 2005 response is the last one that will be considered in this proceeding.<sup>2</sup>

We start by considering Oldfield's/SEUNA's June 1, 2005 pleading against WAER's license and renewal applications. Oldfield/SEUNA characterizes Syracuse University's efforts to resolve the blanketing interference as "spasmodic" and "almost cavalier," and alleges that the University's summary of all the actions it has taken over the past ten years "appears to be a smokescreen for the almost total absence of action recently." According to Oldfield/SEUNA, there has been little evidence of "significant activity" since 1999. Oldfield/SEUNA argues that assessing the University's efforts requires information on the current situation in the area, and should not rely on petitions and complaints filed five or more years ago. Oldfield/SEUNA faults the University for not following up on questionnaires the University sent in 1999 that were not returned, as well as the University's followup telephone calls only to residents who complained. Oldfield/SEUNA includes a memorandum from Mr. Jeff Stonecash of the College of Arts and Sciences/Department of Political Science at Syracuse University, which states that the report submitted by Syracuse University on May 2, 2005 does not meet his expectations for a thorough survey, particularly his view for a recent survey contacting either all or a specific random sample of residents in that area.<sup>3</sup> Oldfield/SEUNA provides copies of two recent complaints, one for television and one for radio, which are apparently attributable to blanketing interference.<sup>4</sup> Lastly, Oldfield/SEUNA cites *Letter to WRQI (FM), South Bristol Township, NY*, 9 FCC Rcd 6873 (MM Bur.1994) in support of its contention that Syracuse University must correct all complaints of blanketing interference caused by the operation of WAER.

Syracuse University's May 2, 2005 and June 16, 2005 filings summarize the steps that the station has taken to date to address instances of blanketing interference. The University contends that where it was able to contact a complainant, the University obtained information about the nature of the interference which enabled it to take appropriate corrective action. Syracuse University states that many of the complaints received – particularly responses to the postcard survey initiated by television station WTVH in February 1996 – did not contain sufficient information about the affected equipment or the nature of the interference. Nevertheless, the University attempted to address each complaint of which it was aware, sending at least two mailings consisting of technical information. The University has made more than 300 home visits to ascertain and correct problems; such visits were generally made to residences within the blanketing interference contour. Where a home visit was not made, the University has no way of knowing whether the information sent was sufficient to resolve the reported interference or not. The University states that it has received only 57 responses to the more than 1000 questionnaires the University mailed to residents within the blanketing contour on March 25, 1999. Letters and questionnaires, contends the University, are a recognized form of contact for stations attempting to address blanketing interference

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<sup>2</sup> To preclude the start of a new and lengthy pleading cycle, and because of the scope of the matters yet to be decided is very limited, the staff's March 3, 2005 letter defined a specific procedure for addressing this issue. Syracuse University was directed to file its response by May 2, 2005, 60 days after the date of the staff's letter. Interested parties were afforded an additional 30 days to file a response, until June 1, 2005. Syracuse University was then afforded an additional 15 days, until June 16, 2005 to file its final response. Our March 3 letter stated that further requests for extension of time to reply would not be granted, nor would subsequent pleadings be considered by the staff, since the respective parties have already had more than 10 years to make their respective positions known. No party objected to this time-limited process.

<sup>3</sup> Mr. Stonecash apparently based his conclusions only on the University's May 2, 2005 filing, and not the entire record in this proceeding..

<sup>4</sup> Oldfield/SEUNA also reiterates Oldfield's previous complaints made about the location of WJPZ's transmitter and alleged modulation products. However, this issue was previously decided, and no new information is provided by Oldfield/SEUNA. Consequently, we will not address this issue again.

problems, citing *Calvary Educational Broadcasting Network*, 9 FCC Rcd 6412, 6413 (Rev. Bd. 1994). Syracuse University contends that the use of “5k FM traps” manufactured by the Microwave Filter Company and tuned to 88.3 MHz (WAER’s frequency) in combination with 75 ohm filters from Radio Shack were “completely effective” in resolving the interference to over-the-air television reception. Interference to WCNY-FM has been resolved through a variety of measures.

