



Federal Communications Commission
Washington, D.C. 20554

September 18, 2023

One Ministries, Inc.
Keith Leitch
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Santa Rosa, CA 95402
kqsltv@gmail.com
(via electronic mail)

Re: Application For Minor
Modification of Construction
Permit
KKPM-CD, Chico, CA
Fac ID No. 51930
LMS File No. 0000214663

Dear Permittee,

This concerns the above-referenced application filed by One Ministries, Inc. (OMI), licensee of Class A television station KKPM-CD, channel 28, Chico, California (KKPM-CD or Station), for minor modification of license (Minor Mod) and related request for waiver (Waiver Request).¹ For the reasons below, we deny OMI's Waiver Request and dismiss the Minor Mod.

Waiver Request. In its Minor Mod, OMI seeks to modify the licensed facilities of KKPM-CD by increasing the Station's power from 15 kW to 30 kW. The Commission's rules (Rules) limit the power for Class A television stations on channel 28 to 15 kW power.² In support of its Minor Mod, OMI asks that the 15 kW power limit be waived to allow KKPM-CD to operate at 30 kW. OMI argues that allowing it to operate at double the legal power for a UHF Class A station will enable it to overcome new interference that OMI alleges the Station is experiencing from full power television station KBCW(TV), channel 28, San Francisco, California (KBCW).³ As part of the Incentive Auction and repacking process, KBCW(TV) was repacked to channel 28 and began operating with its repacked facilities in May 2020.⁴ Following its transition to channel 28, OMI claims that KKPM-CD began receiving new interference from KBCW(TV)'s repacked facilities and that this interference occurs within the Station's "service area."⁵ Although OMI acknowledges that the interference to KKPM-CD from KBCW is not

¹ LMS File No. 0000214663 and "KKPM-CD Waiver Request to Increase ERP to 30 kW Due to Post-Repack Interference" filed May 9, 2023.

² See 47 CFR §§ 73.6007 and 74.735(b)(2).

³ Waiver Request at 1. We note that as of September 1, 2023, KBCW(TV) has changed its call sign to KPYX. However, since the station is described as KBCW(TV) throughout the Waiver Request, for clarity, we continue to refer to it as KBCW(TV) here.

⁴ See LMS File No. 0000112987, granted May 4, 2020.

⁵ Waiver Request at 1. As discussed in greater detail below, OMI confuses the area where viewers may be able to receive its signal versus the area that it serves and is protected from interference – otherwise known as a station's "protected contour." See 47 CFR § 73.6010 (defining the Class A television protected service area).

demonstrated utilizing the Commission's *TVStudy* software, OMI argues that its own technical studies (supplied with the Waiver Request) show that such interference exists.⁶

OMI also argues that the alleged post-repack interference from KBCW to KKPM-CD is similar to that which occurred between KCVU(TV), San Francisco, California (KCVU) and area land mobile operations, when KCVU began operating on its post-repack channel 17.⁷ KCVU was permitted to change its post-auction channel to channel 30 to resolve the interference issue. OMI argues that its situation is similar and that the Commission should allow KKPM-CD to operate with 30 kW to resolve the post-repack interference it is receiving from KBCW(TV).⁸ Finally, OMI argues that the Commission has allowed Class A television stations WOSC-CD, Pittsburgh, Pennsylvania (WOSC-CD) and WPTG-CD, Pittsburgh, Pennsylvania (WPTG-CD), to waive the power limitations and increase their power to 30 kW.⁹ OMI requests similar treatment here.¹⁰

Discussion. Upon review of the facts and circumstances presented, we find insufficient facts exist to waive the Rules and allow a grant of OMI's Minor Mod. The Commission may waive its rules for good cause shown.¹¹ Waiver of the Rules is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule," including "more effective implementation of overall policy."¹² In determining whether waiver is appropriate, the Commission takes into account "considerations of hardship, equity, or more effective implementation of overall policy."¹³ OMI has failed to show that its request for waiver meets the Commission's standard for waiver.

OMI argues that allowing it to operate at double the legal power for a UHF Class A station will enable it to overcome *new* interference that it claims the Station has suffered as a result of full power television station KBCW's co-channel operations. However, while OMI claims that interference is occurring within the Station's service area, the technical studies OMI submitted with the Waiver Request suggest if there were any interference it would occur when viewers aim their antennas away from KKPM-CD. Class A stations such as KKPM-CD are afforded interference protection from certain TV broadcast stations only within their protected service area and only where such interference is identified in accordance with the methodology described in *OET Bulletin No. 69*.¹⁴ That methodology includes the

⁶ Waiver Request at 1-5.

⁷ *Id.* at 1-3.

⁸ *Id.*

⁹ *Id.*

¹⁰ OMI maintains that it "has explored other options to mitigate interference such as changing channels but...increasing power appears to be the better option." Waiver at 12.

¹¹ See 47 CFR § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (*WAIT Radio*), cert. denied, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

¹² *GE American Communications, Inc.*, 16 FCC Rcd 11038, 11042, para. 9 (IB 2001).

¹³ *WAIT Radio*, 418 F.2d at 1159.

