

KKPM-CD Minor Modification Waiver Request Justification

May 7, 2020

One Ministries, Inc. (OMI) requests a waiver to move KKPM-CD 39 miles, which is 9 miles in excess of the 30-mile maximum move rule. Also, OMI requests a waiver of the current freeze on minor modifications for non-repacked Class A stations.

OMI currently has a pending petition for reconsideration¹ for the dismissal of its previous minor modification application. In its pleading, OMI did not refute the Commission's statement that interference from KBCW on co-channel 28 would be hypothetical due to ducting of KBCW from the Bay Area to the Central Valley. Instead, OMI provided additional justification that parallels the similar waiver request that was granted for KCSO-LD in the same television market as KKPM-CD. Nevertheless, since KBCW has moved to its post repack channel eight days ago, KKPM-CD has received excessive interference that was not predicted by the FCC's TV Study program. It is evident that the predicted ducting problem of KBCW overpowering KKPM-CD is not hypothetical but is real and has now been recorded. Furthermore, interference in the Yuba City – Marysville metropolitan area for which KKPM-CD's city of license is located has been documented even when no ducting has been observed. OMI seeks expedited processing of its minor modification to alleviate the interference issue. Also, by refiling the minor modification application, this allows for the application to show up in the database as active, since the previous application is not shown in the TV Study database although the petition for reconsideration is still active.

KKPM-CD is currently providing an over-the-air signal input to KCRM-LD in Cohasset, California. KCRM-LD is within the noise-limited contour of KKPM-CD and is 84 km away. However, the day after the KBCW moved to channel 28, the receiver at KCRM-LD was swamped out by KBCW April 30th until noon. Again, for eight hours on May 5th KBCW's signal swamped out the reception of KKPM-CD at the KCRM-LD receiver. KBCW is over three times the distance (253 km) to KCRM-LD compared to the distance of KKPM-CD to KCRM-LD (84 km). However, since atmospheric ducting is common between the Bay Area and the Central Valley of California, the signal levels for both KBCW and KKPM-CD were equal in Cohasset during the recorded ducting events. For the first week of operation of KBCW on its new repack channel, the ducting of its signal into the Central Valley has occurred about 10% of the time. During the atmospheric ducting events, KBCW's signal is present throughout KKPM-CD's protected contour and limits KKPM-CD's viewable.

The majority of KKPM-CD's viewership is at the southern edge of its service contour in the northern Sacramento area. Allowing KKPM-CD to move south would allow KKPM-CD to preserve this audience by having a stronger signal in this area to be able to overcome the incoming ducted signal from KBCW. One Ministries, Inc. will continue to cover the area to the norther of KKPM-CD's coverage area with its other stations, KCRM-LD and KYUB-LD. Furthermore, by allowing KKPM-CD to move south 39 miles, interference to KBCW will go down by 0.44% (30,523), which is in the public interest.

¹ Pleading 0000096717, Filed January 11, 2020

The new reception problems of KKPM-CD also extend beyond atmospheric ducting and even occur when no ducting is detected. Today a viewer in Marysville that is only 19 miles from the KKPM-CD transmitter reported that they can't view KKPM-CD due to interference. This is because most viewers orient their antennas south toward Walnut Grove to receive Sacramento stations for which KKPM-CD is on the back side of their antenna. The direction of Walnut grove is a similar direction to that of San Francisco Bay Area stations. Therefore, with the increased signal level from KBCW and with the directivity of receive antennas, KKPM-CD can no longer be received reliably even by viewers close into the transmitter including its city of license of Yuba City, which is adjacent to Marysville. Allowing KKPM-CD to move south would allow it to be in line with direction of receive antennas for people living in its city of license.

In the previous dismissal of OMI's similar minor modification application, the FCC concludes that waiving the rule and allowing OMI to move KKPM-CD thirty-nine (39) miles would not be in the public interest. On the contrary, the Commission has granted a similar request for another station in the market, KCSO-LD. Both the move of KKPM-CD and KCSO-LD have similarities in their justification.

Although the commission has waived this rule only infrequently, it has stated that waiver requests will be entertained based upon a significant showing that the public interest will be benefited from the move, provided that the new site will have contour overlap with the original contour and a showing that there is no other useful site within the 30 mile radius of the transmitter.