Of the two remaining complaints referenced by Oldfield/SEUNA in its June 1, 2005 filing, one has been previously addressed by Syracuse University. In response to the intermittent interference reported by Rafael Sorkin to reception of WCNY-FM, the University conducted two home visits to Mr. Sorkin’s residence in 1999 but could not detect interference to reception of WCNY-FM. Mr. Sorkin was reportedly asked to again contact WAER if the “weak but annoying” interference persisted. Mr. Sorkin made no further complaint before this latest filing, and he provides no evidence of interference since 2001. The University has stated that it is yet willing to assist Mr. Sorkin should he desire it. The second complaint, that of Joanne Sedgwick regarding interference to television reception, was dated May 18, 2005 and was not previously known to the University. The University contacted Ms. Sedgwick and offered assistance. However, Ms. Sedgwick declined the offer of a home visit and assistance.<sup>5</sup> Consequently, the University believes it has fulfilled its obligation in this instance, citing *Letter to WRQI (FM)*, *South Bristol Township, NY*, *supra*.

The March 2005 letter afforded the objectors an extended period of 90 days to identify continuing and unresolved instances of blanketing interference. Of the many previous objectors and complainants in this proceeding, only Oldfield/SEUNA responded. While Oldfield/SEUNA faults the University for not specifically addressing every complaint in the lists of complaints filed more than 5 years ago, Oldfield/SUENA does not do so either. Moreover, it is questionable whether any of that information remains valid. Oldfield/SEUNA was able to provide only one new complaint of interference to television reception, and one continuing complaint of interference to radio reception of WCNY-FM.<sup>6</sup> Syracuse University promptly acted on the complaint of Ms. Segwick to the best of their ability. While Mr. Sorkin’s recent complaint indicates his dissatisfaction with the University’s response to his prior complaint, it does not reference any instance of interference in recent years. The University has stated that it is willing to assist Mr. Sorkin further should he so desire it.

Section 73.318 of the Commission’s rules does not require a broadcast station to conduct extensive or comprehensive surveys to determine whether blanketing interference exists in a given area. Nevertheless, such surveys can be an effective tool in uncovering the extent and severity of such interference.<sup>7</sup> That the University received only 57 responses out of more than 1000 mailings sent in a 1999 mailing strongly suggests that its efforts to mitigate any blanketing interference through home visits and technical information have been effective, and the lack of new or continued complaints from Oldfield/SEUNA or any other source further buttresses our conclusion that the blanketing interference problems have been resolved in accordance with our rules.<sup>8</sup> This issue has been given extensive public exposure in the

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<sup>5</sup> The University believes that at least part of the reception problem may stem from the use of a rabbit ears antenna to pick up the television signal.

<sup>6</sup> From the record before us, it does not appear that Mr. Sorkin made complaints of interference to the University subsequent to the University’s visits in 2000 and 2001.

<sup>7</sup> It is noteworthy that we afforded Oldfield/SEUNA sufficient time (90 days) during which it could have conducted its own survey of the neighborhood to determine whether any complaints of interference remained outstanding. Oldfield/SEUNA apparently chose not to do so, instead blaming the University for not taking on this task.

<sup>8</sup> Contrary to Oldfield/SEUNA’s contention, the University is not required to determine why persons sent the questionnaire did not respond.

community, and complainants who desired assistance from the University have been given ample opportunity to request it. We therefore conclude that Syracuse University has provided the "effective technical assistance" required by the rule, and moreover has satisfactorily resolved all remaining blanketing interference complaints.

Accordingly, the informal objections of Oldfield/SEUNA ARE DENIED. To the extent that other objectors have not previously been addressed, such objections are also denied. License application BLED-19950203KA IS GRANTED and renewal application of Syracuse University for Station WAER, Syracuse, NY (File No. BRED-19980202ZE) IS GRANTED. This action is taken pursuant to Section 0.283 of the Commission's rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter H. Doyle", written in a cursive style.

Peter H. Doyle  
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cc: Service List (attached)

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