

EXPEDITED TREATMENT REQUESTED

The Trustees of Columbia University
in the City of New York
Station WKCR-FM
Form 340

EXHIBIT F

**Request for Waiver and
Request for Expedited Treatment**

A. INTRODUCTION

In the instant application, The Trustees of Columbia University in the City of New York (“Columbia” or “Applicant”), licensee of noncommercial radio station WKCR-FM (Facility No. 68270), New York, New York, seek to relocate the station’s facilities to the Riverside Church in uptown Manhattan. Station WKCR-FM currently is licensed to operate atop the World Trade Center, but its broadcast facilities were destroyed on September 11, 2001.

Since mid-September the station has been operating pursuant to special temporary authority (“STA”) at a site on Columbia University’s campus (File No. BSTA-20010917ABR, extended by BSTA-20020319ADN). The on-campus site affords extremely limited coverage, however, and the station seeks long-term authorization to broadcast from the Riverside Church location proposed in this application.

Because this relocation will create prohibited new overlap to another noncommercial FM station, Columbia requests a waiver of Section 73.509. Columbia demonstrates below that this request is supported by good cause, due to the unprecedented circumstances surrounding the destruction of WKCR-FM’s facilities at the World Trade Center and the unique challenges of locating a site within Manhattan

from which to replicate, as closely as possible, the coverage it formerly had when operating on top of one of the tallest buildings in the world. Columbia also requests expedited processing and grant of the instant application so that it can proceed as quickly as possible with the relocation of WKCR-FM and once again reach major portions of its audience who have been without service since September 11, 2001.

B. REQUEST FOR WAIVER

1. Unique and unprecedented circumstances

Applicant requests a waiver of Section 73.509 with respect to the new overlap with station WHPC(FM) that will be created by the relocation of WKCR-FM to the Riverside Church site. Grant of this waiver request is warranted and in the public interest due to the unprecedented circumstances surrounding the destruction of WKCR-FM's facilities at the World Trade Center and the unique challenges of locating a site within Manhattan from which to replicate, as closely as possible, the coverage it formerly had when operating on top of one of the tallest buildings in the world.

The juxtaposition in Manhattan of skyscrapers and other tall buildings with shorter buildings gives rise to an "urban canyon," making it impossible to provide wide area coverage and avoid shadowing unless one operates from the highest points. Consequently, prior to September 11, 2001 there were only two sites from which one could provide full coverage of Manhattan and surrounding areas: the World Trade Center and the Empire State Building. Columbia was licensed to transmit WKCR-FM's programming from the World Trade Center.

As the Commission is aware, on September 11 of last year the World Trade Center was destroyed in the worst act of terrorism that this country has faced. This catastrophe deprived Columbia and other broadcasters who had been operating there of their transmitter site. Although there has been much debate as to what should become of the World Trade Center site, there are no plans for the foreseeable future of reconstructing the towers that were destroyed, or of building a different structure that would be suitable for providing wide area service. Accordingly, WKCR-FM must be relocated.

For reasons discussed above, the only other site from which Columbia could substantially duplicate WKCR-FM's former coverage is the Empire State Building. Columbia, as well as other broadcasters who were displaced on September 11, have been pursuing that option, and it is possible that, in time, WKCR-FM's facilities can be located there. It has become apparent, however, that even if Columbia ultimately is successful in these efforts, the time needed to make arrangements for use of the Empire State Building may have to be measured in years, not months. These arrangements are complicated by, among other things, the facts that multiple broadcasters are involved; new structures would have to be constructed to accommodate the broadcasters on the Empire State Building; and available construction time is extremely limited, given the need to avoid exposing workers to excessive RF from the broadcast stations that already operate from the Empire State Building.

In view of the uncertain circumstances surrounding use of the Empire State Building, WKCR-FM must locate to a different site for what, at a minimum, will be an extended period. With the destruction of the World Trade Center, there are no tall structures in lower Manhattan that are suitable for wide area broadcasting. Of necessity, therefore, Columbia must relocate its station further uptown, an unavoidable byproduct of which is bringing the station closer to WHPC(FM) in Garden City.

Columbia retained a consultant to identify possible sites for relocation. Columbia applied several criteria in this process. It needed to find a reasonably high location, to make wide area coverage possible. To avoid severe shadowing, there could not be taller structures in the immediate area. The site had to be configured or configurable for broadcast transmission, including the need for compliance with RF radiation limits. And, of course, the site had to be available at a price that is economically viable.

