Petition For Reconsideration and Reinstatement Nunc Pro Tunc

Newark Public Radio ("WBGO") respectfully requests reconsideration of the staff letter dated November 16, 2009 dismissing its application in FCC File No. BMPED-20091020AAN. WBGO seeks reinstatement of its application, as amended, nunc pro tunc.

The staff letter dismissed the application for violations of Section 73.509 and Section 73.510(b) of FCC rules. WBGO has clarified or corrected both violations, such that this amended application fully meets FCC requirements and can be reinstated and processed nunc pro tunc.

With regard to Section 73.510(b), the amended application fully resolves the conflict with the FCC's longstanding policy on the 2 db/10 degrees of azimuth change along the radials at issue.

With regard to Section 73.509, after dismissal, applicant's consulting engineer discussed with FCC staff the contour overlap with Station WCWP (between the azimuths of 56-90 degrees. As a result of those discussions, WBGO added detailed maps showing the existing WCWP overlap and the decrease in such overlap, such that the overlap complies with Section 73.509(d) of the rules. WBGO believes FCC staff now acknowledges that WBGO is not increasing existing overlap with WCWP, but has slightly reduced overlap with WCWP, consistent with Section 73.509(d) of the rules.

The FCC, Media Bureau and ASD have all had long-held policies permitting minor curative amendments for noncommercial educational radio applications, if requests for reconsideration and reinstatement nunc pro tunc are timely submitted. *Commission Statement of Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, 56 R.R. 2nd 776 (1984).

In this situation, the amendment fully cures any Section 73.510(b) violation and further detailed maps and discussion with FCC staff have clarified that the original application did not (in actuality) violate Section 73.509 of the FCC rules.

For these reasons, WBGO respectfully requests reconsideration and reinstatement nunc pro tunc of its application.