For example, In *White Park Broadcasting, Inc.*, 24 FCC Rcd 3549 (2009), the Commission stated that the spacing waiver policy requires consideration of three key elements: (1) the suitability (or lack thereof) of the present site; (2) the availability of other non-shortspaced sited; and (3) consideration of all public interest factors concerning the short-spacing. Citing *Edens Broadcasting, Inc.*, 2 FCC Rcd 689, 695 (rev. BD. 1987), aff'd 5 FCC Rcd 2576 (1990), *Edens* confirmed that the commission considers an applicant's relocation to a *de facto* antenna farm to be a positive public interest factor. *Edens* is guided by the earlier order of the full commission in *Beasley Broadcasting of Philadelphia, Inc.*, Memorandum Opinion and Order, 1007 FCC 2d 106 (1985), at Note 6.

Indeed, our recent actions in MM Docket 80-90, cause us to devote more attention to the potential hazards to air safety that the expected growth in the number of tall FM towers may create. In view of that, we intend to consider location on a recognized antenna farm, whether officially designated or not, as a positive factor to be weighed in requests in FM spacing waivers.
(emphasis added)

The FCC adopted its antenna farm policy in 1967 to facilitate the siting of broadcast towers and further the interest of their navigation and safety². In *Beasley*, the commission stated

² *Antenna Farms*, 8 FCC 2d 559, 1967

that although it has never established a designated antenna farm under Part 17 of the rules, it recognized that *de facto* antenna farm areas exist with beneficial effect and that *de facto* antenna farms are within the aims and objectives of the commission's antenna farm policy.

The instant application meets all of the criteria for recognition of a *de facto* antenna farm move and a waiver of the commission's rules.

Suitability of the Present Site.

KKPM-CD is licensed to Yuba City covering the Sacramento market. Although the Commission establishes the 51 dBu contour as the service contour for Class A TV station, Class A stations are often regularly viewed in the noise-limited 41 dBu contour just as they are viewed for full power TV stations. From when KKPM-CD was first licensed atop the Sutter Buttes it has served the Sacramento area, which is within its 41 dB contour.

With the repacking of the TV band, the coverage area of KKPM-CD has been eroded over the main portion of the Sacramento market that it covers. When using the FCC's TV Study program and running KKPM-CD as if it is full power TV station operating at 15 kW, the FCC's TV Study program shows more than 10% of the coverage area is interfered with by newcomers KBTW-CD Channel 27 and KBCW Channel 28. The interference from KBTW-CD forms a circle around the tower site that KBTW-CD is located on within the heart of Sacramento. The FCC's TV Study program only considers interference within the 51 dBu contour, so this interference is not normally shown; however, those are real people who watch KKPM-CD's mixture of programming that cannot be seen on any other station. The only solution to remedy the loss of coverage over Sacramento is to move close in to KBTW-CD. Otherwise locating too far away from KBTW-CD would cause interference to KBTW-CD.

Below is a demonstration of interference received by KKPM-CD when run as a Class A station in TV Study. (Note: only 57 people are shown to be interfered with.)

Interference to proposal scenario 1

Desired:	Call KKPM-CD	Chan D28+	Svc DC	Status LIC	City, State Yuba City, CA	File Number BLDTA20100914AHF	Distance
Undesireds:	KBTW-CD	D27	DC	LIC	SACRAMENTO, CA	BLDTA20140908ADO	76.9 km
	KBCW	D28	DT	CP	SAN FRANCISCO, CA	BLANK0000033563	170.3
	Service area			Terrain-limited		IX-free	Percent IX
	10838.6	776,734		10687.8	775,229	10672.7	775,135
							0.14 0.01
Undesired					Total IX	Unique IX	Prcnt Unique IX
KBTW-CD D27 DC LIC			0.5		37	0.0	0.00 0.00
KBCW D28 DT CP			15.1		94	14.6	57 0.14 0.01

Below is a demonstration of interference received by KKPM-CD when run as if it is a Full Power Station in TV Study so that its coverage is considered out to the 41 dBu signal level. (Note: 10.29% of the population – 206,528 people are shown to be interfered with. Most of this interference is around KBTB-CD's tower location)

Interference to proposal scenario 1
10.29% interference received

	Call	Chan	Svc	Status	City, State	File Number	Distance
Desired:	KKPM-CD	D28+	DT	LIC	Yuba City, CA	BLDTA20100914AHF	
Undesireds:	KBTB-CD	D27	DC	LIC	SACRAMENTO, CA	BLDTA20140908ADO	76.9 km
	KPJK	D27	DT	CP	SAN MATEO, CA	BLANK0000034004	170.3
	KMMD-CD	D28	DC	LIC	SALINAS, CA	BLANK0000068622	297.4
	KBCW	D28	DT	CP	SAN FRANCISCO, CA	BLANK0000033563	170.3
	KMPH-TV	D28	DT	LIC	VISALIA, CA	BLCDT20030204AGN	382.2
	Service area		Terrain-limited		IX-free		Percent IX
	17423.8	2,091,724	16952.2	2,085,033	16639.6	1,870,500	1.84 10.29
Undesired			Total IX		Unique IX		Prcnt Unique IX
KBTB-CD D27 DC LIC			135.4	202,746	108.2	194,741	0.64 9.34
KMMD-CD D28 DC LIC			0.2	0	0.0	0	0.00 0.00
KBCW D28 DT CP			204.4	19,792	177.2	11,787	1.05 0.57

City of License Coverage

Beasley and its progeny recognize full city of license coverage to be an extremely important public interest factor.

