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FEB 26 2015

Jerold L. Jacobs, Esq.
1629 K Street, NW, Suite 300
Washington, DC 20006

Re: Radio Vision Cristiana Management
(RVCN)
WWRV(AM), New York, New York
Facility Identification Number: 54874
File Number: BP-20131104AQW

Dear Mr. Jacobs:

This letter is in reference to: the above-captioned minor change application to modify the licensed WWRV facility by changing site, co-locating with station WZRC, and increasing nighttime power (from 5 to 10 kW); and the November 19, 2014, amendment containing a waiver request of Section 73.182 with respect to the required nighttime protection to station WENA, Yauco, Puerto Rico. We noted that the application contained a request for waiver of Section 73.182 and 73.37 of the Commission's rules. We will deny the Section 73.182 waiver with respect to station WENA, and withhold action on the other waiver requests to allow time to amend.

73.182 Waiver (WENA)

RVCN request a waiver of Section 73.182 of the Commission's rules because the nighttime proposal would enter and raise the 25% RSS of co-channel station WENA. The existing WENA 25% RSS limit consists of the contributions of 8.4 mV/m from Region II List A station YVOY, Calabozo, Venezuela; 6.0 mV/m from List A station YVPJ, Rubio, VE; 5.2 mV/m from List A station HJNR, S Gil 1, Columbia; and 3.5 mV/m from WYRD, Greenville, South Carolina. The proposed RSS contribution of 4.9 mV/m would increase the limit of WENA from 12.1 mV/m to 13.0 mV/m. This calculation was based upon the exclusion of Region II List B stations 4VJD, Sarthes 1, Haiti, and YVTU, Lagunillas, VE.

In the waiver request, RVCN stated that: 1) since Region II List B stations 4VJD and YVTU are in compliance with the Rio de Janeiro 1981 Agreement, and on the ITU Master International Frequency Register list (MIFR), they should be included in the RSS calculation; 2) the WENA licensed records are not in the ITU MIFR database and therefore it has no

international protection status; and 3) in the case the staff disagrees with the use of List B stations, a waiver of Section 73.182 is requested based on the fact the WWRV's coverage and service would be significantly affected if a reduction in power is required in order to comply with Section 73.182.

When an applicant seeks a waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action.¹ We have afforded the applicant's waiver request the "hard look" called for under the doctrine of *Wait Radio*,² but find that the facts and circumstances set forth in the application and waiver request are insufficient to establish that grant of the requested waiver of Section 73.182 would be in the public interest. First, it has been a long-standing Commission policy not to utilize List B records in RSS calculations because they are assignments that have been objected by some countries due to interference caused to some stations of those countries (Haiti station 4VJD has an outstanding objection from the U.S), and List B stations are subject to amendments to eliminate the interference. Because of the uncertainty of their status, they cannot be used. Second, even though the WENA records were not properly notified the ITU, their facilities are fully protected by the Commission's rules. Finally, the applicant has cited no cases in which waivers of the Section 73.182 (with regards of the 25% RSS for a proposal of a power increase and voluntary site move) have been granted under similar circumstances, nor has the applicant addressed all other reasonable alternatives (such as adjusting the directional pattern). Accordingly, RVCM's request for a waiver of Section 73.182 is HEREBY DENIED.

Further action on the subject application will be withheld for a period of thirty (30) days from the date of this letter to provide an opportunity to file a curative amendment. Failure to amend or respond within this time period will result in the dismissal of the application pursuant to 47 C.F.R. § 73.3568(a).

Sincerely,



Son Nguyen
Supervisory Engineer
Audio Division
Media Bureau

cc: Clarence Beverage
Dr. Hector A. Chiesa, President, RVCM

¹ See *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664, 666 (D.C. Cir. 1968).

² See *Wait Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) ("*Wait Radio*").