

Before the
Federal Communications Commission
Washington, DC 20554

In re:)
)
Request of)
Friends of WWOZ, Inc.) File No. BPED-20091027AEG
for Reconsideration of the Dismissal of)
an application for minor change to)
Licensed Facilities)
)
WWOZ(FM))
New Orleans, LA)
Facility Id No. 22659)

To: Office of the Secretary
Attn: Chief, Audio Division

PETITION FOR RECONSIDERATION

Friends of WWOZ, Inc., (“Friends”), licensee of WWOZ(FM), New Orleans, Louisiana, hereby petitions the Commission, pursuant to Section 1.106 of the Commission’s rules, to reconsider its dismissal of the above-referenced application.¹ As is explained below, Friends has amended the application to address the technical deficiency noted by the Commission staff in its dismissal letter.² As a result, Friends respectfully requests that the above-referenced application be reinstated *nunc pro tunc* and granted by the Commission.

By Letter of December 23, 2009, the Assistant Chief, Audio Division, Media Bureau, dismissed the above-referenced application. In the dismissal letter, the Commission staff explained that an engineering review of the application revealed that the proposal violated the

¹ This Petition is being filed within 30 days of the Public Notice of the dismissal of the WWOZ(FM) application and is thus timely filed. See 47 CFR § 1.106(f).

² See Public Notice, Statement of Future Policy on Incomplete and Patently Defective Construction Permit Applications, 56 RR2d 776 (1984).

contour protection requirements of Section 73.509(a) of the Commission's rules. Specifically, the proposal results in prohibited contour overlap with the Channel 217A Lacombe, Louisiana, facilities specified in pending application BNPED-20071018DEU.

As the dismissal letter points out, the WWOZ application recognized the contour overlap, but did not include a request for a waiver of Section 73.509(a). Instead, the engineering statement included in the application stated that no interference would be caused to the proposed WWOZ(FM) facilities by the facilities proposed in BNPED-20071018DEU.

Upon inquiry, Friends discovered that the algorithm employed by its consulting engineer generated the incorrect conclusion that the Lacombe facilities did not have a cognizable 100 dBu contour. Based upon discussions with the Commission staff and with the producer of the software used by the Lacombe applicant, Friend's consulting engineer has now prepared a revised allocation study, and the application is being amended concurrently herewith to provide that allocation study, which is labeled as Exhibit 16.³ That revised study reveals that the 100 dBu contour that would be generated by the Lacombe facility encompasses an area of only 5.317 square kilometers and that no one resides within that 100 dBu contour. As a result, Friends has included as part of Exhibit 16 a request for waiver of Section 73.509 of the Commission's rules, based upon the standards established in *Educational Information Corporation*,⁴ wherein it seeks authority to construct the requested facilities despite the overlap of the proposed WWOZ 60 dBu contour and the 100 dBu contour of the proposed Lacombe facilities. That waiver request points out that grant of the WWOZ application would permit an increase in WWOZ's coverage of 4,815.12 square kilometers, which constitutes an increase of 156.2%. It also explains that, although there is no population within the Lacombe 100 dBu contour, grant of the Friends'

³ A copy of the amended application is attached hereto.

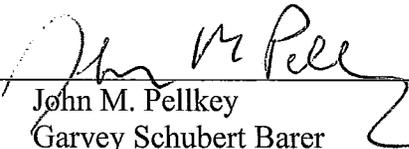
⁴ 6 FCC Rcd 2207 (1991).

application would permit WWOZ to serve an additional 121,782 people, which constitutes an increase in population served of 11.6%. Thus, although WWOZ would receive interference over a very small area containing no population if the WWOZ application were granted, the net result would be to permit WWOZ to significantly increase both its geographic coverage and the number of people that it serves. As a result, a grant of the waiver would be in the public interest.

Accordingly, Friends respectfully requests that the application, as amended and resubmitted, be reinstated *nunc pro tunc* and granted.

Respectfully submitted,

FRIENDS OF WWOZ, INC.

By 
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Date: January 22, 2010