

LAW OFFICES
GOLDBERG, GODLES, WIENER & WRIGHT
1229 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-2413

HENRY GOLDBERG
JOSEPH A. GODLES
JONATHAN L. WIENER
LAURA A. STEFANI
DEVENDRA ("DAVE") KUMAR

(202) 429-4900
TELECOPIER:
(202) 429-4912

e-mail:
general@g2w2.com
website: www.g2w2.com

HENRIETTA WRIGHT
THOMAS G. GHERARDI, P.C.
COUNSEL

THOMAS S. TYCZ*
SENIOR POLICY ADVISOR
*NOT AN ATTORNEY

December 30, 2008

FILED ELECTRONICALLY

EXPEDITED PROCESSING REQUESTED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: WKCR-FM, New York, New York
Facility ID No. 68270
The Trustees of Columbia University in the City of New York
Request for Special Temporary Authority
At 4 Times Square (Overnight Increased Power)**

Dear Ms. Dortch:

The Trustees of Columbia University in the City of New York ("Columbia"), licensee of non-commercial radio station WKCR-FM, by their attorneys and pursuant to Section 73.1635 of the Commission's rules,¹ hereby request special temporary authority ("STA"), for a six hour period between 10 p.m. on January 12 and 6 a.m. on January 13,

¹ 47 C.F.R. § 73.1635.

2009, to increase to 1.35 kw the Effective Radiated Power (“ERP”) at which WKCR-FM operates. The STA will facilitate intermodulation testing and radiofrequency (“RF”) radiation measurements of the stations, including WKCR-FM, that are authorized to operate at 4 Times Square.

WKCR-FM operated at the World Trade Center until September 11, 2001, when its antenna was destroyed. Since May 2003, the Bureau has authorized WKCR-FM to operate from 4 Times Square using an emergency antenna pursuant to a series of STAs.² Columbia had planned to relocate the station to the Empire State Building, and in 2004 filed a minor change application requesting authority to do so, which the Commission granted on March 4, 2005.³ Columbia subsequently determined, however, that WKCR-FM cannot be relocated to the Empire State Building and must remain at 4 Times Square. As a result, Columbia submitted an application for a minor modification of its construction permit requesting that it operate on a licensed basis at 4 Times Square.⁴

With regard to the present STA request, the Commission granted similar STAs to WKCR-FM on prior occasions so that the station could conduct testing in support of its application to operate at 4 Times Square with an ERP of 1.35 kw, which is higher than the ERP the station has been employing on an STA basis.⁵ Circumstances now require that the station conduct these same tests again. An FM station will be relocating its facilities at 4 Times Square and needs to take spurious emissions measurements (which

² See, e.g. Letter from Edward P. De La Hunt, Assistant Chief, Audio Services Division, Media Bureau, to Henry Goldberg, Esq., counsel to Columbia, File No. BSTA-2003-0509 (May 12, 2003); Letter from Edward P. De La Hunt, Assistant Chief, Audio Services Division, Media Bureau, to Henry Goldberg, Esq., counsel to Columbia, File No. BSTA-2003-0509 (Feb. 4, 2004); Letter from Charles N. Miller, Engineer, Audio Division, Office of Broadcast License Policy, Media Bureau (Nov. 12, 2004) (reissued on Nov. 24, 2004 to correct expiration date).

³ See Letter from James D. Bradshaw, Media Bureau, to Joseph A. Godles, Esq., Counsel for Columbia, Re File No. BPED-20040809ABO (March 4, 2005) (grant of station’s application for a construction permit to relocate to the Empire State Building).

⁴ See Application for Construction Permit for Reserved Channel Noncommercial Education Broadcast Station, File No. BPED-20080122ADE (filed Jan. 22, 2008).

⁵ See Letter from Charles N. Miller, Engineer, Audio Division, Media Bureau, to Henry Goldberg, Re: WKCR-FM, New York, New York, Facility Identification Number 68270, The Trustees of Columbia University in the City of New York, Special Temporary Authorization, File No. BSTA-20080319ADY (March 21, 2008); Letter from Charles N. Miller, Engineer, Audio Division, Media Bureau, to Henry Goldberg, Re: WKCR-FM, New York, New York, Facility Identification Number 68270, The Trustees of Columbia University in the City of New York, Special Temporary Authorization, File No. BSTA-20070220ADM (Feb. 21, 2007).

will occur at the same time as Columbia seeks to perform its testing). For this reason, the tests conducted by WKCR-FM previously in support of its application to modify its construction permit will no longer accurately reflect the RF environment at the site and the station must conduct new testing.

WKCR-FM has received notice from the 4 Times Square building management that the new FM station plans to take spurious emissions measurements at the site for purposes of evaluating its compliance with the Commission's requirements. The testing will require coordination of all stations that are authorized to use the site, including several stations that are licensed to operate at the Empire State Building but that have auxiliary authority to operate at 4 Times Square. Because the coordination for this testing is time consuming, and because the information gained will be useful for all stations located at the site, Columbia would like to ensure that the testing takes into account the higher power that WKCR-FM has requested for its permanent operations at 4 Times Square. If WKCR-FM does not operate at the higher power during the testing, an additional round of tests would have to be conducted at a later time. The testing is scheduled to occur between 10 p.m. on January 12 and 6 a.m. on the morning of January 13, 2009.

Except for the change in power, the proposed operations are identical to the operations that the Commission already has authorized for WKCR-FM facilities at 4 Times Square on an STA basis.⁶ The 60 dBu contour that will be produced from 4 Times Square using the 1.35 kw ERP will be completely contained within the 60 dBu contour that the Commission had approved for operations at the Empire State Building.

The only two stations that will be subject to increased contour overlap as a result of the increase in ERP are the two stations that were addressed in the Empire State Building and 4 Times Square minor modification applications. In the case of WSOU(FM), South Orange, New Jersey, there will be increased overlap between WKCR-FM's interfering contour and WSOU(FM)'s service contour. This increased overlap, however, will be limited to a single overnight period, and counsel for Seton Hall, which is the licensee of WSOU(FM), has indicated that Seton Hall has no objection to a grant of the instant STA request. In any event, WKCR-FM's operations at the higher power will be on a secondary, non-interference basis.

The higher power also will cause increased overlap between the interfering contour of WHPC(FM), Garden City, New York, and WKCR-FM's service contour. This

⁶ The station's radiation center height above average terrain is 284 meters. The coordinates of the operations at 4 Times Square are 40-45-22 N/73-59-12 W.

Marlene H. Dortch
December 30, 2008
Page 4

increased overlap, however, would occur in a very limited area; would result in interference only to WKCR-FM, not to WHPC(FM); and would be confined to a single six hour period.

Columbia's STA request is supported by good cause. Grant of the STA will facilitate more meaningful RF radiation testing and will avoid the need to conduct a second round of testing that would generate additional expense and would inconvenience multiple parties.

For the foregoing reasons, and for good cause shown, Columbia respectfully requests an STA for a six hour period, between 10 p.m. on January 12 and 6 a.m. on the morning of January 13, 2009, to operate WKCR-FM with an ERP of 1.35 kW at 4 Times Square.

Columbia hereby certifies that neither it nor any other party to its application for Special Temporary Authority is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance.

Please direct any questions pertaining to this matter to the undersigned.

Sincerely,

/s/ Joseph A. Godles
Joseph A. Godles
*Attorney for the Trustees of Columbia
University in the City of New York*

cc: Jim Bradshaw, Audio Division (via e-mail)
Charles N. Miller, Audio Division (via e-mail)
Cary S. Tepper, Esq., counsel for WSOU(FM) (via e-mail)