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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of)
)
HAWKEYE)
SEVENTH-DAY ADVENTIST CHURCH)
)
For a Construction Permit for a)
New Noncommercial Educational FM Station at)
Hawkeye, Iowa)

File No. BNPED-20071022BAG
Facility ID #174130

TO: The Secretary
ATTN: Chief, Audio Division
Media Bureau

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MAY 8 2009
Federal Communications Commission
Office of the Secretary
P 2:05
AUDIO SERVICES DIVISION

PETITION FOR RECONSIDERATION

The Hawkeye Seventh-day Adventist Church (the "Church"), by counsel and pursuant to §1.106 of the Commission's rules, hereby respectfully petitions the Commission to reconsider the April 2, 2009 Letter Decision from the Media Bureau's Audio Division in which it dismissed the Church's above-identified application for a new noncommercial FM broadcast station at Hawkeye, Iowa.¹

According to the Letter Decision, the facility proposed in the Church's application would cause prohibited contour overlap to cochannel station KWAR, Waverly, Iowa, in violation of §73.509 of the Commission's rules. The Church is submitting an amendment to its application

¹ Public notice of this action by the Commission was published in *Broadcast Actions*, Report No. 46958, released April 7, 2009.

online through the Media Bureau's CDBS filing system to cure this defect. The amended application proposes a transmission system that will properly protect KWAR.

It is the Commission's policy is to reinstate dismissed applications *nunc pro tunc* where a curative amendment is filed in conjunction with a petition for reconsideration within 30 days of the dismissal. See, *Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, Public Notice, 55 R.R.2d 776 (1984). The Church's application qualifies for reinstatement under this policy. The defect for which the Commission dismissed the application has been cured with the simultaneously filed amendment.

Wherefore, the Church respectfully urges the Commission to accept its amendment and to reinstate its application *nunc pro tunc*.

Respectfully submitted,

HAWKEYE
SEVENTH-DAY ADVENTIST CHURCH

By: 
Donald E. Martin

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Its Attorney

May 6, 2009

CERTIFICATE OF SERVICE

I, Donald E. Martin, hereby certify this 6th day of May, 2009, that I have caused a copy of the foregoing document to be served by United States first class mail upon the following:

Dan Alpert, Esquire
2120 North 21st Road
Arlington, Virginia 22201
Counsel for HO.LY, Inc.

A handwritten signature in cursive script that reads "Donald E. Martin". The signature is written in black ink and is positioned above a horizontal line.

Donald E. Martin