

## **REQUEST FOR WAIVER OF SECTION 73.1125 OF THE COMMISSION'S RULES**

Central Florida Educational Foundation, Inc, ("CFEF") hereby requests the Commission to waive section 73.1125 (a) (4) of its Rules and Regulations to permit CFEF to operate WHYZ, Palm Coast, Florida, as a satellite of its licensed noncommercial FM station WPOZ, Union Park, Florida. CFEF believes that the facts and circumstances surrounding this request amply justify a waiver of the Commission's rules in this instance.

CFEF's main studio is located in Altamonte Springs, Florida, which is located approximately 75 miles from Palm Coast. The supervision necessary to maintain a main studio in Palm Coast will require a costly and time consuming commute for CFEF's management, or require the hiring of a full-time person to handle a part-time job. In either event, CFEF faces the prospect of greater costs. Maintenance of a main studio in Palm Coast itself will be costly for CFEF and prove demanding of CFEF's management's time and energy.

Moreover, WHYZ serves a comparatively small area with a low population makes the maintenance of a main studio in Palm Coast economically burdensome if not economically infeasible. Furthermore, the existing WPOZ studio has been substantially hardened and is located 50 miles in land from the coastal areas in order to survive the region's frequent hurricanes and storms. Construction of a second studio of this magnitude in the expensive resort area of Palm Coast on the Atlantic shore in a high wind zone would be cost prohibitive.

Palm Coast is considered part of the same DMA as Union Park. Therefore, Palm Coast shares many of the problems, needs and interests of communities already served by

WPOZ. CFEF already ascertains the problems, needs and interests of Palm Coast and many communities similar to Palm Coast as part of its obligation to serve the WPOZ listening public. Ascertainment efforts conducted by CFEF principals and senior management level employees will ensure that they travel to the Palm Coast service area and conduct ascertainment with community leaders in person and also by email and telephone on a quarterly basis to be familiar with Palm Coast's needs and that of the entire WHYZ service area. The results of the community leader contacts will be reflected in programming aired on WHYZ.

WPOZ already broadcasts a large amount of news, weather and public affairs programming for the WHYZ service area as WPOZ is the region's only Local Primary (LP-1) Emergency Alert System (EAS) facility for Florida EAS Operational Area 7 as outlined in both the Local EAS Operational Area 7 Plan and the State of Florida Emergency Alert System Plan. (See: <http://zradio.org/index/about/eas/> for more details and links to the approved local and State of Florida EAS plans.)

The State of Florida EAS Operational Area 7 includes the WHYZ service area and the granting of the instant waiver request allowing WHYZ to become a satellite of WPOZ would greatly enhance the operation of the EAS system into the WHYZ service area. This would greatly improve the EAS reception that local broadcasters, cable systems and the listening public receive in the service area. Reliable and clearer EAS activations as initiated by WPOZ, as relayed by WHYZ, would be in the best public interest.

CFEF has constructed WHYZ with hardened transmitting facilities, including redundant equipment and installed back-up diesel generator in order to withstand the

region's frequent bouts with hurricanes, tornados and wildfires to continue to provide life saving information to the WHYZ service area not only through the "short fuse" EAS activations, but it has always been CFEF's policy with WPOZ to continue to keep the public informed after an emergency where detailed information needs to be dissimulated about shelters, road closures, flooding, emergency management announcements, etc. During these times, power is often knocked out to the service area and the public is forced to find this potential life saving information on small battery powered radios. By allowing WHYZ to become a satellite of WPOZ, the public in the costal Palm Coast service area will benefit from having a strong local signal from WHYZ rather than relying on a distant WPOZ signal.

CFEF's senior management also serve as Chairman and Vice-chairman of the Local EAS committee and are on the State of Florida EAS Committee and the Amber Alert state and national committees. Therefore, these individuals already have a strong working relationship with emergency management officials (city, county and state) within the WHYZ service contour. CFEF senior management will also insure that all of Palm Coast's local problems and needs are adequately served by WPOZ's broadcast service by consulting with local business, civic and religious leaders.

CFEF already has a toll free telephone number between Palm Coast and CFEF studio where local citizens can contact both the CFEF studios and offices. See Cumberland Communities Communications Corp. et.al. DA 94- 255 (released April 5, 1994). In addition , the WHYZ public file will be maintained at the main station at Altamonte Springs, with a copy placed in Palm Coast at a location that is accessible during regular business hours.

A number of factors, including the fact that the communities are part of the same DMA and part of the same EAS Operational Area make ascertainment and producing an/or acquiring responsive programming comparatively easy; the community of interests and concerns between Palm Coast and the proposed service area with WPOZ's existing service area; CFEF's commitment to strengthen its existing efforts to ascertain the problems, needs and interests of Palm Coast and the proposed service area; and to broadcast programming responsive to those concerns; the existing presence in the community and service area of news, weather and public affairs programming, the initiation of life saving Emergency Alert System (EAS) activations concerning Palm Coast and the service area; all ensure that CFEF's proposed program service will continue to be responsive and locally oriented to Palm Coast and surrounding communities.

Given the existence of this responsive local service, waiver of the main studio rule is in the public interest, particularly when balanced against the construction expenses and operating costs, not to mention the time and energy of CFEF's management, which would be saved if CFEF were not required to construct a studio to comply with the rules. The savings in construction and operating costs promised by satellite operation will increase the amount of funding which CFEF may devote to its already impressive commitment of being the EAS local entry point for the region which includes both communities. The enhanced reliability of having an already hardened main studio which is in-land from the coastal service area of Palm Coast can provide the necessary information during the regions frequent hurricanes and other emergencies.

CFEF's proposal warrants, and it hereby requests, a waiver of section 73.1125 (a) (4) of the Commission's rules to permit it to operate its proposed facility serving Palm Coast, Florida, as a satellite of WPOZ, its licensed station in Union Park. See, Nebraska Educational Television Co., Rad. Reg. 2d (P&F) 771 (1965).