

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In reply refer to:
1800B3-DJF

March 8, 1996

Mr. Dan Elmerdorf, Technical Director
Christian Media Associates, Inc.
60 Butternut Knolls
West Shokan, NY

In re: NEW; Olivebridge, NY
Christian Media Associates, Inc.
BPH-920618MB

Dear Applicant:

The staff has under consideration the following:

1. The above captioned application filed by CMA for a new FM station to serve the community of Olivebridge, NY;
2. The Petition to Deny filed October 23, 1992 by WRGB Broadcasting, Inc. ("WRGB");
3. CMA's Opposition to the Petition to Deny dated November 2, 1992;
4. WRGB's reply filed November 18, 1992; and
5. CMA's response dated November 25, 1992.

As set forth below, we will grant WRGB's petition to deny and require CMA to file a corrective amendment to the application.

TV Channel 6 Interference

CMA's proposal will cause predicted electrical interference to a portion of TV Channel 6 WRGB-TV's service area within WRGB-TV's Grade B contour. The FM/TV Channel 6 interference area spans portions of three New York counties. [See footnote 1](#) CMA's study indicates that 2453 people are located within the proposed interference area. Accordingly, the facility would comply with the 47 CFR § 73.525 which allows up to 3000 persons in a TV Channel 6's service area to be affected by interference from a FM station (up to 4000 persons if filters are used).

WRGB's Petition to Deny and Response

In its Petition to Deny and response, WRGB states that CMA's calculation of the population within the predicted FM/TV Channel 6 interference area is incorrect. WRGB's calculations,

performed pursuant to § 73.525(e)(2), the same method CMA utilized, indicate that 4138 people are located within the proposed interference area. Based on this number, WRGB asserts that the application does not comply with the provisions of § 73.525 and therefore, should be denied.

CMA's Responses

In its responses, CMA concedes that its calculation of the population within the interference area was in error because the computer program which performed the calculation utilized 1980 Census data and not the more recent 1990 Census data. However, to demonstrate compliance with § 73.525, CMA submitted a showing which indicates that the number of persons affected is 2997. This count was determined as follows:

1. CMA determined the percentage of dwelling types found in each county based on the 1990 census. (Vacant or occupied by owner, renter, or seasonal/migratory persons).
2. CMA determined the average household size for each dwelling type found in each county based on the 1990 census.
3. CMA counted all vacant or inhabited residences in the TV-6 interference area within each county.
4. The number of residences in the TV-6 interference area in each county were multiplied by factors based on their location, dwelling type, and the average household size.

Discussion

47 CFR § 73.525(c) requires applicants for new noncommercial FM stations to comply with the restrictions and adjustments to population as set forth in § 73.525(e). These provisions were adopted as a carefully crafted compromise between Channel 6 TV interests and noncommercial educational stations as a means of limiting interference from FM stations to TV Channel 6 operations. Because CMA's showing is almost entirely based on residence counts, which is not permitted under § 73.525(e), CMA's showing is unacceptable. [See Footnote 2.](#) Additionally, population determination methods like CMA's could fundamentally change the existing relationship between educational FM stations and TV Channel 6 stations and therefore, should only be considered in the context of a rulemaking proceeding specifically addressing this issue. Accordingly, we find CMA's application to be in violation of § 73.525 and will give CMA one opportunity to amend its application to comply with the requirements of 47 CFR § 73.525(c).

Conclusion

In light of the above, the petition to deny filed on October 23, 1992 by WRGB Broadcasting, Inc. IS HEREBY GRANTED to the extent indicated above. Further action on the subject application will be withheld for a period of thirty days from the date of this letter to give CMA an opportunity to submit a corrective amendment. Failure to respond within that period will result in the dismissal of the subject application pursuant to 47 CFR § 73.3568. Please note that the amendment must be submitted in triplicate to the Secretary of the Commission and signed in the same manner as the original application.

Sincerely,

Dennis Williams
Assistant Chief
Audio Services Division
Mass Media Bureau

cc: Latham and Watkins

Footnotes

[Footnote 1](#) Because the interference area does not encompass entire counties, pursuant to § 73.525(e)(2), the number of persons in the interference area is calculated by multiplying the total population of the county by the proportion of the land area within the interference area versus the total land area within the county and then adding the results for each county within the interference area. In making this calculation, a uniform distribution of population throughout each county is assumed.

[Footnote 2](#) When determining the population of the interference area, § 73.525(e)(2)(iv) permits either the NCE-FM applicant or an affected TV Channel 6 station which provides the appropriate analysis, to utilize more detailed population data. An example of "more detailed population data" would be use of the block centroid retrieval methodology.