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Section VII, Question 13

Exhibit 15

Prepared for Hudson Valley Community Radio

CONTOUR OVERLAP

On 25 January 2005, this office performed a computerized allocation analysis for the proposed facilities using current data from the Commission CDBS. The software to perform this analysis is provided by V-Soft Communications. A copy of this study is attached.

This study revealed three licensed facilities, a construction permit and an application which require further examination. These are the licensed co-channel facilities of WRPR, Mahwah, NJ, WWPT, Westport, CT, and WHPC, Garden City, NY; and the second adjacent facilities of WFUV, New York City, NY, as permitted in BPED-19831118AL and applied for in BPED-20010216AAZ,

Attached are map exhibits showing the location and extent of the protected and interfering contours of WRPR, WWPT and WHPC and of the proposed facilities. These exhibits show conclusively that no prohibited overlap exists between the proposed facilities and these stations.

The proposed 100 dB μ interfering contour is encompassed in its entirety by the protected contour of the WFUV permitted and applied for facilities.

The WFUV facilities permitted in BPED-19831118AL were the subject of a lengthy dispute, which, in part, concerned prohibited overlap between the proposed WFUV protected contour and the and the interfering contour of the facilities applied for by the licensee at its original transmitter site. The Commission resolved this dispute in a ruling, the terms of which were spelled out in a letter dated 30 September 1992, from Larry Eads, Chief, Audio Services Division, Mass Media Bureau and addressed to Fordham University, Westchester Council for Public Broadcasting and eight other addressees. See Sections F & G of this letter, attached as an exhibit.

In this letter the Commission recognizes that, "Although overlap still exists, the encompassment of Westchester's 80 dB μ contour by WFUV(FM)'s 60 dB μ is consistent with the public interest calculus set forth in WCPE. Accordingly, waiver of 47CFR§73.509 with appropriate condition is warranted."

In Educational Information Corporation (WCPE(FM)), 6 FCC Rcd 2207 (1991) ("WCPE") the Commission states:

"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 and third channel adjacent 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.

In WCPE, the Commission also specifically addressed waivers involving interference caused by second and third adjacent stations:

Whereas WCPE's proposal discussed above involved overlap received, WCCE's proposal involves overlap caused and therefore requires separate consideration. We note, however, the proposals such as WCCE's

are “the other side of the coin.” Where waivers are approved to allow stations to receive overlap, there is always a station causing it. Thereafter any increase or displacement in the facilities of the “causing” station will result in new overlap. To avoid perpetually restricting such stations to their current facilities, and in view of the limited nature of the interference potential of second or third adjacent channels discussed above, we are inclined to view waiver requests such as WCCE’s favorably where there is clear public benefit.”

The Commission granted a construction permit to build the applicant’s current facilities on 14 October 1997. Attached is a map exhibit showing that the 80 dB μ interfering contours of the currently licensed facility are encompassed by the 60 dB μ protected contours of the WFUV permitted and applied for facilities. (At the time the applicant applied for a construction permit to build its current facilities and at the time those facilities were licensed, the Commission considered a second channel adjacent station’s interfering contour to be the 80 dB μ contour. Subsequently, the Commission changed this to the 100 dB μ contour.)

Attached is a spreadsheet exhibit showing the areas and populations bounded by the WFUV permitted and applied for protected contours and the existing and proposed interfering contours.

Attached are map exhibits showing the relationship of the licensed and proposed interfering contours and the permitted and proposed WFUV protected contours.

The facilities proposed herein will produce a 388% increase in the area and a 415% increase in the population within the WDFH protected contour. The applicant believes that this constitutes a significant increase in noncommercial educational service.

The area within the applicant’s licensed 80 dB μ interfering contour constitutes 0.1784% of the WFUV construction permit’s protected contour and the encompassed population is 0.047% of the WFUV construction permit population. As noted above, in the letter of 30 September 1992, the Commission recognized that the amount of prohibited overlap

represented by this area and population “is consistent with the public interest calculus set forth in WCPE.”

The area within the applicant’s proposed 100 dB μ interfering contour constitutes 0.025% of the WFUV construction permit’s protected contour and 0.025% of the application’s protected contour; and the encompassed population is 0.0063% of the WFUV construction permit population and 0.0062% of the WFUV application population.

The applicant believes that the benefit of the significant increase in the noncommercial educational service that the proposed facilities affords greatly outweighs the potential for interference in a very small area, and that the proposed prohibited overlap continues to be “consistent with the public interest calculus set forth in WCPE.” The applicant respectfully requests that the waiver of 47CFR§73.509, as it pertains to prohibited overlap between the facilities proposed herein and the permitted and proposed second channel adjacent facilities of WFUV, which it currently enjoys be extended to the proposed facilities.

A courtesy copy of this application has been provided to the licensee of WFUV.