

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio

PROCESSING ENGINEER: Arthur E. Doak
TELEPHONE: (202) 418-2715
FACSIMILE: (202) 418-1410
MAIL STOP: 1800B3-AED
INTERNET ADDRESS: arthur.doak@fcc.gov

November 1, 2011

Radio Free Moscow, Inc.
114 E. 3rd Street
Moscow, ID 83843

In re: New(FM), Moscow, ID
Radio Free Moscow, Inc.
("RFM")
Facility ID No.: 172586
BMPED-20110621ACO

Dear Applicant:

This letter is in reference to the above-captioned minor change application to increase the effective radiated power and class. In the application, RFM 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 is in violation of 47 C.F.R. § 73.509 with respect to the following stations: (1) the licensed facility (BLED-20090210AAL) of second adjacent channel FM Station KZUU(FM), Pullman, Washington (Facility ID No. 71036) on Channel 214A; and (2) the authorized construction permit facility (BNPED-20071022AVN) for a new second adjacent channel FM station to serve Pullman, Washington (Facility ID No. 171613) on Channel 210A. In each instance, the proposed protected contour (60 dBu) would receive prohibited overlap from the interfering contours (100 dBu) of the facilities listed above. RFM recognizes these violations and requests a waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, RFM states that the proposed facility will not cause interference to either facility. RFM also states that the 60 dBu contour of the proposed facility encompasses an area of 2,360 km² with a population of 61,268 people. This constitutes an increase in population of 31,809 people (108%).¹ Furthermore, RFM states that the interference area received from KZUU is only 6.5 km² or 0.27% of the proposed 60 dBu service area and that the interference area received from Construction Permit BNPED-20071022AVN is only 1.9 km² or 0.08% of the proposed 60 dBu service area. RFM 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. Finally, RFM argues that the benefit of more than doubling the population served, heavily outweighs the potential for interference received in a very limited area.

¹ The 60 dBu contour of the authorized construction permit facility (BNPED-20071018BDS) contains 29,459 people.

Discussion

RFM's request to receive second 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 justification is sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, RFM's request for waiver of 47 C.F.R. § 73.509 IS HEREBY GRANTED. Furthermore, Application File No. BMPED-20110621ACO IS HEREBY GRANTED subject to the following conditions:

Further modifications of FM Station KZUU(FM), Pullman, Washington (Facility ID No. 71036) will not be construed as a "*per se*" modification of the authorized facility. (See *Educational Information Corporation*, 6 FCC Rcd 2207 (1991)).

Further modifications of the New FM station to serve Pullman, Washington (Facility ID No. 171613) will not be construed as a "*per se*" modification of the authorized 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: Michael Couzens, Esq.
Brown Broadcast Services, Inc.

enclosure