The proposed site is the only one that could be found to cover the majority of Yuba City while also eliminating interference to the main part of the Sacramento market in Sacramento City while also not causing objectionable interference to KBTB-CD and KBCW

No Other Suitable Site

The third important factor in *Beasley*, and recognized in *White Park*, was that no other closer site would provide a city-grade signal to the licensed community.

The applicant studied other tower sites in-between Sutter Buttes and the northern outskirts of the Sacramento area. There were no other tall towers that would allow coverage of both Yuba City and the Sacramento metro area. There were also no tall mountains or hills. Sutter Buttes is the smallest mountain range in the world and strangely sticks up out of the Central Valley in-between Chico and Sacramento, CA. Other than Sutter Buttes, and the proposed tower, there aren't any tall towers over the 39-mile distance. Smaller cell phone towers are available, but coverage area from there is greatly diminished and not viable.

Equivalent Protection and Commitment to Resolve Interference Problems

The Technical Statement affirms that at its current site and at the new proposed tower, KKPM-CD is and will be fully compliant with the FCC's interference

Accordingly, a grant of this application will actually *improve* the interference caused to KBCW by situation, serving the public interest by 30.523 people (0.44%).

***De facto* Antenna Farm**

Finally, as previously noted, the commission considers a move to a *de facto* antenna farm to *ipso facto* be a positive factor in the public interest. That the site constitutes a *de facto* antenna farm is undeniable. Several other broadcast stations are located at the site including KMSX-LD, KMUM-CD, KBEB, KEFM-LP, KQEI-FM, KXJZ, and KDND.

Other Public Interest Factors: The EAS

Chairman Tom Wheeler has called the broadcast Emergency Alert System “one of the most important tools broadcast, cable, and satellite providers use to keep the public safe in times of crisis.” Commissioner Pai said “the emergency alert system (EAS) still serves the basic and important purpose of providing the American public with timely access to emergency information.”³

Keeping in mind that Chinese speaking homes in the Sacramento DMA rely on KKPM-CD to deliver emergency notifications to their homes in their native language with its EAS and news content, it is of critical importance that we do all we can to assure that KKPM-CD reaches the all-Chinese speaking homes possible in times of emergency. Time and again, from New Orleans to Joplin Missouri, serving the public in this way has been proven to be of utmost importance. The website Earthquake track reports that the Sacramento area has had 71 earthquakes in the past year of Magnitude 1.5 or greater in the past year.⁴ The USGS database shows that there is a 45.42% chance of a major earthquake within 50km of Sacramento, CA within the next 50 years. The largest earthquake within 30 miles of Sacramento, CA was a 4.4 Magnitude in 1978.⁵ This move will allow KKPM-CD to advance the public interest by serving this unique audience when lives may depend on it.

Conclusion

KKPM-CD has met all the requirements and criteria previously set forth by the commission in its most definitive cases addressing the antenna farm waiver. A waiver of Section 74.787(b)(iii) permitting KKPM-CD to relocate at the northern Sacramento tower would allow it to provide substantially improved service to its DMA of license and reduce the population of viewers not able to receive its signal due to the repacking of KBTB and KBCW. This move does not diminish the coverage of KKPM-CD due to duplication of its service via its translators in Chico via KKRK-LD and on the Sutter Buttes via KYUB-LD. Also, in light of the new evidence that KBCW is even preventing viewers in KKPM-CD’s city of license when no ducting is observed, it makes sense to expeditiously allow KKPM-CD to move transmitter locations to allow it to continue serving its audience. Accordingly, the requested move is manifestly in the public interest. One Ministries, Inc. respectfully requests that this waiver be granted.

³ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, FCC 14-50, 29 FCC Rcd 6567 (2014), at ¶ 371.

⁴ See: <http://earthquaketrack.com/us-ca-sacramento/recent> Last viewed January 10, 2020

⁵ <http://www.homefacts.com/earthquakes/California/Sacramento-County/Sacramento.html> Last viewed January 10, 2020

