

**Exhibit 11**

**M-10 Broadcasting, Inc. Statement in Support of Waiver of Section 73.24(i) Commission's Rules**

Pursuant to Section 73.24(i) of the Commission's rules, AM stations generally must have a daytime 5 mV/m contour that encompasses the entire principal community to be served. As detailed below, WWLG(AM), 1370 kHz, Pikesville, Maryland ("WWLG") will provide a predicted 5 mV/m that covers 83.2% of the land area and 83.9% of the population of Pikesville. *See Engineering Statement.* Accordingly, M-10 Broadcasting, Inc. ("M-10"), the licensee of WWLG, respectfully requests a waiver of Section 73.24(i). As demonstrated below, a waiver is justified in this case for numerous compelling reasons.

The Commission may waive any of its rules for good cause shown. 47 C.F.R. § 1.3. Good cause exists for granting a waiver to WWLG because it is in accord with precedent, operation of the station will substantially comply with the rule, and a waiver will benefit the public interest. More specifically, the proposal maximizes coverage, the current transmitter location is the only available site, and the percentage of Pikesville predicted to be covered is consistent with prior waivers.

**Increased community coverage is not possible.**

The fact that increased community coverage is not possible favors the grant of a waiver. In *Berrendo Broadcasting*, the Commission found several factors supported a waiver of section 73.24(j) for an applicant who predicted only 81.3% nighttime coverage for the city of Los Angeles. 52 FCC 2d 413, ¶ 9 (April 11, 1975). First, the station proposed to operate at maximum power, and, thus, an increase in power could not have remedied the deficiency. *Id.*

Second, the station was required to reduce radiation in the direction of the uncovered portion of the city to avoid “preclusionary effect” in the Clear Channel rulemaking proceeding. *Id.* (also noting that there was an “abundance of service” in the uncovered area). Similarly, WWLG’s proposal represents the greatest possible coverage of Pikesville.

WWLG proposes to operate at 50 kilowatts, the maximum power permitted by the Commission’s rules. Full community coverage, therefore, cannot be attained by an increase in power. Nor can greater coverage of Pikesville be effected through a modified directional pattern as the proposed pattern is required to protect the daytime contours of other stations. *See* Engineering Statement. Finally, one hundred percent coverage is not possible via relocation of the current transmitter site because, as discussed *infra*, no better alternative exists. *See* Declaration of Joseph LaVerghetta, Esq. attached hereto.

The only available site is WWLG’s present location.

The Commission has authorized a waiver of its community coverage requirements where “there is evidence in the record that it is impossible to provide an interference free signal to all of the city . . . and the proposed site is the best site that is reasonably available to the applicant.” *Harold Bledsoe and Edmond F. Baddour*, 32 FCC 2d 800, ¶ 3 (Jan. 5, 1972) (upholding waiver of section 73.188’s nighttime coverage requirement where applicant’s proposal provided an interference free nighttime signal to 84.2% of city and ninety-three percent of the population). WWLG has submitted evidence to the Commission demonstrating that its proposed site is the only available site and that it is impossible to provide an interference free signal to all of Pikesville from that site. *See* Declaration and Engineering Statement.

Prior to M-10’s acquisition of the station, WWLG had been operating its daytime facility from what was originally its licensed nighttime transmission site. *See* Declaration. This state of

affairs was not caused by M-10, but instead by the previous licensee's inability to renew its lease at the daytime transmitter site. *Id.* M-10 was also unable to obtain a lease for the daytime transmitter site in Baltimore. *Id.* M-10, seeking to remedy the technical deficiencies of WWLG's operation, therefore, engaged an engineer and two realtors in its search for a new location for WWLG's daytime facilities. *Id.* M-10 carefully examined various prospective locations. *Id.* This diligent search produced one available site—the current location. *Id.* All other potential sites suffered from one, and usually more, deficiencies including poor topography, inability to obtain zoning, unwilling sellers, and re-radiation issues among others. *Id.* As demonstrated, WWLG had no choice but to utilize the current site.

Having ruled out all other sites, WWLG has sought to maximize its service from its present location. WWLG's proposal provides the greatest possible area of interference free coverage from that site. *See* Engineering Statement. A waiver of section 73.24(i), therefore, is appropriate as maximum coverage of Pikesville is achieved by the proposal.

WWLG's predicted coverage complies with Commission precedent.

WWLG's coverage of Pikesville will be adequate. In deciding when increased AM power and coverage justifies waiver of overlap rules, the FCC has stated that service to less than 80 percent of a community of license is "patently inadequate." *See C. Alfred Dick*, 57 FCC 2d 1020, 1022 (1976); *AM Station Assignment Standards*, 54 FCC 2d 1 (1975). The proposal predicts that WWLG will provide service to 83.2% of Pikesville. This percentage demonstrates that service will be adequate and a waiver is justified.

The predicted coverage meets the standard of "substantial compliance."

WWLG substantially complies with section 73.24(i) as the term has been defined by the Commission. Substantial compliance with AM coverage rules has been found for stations

covering only 67.8% of the city of license. *KDEF Broadcasting Co.*, 30 FCC 635 (1961) (including 90.6% population coverage). In the FM context, under 47 C.F.R. § 73.315(a) an applicant is required to provide a 3.16 mV/m signal over the entire proposed city of license. Despite the express language of the rule, “[t]he Commission traditionally accepts proposals that would cover at least 80 percent of the community of license as constituting substantial compliance without requiring a waiver of Section 73.315(a).” *Barry Skidelsky*, 7 FCC Rcd 5577 (1992). WWLG proposes to cover 83.2% of its city of license and thus demonstrates substantial compliance.

A finding of substantial compliance or a grant of a waiver is further warranted in the case of WWLG by the lack of an alternative transmitter site. *See, e.g., Broadcasting, Inc. Kansas City, Missouri*, 20 FCC 2d 713, ¶ 11 n.10 (1969) (finding of substantial compliance where applicant “has shown the unavailability of a site within Kansas City which could comply more fully with the rule.”). WWLG has demonstrated that there is no available alternative site. *See* Declaration and *supra*. This fact and the 83.2% predicted coverage favor the grant of a waiver.

### Conclusion

Although WWLG’s predicted coverage of Pikesville will not equal the one hundred percent benchmark established by section 73.24(i), the proposed level of service and surrounding circumstances are more than enough to support the grant of a waiver of that section. WWLG’s predicted coverage includes nearly twenty-six square kilometers—of thirty-one square kilometers—and 24,446 residents—of a total population of slightly over twenty-nine thousand—of Pikesville. Moreover, it is the first and only station licensed to Pikesville, Maryland. Perhaps most importantly, there is no possibility of providing greater coverage due to the lack of available transmitter sites and WWLG’s maximization of service from the current location.

Finally, M-10's extensive efforts to improve WWLG from a technically substandard facility to a first-rate broadcast station of the highest caliber are noteworthy.

On the basis of the good cause demonstrated above, M-10 respectfully requests a waiver of section 73.24(i).