

FEDERAL COMMUNICATIONS COMMISSION

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January 22, 2008

Certified Mail -- Return Receipt Requested

WVRM, Inc.
505 Thornall Street, Suite 306
Edison, NJ 08837

In re: WDDM (FM), Hazlet, NJ
WVRM, Inc..
Facility ID No. 70644
Application BPED-20071109ADP
Special Temporary Authority

Dear WVRM, Inc.:

This letter is in reference to application BPED-20071109ADP for Class D noncommercial educational FM station WDDM, Hazlet, NJ.

Background. Commission records indicate that WDDM went silent on January 10, 2007. The station requested Special Temporary Authority (STA) on February 1, 2007 to remain silent; that STA request was granted on February 5, 2007 for 90 days, with a warning that the station must return to the air by January 10, 2008 or the station's license would automatically expire on that date.¹ Subsequently, the staff received a letter from the station's counsel on May 3, 2007, stating that WDDM had returned to operation "from its local facilities" and thus had not been off the air for a consecutive twelve month period.²

On August 2, 2007, the staff granted a separate STA request filed January 10, 2007 (as amended July 31, 2007) for operation with the same facilities granted in earlier STA requests (August 7, 2002 and May 18, 2004).³

Application BPED-20071109ADP. WDDM's minor change application was filed after the recent noncommercial educational FM (NCE) filing window period, in which new and major change applications were accepted for proposed NCE stations nationwide. Two such applications – BNPED-20071019AMF for Channel 207A in South Toms River, NJ, and BNPED-20071022BVB for Channel 207A in Freehold, NJ – directly conflict with WDDM's later-filed minor change application, in violation of Sections 73.509 and 73.512 of the Commission's rules. Because NCE FM minor change applications are processed under a first-come/first-served processing system,

¹ Section 312(g) of the Communications Act states that broadcasting stations "that fail to transmit broadcast signals for any consecutive twelve month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary."

² It is not clear from the letter exactly what those "local facilities" were.

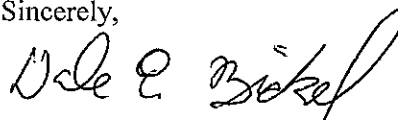
³ The STA facilities were acknowledged to be at variance from construction permit BPED-19960513IA. See the engineering statement attached to the January 10, 2007 STA request.

processing on WDDM's minor change application can only be completed after the earlier filed applications are resolved. Once that occurs, we can take the appropriate action on WDDM's "queue" application.⁴

Consequently, WDDM has no authority to construct or operate with the facilities specified in application BPED-20071109ADP. Any such construction or operation is unauthorized and must cease immediately.

Need for further STA. WDDM may file a request for continued operation with the facilities specified in the August 2, 2007 STA. In any such request, WDDM must spell out exactly what parameters the station continues to operate with. Any future STA will be granted subject to the outcome of our review of applications BNPED-20071019AMF and BNPED-20071022BVB, and related mutually exclusive applications.⁵

Sincerely,



Dale E. Bickel
Senior Engineer
Audio Division
Media Bureau

cc: Leventhal, Senter and Lerman, PLLC
: Radiotechniques

⁴ The queue process works as follows. If the lead application is granted, the queue is dissolved and the queue applications are dismissed; if the lead application is dismissed, then the first queue application (the application filed closest in time after the lead application) is processed. Applications filed during a window filing period (as were BNPED-20071019AMF and BMPED-20071022BVB) are considered as having been filed on the same day.

⁵ It is likely that processing on these mutually exclusive applications will take longer than the six month maximum time period permitted for STA requests under Section 73.1635 of the Commission's Rules. Consequently, WDDM must file requests for extension of the STA every six months in order to maintain its operating authority.