

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 TWELFTH STREET, SW**  
**WASHINGTON, DC 20554**

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MAY 22 2008

Smile FM  
3302 N. Van Dyke  
Imlay City, MI 48444

Re: NEW(FM); Grosse Point Shores, MI  
Facility ID No. 175093  
Smile FM  
BNPED-20071019AFB

Dear Applicant:

This letter refers to the above-captioned application for a new non-commercial educational FM facility to serve Grosse Point Shores, MI.

An engineering study of the application reveals that it is in violation of 47 C.F.R. § 73.509 with respect to the co-channel Class A license (BLED-19950808KA) for WXOU(FM), Auburn Hills, MI. Specifically, the proposed interfering contour (40 dBu) would overlap the protected contour (60 dBu) of WXOU. This constitutes an acceptance defect.

Additionally, the study reveals that the proposed directional antenna violates 47 C.F.R. § 73.510(a). Section 73.510(a) states that noncommercial educational stations must comply with 47 C.F.R. § 73.316(b). Specifically, Section 73.316(b)(2) states that “[d]irectional antennas used to protect short-spaced stations pursuant to § 73.213 or § 73.215 of the rules, that have a radiation pattern which varies more than 2 dB per 10 degrees of azimuth will not be authorized.” It has been the Commission’s longstanding policy to apply the 2 dB/10° limitation to noncommercial educational stations protected under the analogous contour overlap section, 47 C.F.R. § 73.509. The proposal violates this policy. The proposed radiation pattern varies by as much as 8.5 dB per 10 degrees between the azimuths of 340° T and 350° T.

The study also reveals that the application is in violation of the *AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE CANADA RELATING TO THE FM BROADCASTING SERVICE IN THE BAND 88-108 MHZ* (USA-Canada Agreement). Specifically, the application is short-spaced to a first-adjacent Class A Station CBEE in Chatam, Ontario. Furthermore, the proposed interfering contour (48 dBu) would cause prohibited overlap to the Canadian assignment’s protected contour (54 dBu). Thus, the application fails to comply with the USA-Canada Agreement.

In light of the above, Application BNPED-20071019AFB is unacceptable for filing pursuant to 47 C.F.R. § 73.3566(a) and is HEREBY DISMISSED. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Bradshaw', is written over the printed name.

James D. Bradshaw  
Deputy Chief  
Audio Division  
Media Bureau