¹⁴ See 47 CFR § 73.616(e); *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, OET Bulletin No. 69 (Feb. 6, 2004) (*OET Bulletin No. 69*), a copy of which is available at: <https://transition.fcc.gov/oet/info/documents/bulletins/oet69/oet69.pdf>.

requirement that viewers use of a directional antenna oriented toward the desired television station.¹⁵ As OMI admits, an analysis of the Station's existing facility using the Commission's *TVStudy* software does not demonstrate any impermissible change in interference from KBCW due to its relocation to channel 28.¹⁶ Therefore, OMI's sole justification for a waiver to permit operation at double the limit set forth in the rule – new interference to its protected service area – has not been demonstrated.

Furthermore, we find that allowing OMI to operate with double the power allowed by the Rules would undermine the purpose of the power limitations which is to ensure that Class A and LPTV stations are allowed to provide coverage to their communities without causing interference to other television stations.¹⁷ OMI has not provided any support for its position that grant of waiver here would constitute “a more effective implementation of overall policy.”¹⁸

We also find that KKPM-CD's situation is entirely distinguishable from KCVU. First, the interference in the KCVU proceeding was between a TV station and land mobile operations. Here, it is between two TV stations. Second, KCVU was causing the interference and moved to a new channel to resolve it. Here, KKPM-CD alleges it receives interference and seeks to increase power. Third, the path from KCVU to the land mobile operation was directly “line of sight” and continuous. Here, if there is any actual interference, it is related to tropospheric “ducting” and is sporadic.¹⁹ The Commission utilizes *TVStudy* to analyze interference and does not rely on instances of “ducting” in its methodology. Finally, KCVU was assigned to channel 17 because it met the requirements in section 73.623(e) of the Rules.²⁰ But once evaluated with the FCC's *TVStudy* software, KCVU's repacked facilities were predicted to cause significant interference to land mobile operations. Here it is just the opposite, *TVStudy* predicts no interference beyond the amount permitted by the Rules, which OMI acknowledges.²¹

As for OMI's claim that the Commission has allowed other Class A television stations, specifically WOSC-CD and WPTG-CD, to mitigate interference issues by waiving the power limitation rule and increasing their power to 30 kW, those stations actually experienced new interference issues as a result of full power television stations being repacked in the Incentive Auction and repacking process as demonstrated in *TVStudy*. The Commission allowed these stations to apply for power increases to help resolve these new interference issues. Those cases are therefore distinguishable from OMI's instant case

¹⁵ See *OET Bulletin No. 69* at 7.

¹⁶ We note that OMI's alternative studies are not valid because they do not follow the methodology in *OET Bulletin No. 69*, which is required by the Rules generally, and specifically for full power television stations to protect Class A television stations. See 47 CFR § 73.616(e). Further, we do not agree with OMI that use of a particular parameter in *OET Bulletin No. 69* is “invalid” in this case. See Waiver Request at 7.

¹⁷ See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, Second Report and Order, 26 FCC Rcd 10732, 10751, para. 37 (2011).

¹⁸ *WAIT Radio*, 418 F.2d at 1159.

¹⁹ In its Waiver Request, OMI claims that the land mobile operation in question was on Mount Sutro, and since KBCW is on Mount Sutro, its case is comparable. It also argues that Mount Sutro is not line of sight with KCVU. While OMI is correct that Mount Sutro is not line of sight with KCVU, the interference in question was to land mobile operations on Mount Vaca, which is line of sight to KCVU, among other locations. Thus, the situation is not comparable.

²⁰ 47 CFR § 73.623(e).

²¹ See 47 CFR § 73.616(e).

of unproven interference and any actual interference would be sporadic and attributable to causes that the Commission does not recognize in evaluating interference.²²

Based on the facts and circumstances discussed above, we find the Minor Mod proposes a power level in excess of that allowed by the Rules and that OMI has failed to provide sufficient justification for waiver of the Commission's power limit. Accordingly, One Ministries, Inc.'s request for waiver **IS DENIED** and its application for minor change for KKPM-CD, Chico, California **IS DISMISSED**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

²² OMI also claims that it has considered filing a displacement application for the Station and proposing to operate on channel 14. Waiver at 2. Class A television stations are no longer subject to displacement by full power television stations. *See Freeze on the Filing of Applications for Digital Replacement Translator Stations and Displacement Applications*, Public Notice, 29 FCC Rcd 6063 (MB 2014) (Class A television stations were subject to displacement only as the result of "engineering solutions" by full power stations to resolve "technical problems" in replicating and maximizing the full power station's DTV service areas during the DTV transition). Therefore, any such change of channel would be considered a "major change." *See* 47 CFR § 73.3572(a)(2)(i). Major change applications may only be filed for Class A television stations during a filing period specified by the Commission. *See* 47 CFR § 73.3572(a)(4)(v). Since the Commission has not established a filing period for Class A stations to file major changes, were OMI to file for channel 14, its major change application would be dismissed. Even if the Commission were to schedule such a filing period and the Station were to file a major change application, we note that a nearby low power television station on channel 14 would prevent KKPM-CD from filing for channel 14.