Columbia has found only a single location, the Riverside Church, that satisfies its criteria. The Riverside Church is further uptown than the Empire State Building, and therefore closer to WHPC(FM). At either location, however, operating with "equivalent facilities" means that WHPC(FM)'s interference contour would overlap WKCR-FM's service contour. The price of restoring wide area coverage for WKCR-FM, therefore, is the introduction of contour overlap between WKCR-FM and WHPC(FM).

These unique and extraordinary circumstances furnish good cause for waiving Section 73.509. Columbia was licensed at one of only two sites from which it

could achieve wide area coverage. It lost its site for reasons beyond its control, in a catastrophe without precedent. Because of the challenges of finding transmitter locations in Manhattan, the only way Columbia can substantially restore service to its listeners is by relocating to a site at which there will be contour overlap with WHPC(FM).

Moreover, there are a number of additional factors, addressed below, that further support a waiver. The overlap with WHPC(FM) arguably is pre-existing. The overlap only gives rise to interference to WKCR-FM, not WHPC(FM), and in a *de minimis* area that WKCR-FM does not presently serve. Columbia could not eliminate the overlap by reducing power or directionalizing without causing a severe reduction in its service area. For all of these reasons, a waiver is warranted.

2. Additional factors supporting waiver

As discussed in Exhibit D-1 (Allocation Study) to this application, technically speaking, the overlap with station WHPC(FM) is “new,” but the overlap arises only because of recent amendments to Section 73.509. In connection with these amendments, the Commission adopted a more relaxed 100 dBμ interference standard for second-adjacent channel noncommercial FM stations.¹ Prior to the rule change and under the former, more stringent 80 dBμ interference standard, the licensed 60 dBμ contour of WKCR-FM had overlapped with the interference contour of WHPC(FM) for many years. The overlap could be viewed, therefore, as a pre-existing overlap that falls

¹ See *In re 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission’s Rules*, Second Report and Order, 15 FCC Rcd 21649, 21669 (2000). This rule change became effective on January 19, 2001. 65 Fed. Reg. 79778 (Dec. 20, 2000).

outside the scope of the Commission's stricter waiver standards that apply to "new" overlap.

Moreover, as the Allocation Study explains, the overlap between stations WKCR-FM and WHPC(FM) is predicted to cause interference only to WKCR-FM, and will not create any interference to WHPC(FM). The effect of the overlap will reduce slightly the proposed service area of WKCR-FM, but this reduction in coverage falls in an area that did not previously receive predicted 60 dbμ service from the station. As a result, no actual loss of WKCR-FM's existing service will result.

The predicted area of interference, moreover, will be *de minimis*. The population affected by the overlap totals 1,660 persons, which is just 0.01 percent of the 12,474,183 total persons who fall within the proposed 60 dbμ contour of WKCR-FM.

Finally, as the Allocation Study makes clear, Columbia cannot eliminate the overlap with WHPC(FM) without eliminating a substantial portion of WKCR-FM's service area. To eliminate the overlap, the station would have to reduce power from the 6.9 kilowatts proposed in the instant application to 4.3 kilowatts. Operation at this reduced power, on an omnidirectional basis, would decrease the station's 60 dbμ coverage by 706,820 persons. Even in an ideal situation, where WKCR-FM would be able to employ a directional antenna pattern, operation at this reduced power still would result in a loss of 16,710 persons. Clearly, such extensive population losses are not in the public interest, and operation of WKCR-FM at reduced power cannot be justified just to eliminate an overlap area affecting only 1,660 persons.

C. REQUEST FOR EXPEDITED TREATMENT

Applicant requests expedited processing and grant of the instant application so that it can move forward immediately with the relocation of WKCR-FM to the Riverside Church site. As noted, the station has been operating pursuant to an STA since mid-September at a site on Columbia University's campus from which coverage is extremely limited. As a result, the station has lost a large portion of its regular audience and has not been able to pursue the ordinary fundraising efforts that are vital to keeping its noncommercial programming on the air. In addition, In Touch Radio Networks, a non-commercial reading service for the blind carried on the station's sub-carrier, has been unable to reach a large percentage of its subscribers because of the limited coverage available from the Columbia University location.

Columbia needs the certainty as to its ability to relocate to the Riverside Church that only an FCC construction permit can provide so that it can finalize its lease with the Riverside Church site owner; order the equipment needed to operate at the site; take advantage of the funds that NTIA, through its PTFP program, has earmarked for restoration of WKCR-FM's facilities; construct new facilities at Riverside Church; and commence operations at Riverside Church with expanded facilities. For all of these reasons, expedited treatment is urged.