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Common Frequency, Inc.
P.O. Box 4301
Davis, CA 95616

In re: KRRC(FM), Portland, OR
Facility ID No.: 66303
Common Frequency, Inc.
BPED-20121203AKV

Dear Applicant:

This letter is in reference to the above-captioned application to change from Channel 250D to Channel 216D, while reducing effective radiated power ("ERP") at a new transmitter site.¹ KRRC also requests waiver of the contour overlap provisions of 47 C.F.R § 73.509. For the reasons stated below, we grant KRRC's waiver request and the application.

Section 73.509 Waiver Request

An engineering study of the application reveals that KRRC's proposed facilities would cause prohibited contour overlap with the following facilities: (1) second-adjacent channel Class C1 license (BLED-19910909KC) for KBOO, Portland, OR; and (2) second-adjacent channel Class C0 license (BLED-20030213AAI) for KOPB-FM, Portland, OR, in violation of § 73.509. Specifically, KRRC's interfering contour (100 dBu)² is entirely encompassed by the protected contours (60 dBu) of KBOO and KOPB, respectively. KRRC recognizes this violation and requests waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, KRRC states that the proposed channel change is necessary because KRRC will be displaced by the operation of station KNRQ-FM(FM), Aloha, OR.³ In

¹ KRRC is licensed on Channel 250D with a maximum ERP of 8.2 watts and an antenna height above average terrain ("HAAT") of 4 meters.

² Section 73.509 requires second adjacent Class D stations to use the 80 dBu interfering contour. However, our experience with low power interfering stations protecting full-power stations shows that the 100 dBu contour is more appropriate. The waiver we grant herein allows KRRC(FM) to use the 100 dbu contour.

³ Due to the impending displacement by KNRQ, KRRC went silent on February 3, 2012 in order to search for a new channel. KRRC's broadcast license will expire as a matter of law if broadcast operations do not commence by February 3, 2013.

addition, KRRC believes that the proposal is consistent with the *Notice of Proposed Rule Making and Order*, 13 FCC Rcd 14849 (1998), ("Class D NPRM"), which proposed allowing displaced Class D stations to move to interference-free channels or, in the absence of an interference-free channel, to a channel that would result in only second or third adjacent channel overlap. Thus, KRRC claims that after an extensive channel search there are no channels available from the proposed transmitter site except for Channel 216. Using the signal strength ratio method and the elevation pattern for the proposed antenna, KRRC indicates that the proposed relocation will provide zero-population interference overlap areas with both stations. Finally, KRRC submits a signed affidavit from both stations KBOO and KOPB, that support grant of the application. Accordingly, KRRC concludes that the overlap is *de minimis* and that grant of this waiver request would serve the public interest.

Discussion

KRRC's proposal is both unique and compelling and warrants a waiver of § 73.509(b). First, KRRC was displaced by KNRO and cannot specify fully rule compliant alternative facilities in this very congested radio market. In addition, our studies indicate that the interference area will consist of only 0.54 square kilometers,⁴ much less than 1 percent of the protected contour of either WBNS and WNCI. KRRC has also submitted an extensive analysis of the entire FM band in this market and it is clear that Channel 216 is the best available channel. Furthermore, KRRC has received the consent of KBOO and KOPB has not filed an objection to the application. Moreover, KRRC has agreed to resolve any instances of actual interference. Finally, the proposal put forth by KRRC satisfies the criteria presented in the Class D NPRM.

In *Educational Information Corporation*, the Commission observed that co- or first adjacent channel overlap is a more serious matter than second or third adjacent channel overlap because "the interference that may occur results in the loss of service over a wide area." "Second or third adjacent channel overlap may result in the replacement of one signal by another (not the complete loss of service) and is confined to a very small area around the transmitter of the interfering station. In the case of low power Class D stations, the potential interference area would be exceedingly small. Accordingly, we believe that a waiver of § 73.509 is warranted to permit second- and third-adjacent overlap where there is no available interference-free channel for a displaced Class D station.

The Commission has long recognized that Class D stations provide a valuable service to local listeners and the changes proposed in the instant application would serve the public interest allowing KRRC to continue its local service. Furthermore, while the Commission has not yet adopted the new rules in the Class D NPRM, the proposal set forth by KRRC to change channels is the best possible outcome for preserving a unique service while minimizing the potential for interference. Accordingly, in light of the unique circumstances involved here, we will grant the requested waiver of 47 C.F.R. § 73.509. We note, however, Class D stations have an obligation not to cause any interference to full service facilities. Therefore, to prevent any unforeseen

license.

⁴ This value is calculated after determining the radius of a 100 dBu contour using the free space equation.

authorization requiring it to remedy any complaints of interference to KBOO or KOPB caused by its operation on Channel 216.

Conclusion

When an applicant seeks waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. *Columbia Communications Corp. v. FCC*, 832 F.2d 189, 192 (D.C. Cir. 1987) (quoting *Rio Grand Family Radio Fellowship, INC. v. FCC*, 406 F.2d 644, 666 (D.C. Cir. 1968) (per curiam)). We have afforded the request for waiver of §73.509 the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), and find that the facts and circumstances presented in the applicant's justification are sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, KRRC's request for waiver of § 73.509 IS HEREBY GRANTED. Furthermore, application File No. BPED-20121203AKV IS HEREBY GRANTED subject to the following conditions:

KRRC will not be permitted to continue to operate if it causes any objectionable interference to KBOO(FM), Portland, OR (Facility ID No. 65755) or KOPB-FM, Portland, OR (Facility ID No. 50607). If interference cannot be eliminated to the satisfaction of KBOO or KOPB by the application of suitable techniques, operation of KRRC shall be suspended and shall not be resumed until the interference has been eliminated.

The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci".

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Jeff Shaw
Todd Urick
The KBOO Foundation (KBOO)
Oregon Public Broadcasting (KOPB-FM)