

FEDERAL COMMUNICATIONS COMMISSION

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February 28, 2006

Regina Peruggi, President
Kingsborough Community College
2001 Oriental Boulevard
Brooklyn, NY 11235

In re: WKRB (FM); Brooklyn, NY
Kingsborough Community College
Facility ID No. 34902
Construction Permit Application BPED-20060202AAG

Dear Ms. Peruggi:

This letter refers to the above-captioned minor change construction permit application, which seeks to change the channel for WKRB from Channel 215D to Channel 212D, with no change in transmitter site or facilities.¹ The change in channel is necessitated by construction of new facilities for first-adjacent channel Class B station WFUV, New York, NY on Channel 214. On Channel 215D, WKRB causes significant prohibited contour overlap to that station, in violation of Section 73.509 of the Commission's rules. Absent grant of this channel change application, WKRB will likely have to cease operation once WFUV commences operation with its new facilities.²

Background. WKRB previously sought to change its operations to Channel 220D (in construction permit BPED-20010607ABT), but that proposal was dismissed by the staff by letter dated November 24, 2003. That letter concluded that Channel 212D was a less preclusive channel than Channel 220D, and on that channel WKRB would create only two second-adjacent channel contour overlap situations, with WFUV and with WKCR-FM, New York, NY.³ The letter indicated that the FCC would be willing to consider an application for Channel 212, provided that waiver of Section 73.509 was requested with respect to WFUV and WKCR-FM, and provided that ample justification was provided for the waiver request.

Waiver requests of Section 73.509. Currently, the land area within WKRB's 54 dBu first-adjacent channel interfering contour lies completely within the 60 dBu protected service contour of WFUV, encompassing 317,717 persons in 83 sq. km. By moving one channel further from WFUV, the area and population within the proposed 100 dBu second-adjacent channel interfering contour of WKRB drops to 136 persons

¹ The station's parameters have been recomputed, which accounts for the differences in parameters between the license and application.

² Because it does not appear that the freeze on Class D applications imposed by the *Second Report and Order* in MM Docket 98-93, FCC 00-368, 15 FCC Rcd 21649, 21671 (2000) will be lifted before WKRB is adversely affected by WFUV's construction, we agree with Kingsborough Community College that processing of this Class D application at this moment is warranted.

³ On Channel 212D, WKRB would also receive cochannel prohibited contour overlap from the 40 dBu interfering contour of WHPC-FM, Garden City, NY, but would cause no prohibited contour overlap within the 60 dBu contour of that station.

in 0.5 sq. km. Thus the proposed channel change will result in a reduction of population affected of 317,518 persons, and a reduction in affected area of 82.5 sq. km. The new WKRB 100 dBu interfering contour would encompass only 0.001% of the population within the WFUV 60 dBu service contour, and only 0.0098% of the area within that same 60 dBu contour.

WKRB's Channel 212 proposal would also create, for the first time, an area of second-adjacent channel prohibited contour overlap between the 100 dBu interfering contour of WKRB and the 60 dBu service contour of WKCR-FM, New York, NY. This area contains 136 persons in 0.5 sq km, amounting to 0.011% of the population and 0.013% of the area within WKCR-FM's 60 dBu contour. On the other hand, the move from Channel 215D to 212D eliminates an existing third-adjacent channel prohibited contour overlap with WNYE, New York, NY (Channel 218B). This frees 136 persons in 0.5 sq. km from existing prohibited contour overlap to WNYE.

Conclusion. WKRB's previous application (BPED-20010607ABT) made clear that no other suitable channels exist in the New York area on which WKRB could operate. Grant of the requested waivers would preserve the existing service provided by this Class D station, and also would result in a significant reduction of prohibited contour overlap caused to WFUV and WNYE. Although a small area of new prohibited contour overlap would be caused to WKCR-FM, we find that the areas and populations are sufficiently small as to fall within the purview of *Educational Information Corporation (WCPE)*, 6 FCC Rcd 2207 (1991). Accordingly the requested waivers of Section 73.509 ARE GRANTED, and application BPED-20060202AAG, being acceptable for filing, IS GRANTED.

Sincerely,



Dale E. Bickel
Senior Electronics Engineer
Audio Division
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