

FEDERAL COMMUNICATIONS COMMISSION

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July 26, 2004

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In re: WJPZ-FM, Syracuse, NY
WJPZ Radio, Incorporated
Facility ID No. 73148
Renewal Application BRED-19980129YF

Ladies and gentlemen:

This letter references the pending renewal application, filed January 29, 1998 for FM noncommercial educational station WJPZ-FM, Syracuse, NY. A petition to deny was filed on April 28, 1998 by Mr. John V. Oldfield ("Oldfield"), on behalf of himself. A second petition to deny was filed jointly on the same date by Mr. John V. Oldfield, Mr. John P. Felleman, and Ms. Diana P. Brownlie ("Joint Pleading"). We also have a number of form/survey letters ("form letters") submitted by WRVO, Oswego, NY in which the respondents indicated interference to reception of WRVO caused by the combined operations of WJPZ-FM and WAER, Syracuse, NY.¹ For the reasons explained below, we deny the petitions to deny and the "informal objection" from WRVO and grant the renewal application of WJPZ-FM.

¹ WJPZ-FM operates with 0.100 kW (100 watts) effective radiated power. The station's transmitter site is collocated with that of WAER, Syracuse, NY, licensed to Syracuse University. As several parties involved in this proceeding are also involved in proceedings against WAER's pending license and renewal applications, we want to emphasize that our decision here does not presage a similar outcome in the WAER proceeding.

The pleadings. The Joint Pleading alleges that “technical mismanagement” at WJPZ-FM has led to intermodulation interference in the vicinity of WJPZ-FM. The pleading cites to WJPZ’s 1997 removal of a filter designed to prevent spurious emissions with collocated WAER, and also claims that the station suffers from “poor quality audio signal processing.” The petition alleges that WJPZ-FM has not filed required statements with the New York State Charities Bureau, has not properly maintained its public inspection file, and hints that there is an “unsatisfactory administrative relationship” between WJPZ-FM and Syracuse University in which the University has too much control of the station. Oldfield’s pleading adds that WJPZ-FM has aired promotional announcements “contrary to the laws and principles of noncommercial educational broadcasting.”²

Analysis. In no instance do the issues raised by the petitioners rise to the level necessary for denial of a broadcast station’s license renewal. While WJPZ did indeed inappropriately remove the filter in its transmission system sometime after August 1, 1997 (apparently not realizing its importance), such filter was permanently reinstalled by December 4, 1997. Tests conducted by WAER and independently later by the FCC’s Buffalo Field Office indicated that all emissions were within FCC limits.³ The technical quality of the audio signal is a matter of concern to the station and listeners: it does not affect whether the station’s license can be granted or renewed.⁴ The alleged failure to file with the State Charities Board is a matter to be addressed at the state level and is not within the FCC’s jurisdiction. No evidence has been presented to support the petitioners’ allegation of an improper relationship between WJPZ-FM and Syracuse University. Lastly, in early 1996 the Commission did receive a complaint about improper use of promotional materials by WJPZ-FM, which was subsequently investigated by the Commission’s Enforcement Bureau. The Enforcement Bureau concluded on July 18, 1996, that the station had made a “reasonable, good faith determination that the announcements consist of value-neutral descriptions of goods or services by which the underwriter is identified.” The Enforcement Bureau stated that no further action was warranted, and dismissed the complaint.⁵ No further allegation of improper use of promotional material has been received. Even assuming for the sake of argument that WJPZ-FM was improperly operated at the time the petitions were filed, we must conclude from the information before us that WJPZ-FM has been operating in accordance with the Commission’s rules for the past five and a half years. Consequently, we find no ongoing basis that would merit denial of WJPZ-FM’s license renewal. Therefore, the petitions to deny will be denied.

² WRVO’s submissions will be addressed later in this letter.

³ In pleadings filed against the WAER license application and renewal application (but not against the present WJPZ-FM application), Oldfield contends that intermodulation products still exist which he believes should be eliminated. However, 47 CFR Section 73.317 does not require the elimination of all spurious emissions, just that any emissions be less than specified limits. No one else has independently replicated Oldfield’s results. It is telling that when WJPZ-FM resumed operations on September 1, 2002 after remaining silent since May 4, 2002 (per Special Temporary Authority), as well as being silent at intervals since then, no complaints of new interference have been received from any source. Clearly, any intermodulation products that still might be measured are very limited in their potential to cause interference.

⁴ See *A Re-Examination of Technical Regulations*, Gen. Docket 83-114, FCC 84-521, 99 FCC 2d 903, 49 Fed. Reg. 48035 (1984) (“quality of broadcast” regulations not related to interference were deleted from the FCC’s rules).

⁵ *Letter to James L. Oyster, Esquire from Norman Goldstein, Chief, Complaints and Political Programming Branch, Enforcement Bureau*, dated July 18, 1996.

WRVO complaints. The form letters collected by WRVO, Oswego, NY and submitted to the Commission also do not merit denial of WJPZ-FM's license renewal. Many of the March 1998 complaints appear to be attributable to the intermodulation product produced during the interval when WJPZ-FM had removed the filter from its transmission system.⁶ As stated above, the filter was reinstalled by December 4, 1997. Many of the remaining form letters appear to be centered around the WJPZ-FM/WAER transmitter site. This area lies outside the 60 dBu protected service contour of WRVO. The Commission's rules for noncommercial educational stations only afford protection from interference to a station's signal out to the 60 dBu service contour.⁷ Beyond that contour, interference may be received from other stations, but this does not violate the FCC's rules. Such complaints do not demonstrate improper operation by WJPZ-FM but may be anticipated by normal application of the Commission's rules. Accordingly, WRVO's collected form letters, when treated as an informal objection, will be denied.⁸

Conclusion. Accordingly, the petitions to deny filed by Oldfield and the Joint Petitioners ARE DENIED. The form/survey submitted by WRVO, when considered as an informal objection, IS DENIED, and otherwise is dismissed. The license renewal application BRED-19980129YF IS GRANTED. This action is taken pursuant to delegated authority under 47 CFR Section 0.283.

Sincerely,



Dale E. Bickel
Senior Electronics Engineer
Audio Division
Media Bureau

cc: Gardner, Carton & Douglas

⁶ A combination of WJPZ-FM's signal with that of collocated WAER created an intermodulation product on 89.9 MHz, WRVO's licensed frequency.

⁷ See 47 CFR Section 73.509.

⁸ Most listeners to WRVO in Syracuse are not doomed to lost service. Since June of 1999, a satellite station of WRVO in Syracuse, NY has been replicating WRVO's programming on 90.3 MHz (Channel 212). That satellite station, WRVD, provides an additional signal available in much of the area around WJPZ-FM.