

REQUEST FOR WAIVER OF SECTION 73.512(C) WITH RESPECT TO MAJOR CHANGE IN EXISTING CLASS D FACILITIES

Section 73.512 of the commission's rules regarding 'special procedures applicable to class D non commercial educational stations' has been reviewed thoroughly and followed to the extent that it is viable for the **WDDM** proposal submitted herein.

A waiver of section 73.512(c) is believed warranted in the case at hand and the particulars relating to the waiver request are addressed in depth in number 4), below.

1) **WDDM** was displaced from its current channel 207 when co channel full service station WFJS-FM, CH 207, at Freehold, NJ commenced operation in May, 2011 in conjunction with the granting of its license application. Thus, **WDDM** has been silent under STA grant since May, 2011.

2) In conjunction with the directives under Section 73.512(a)(1), **WDDM** has studied the entire FM band for an alternate channel. There is no channel available which will not result in prohibited overlap of contours and supporting engineering data regarding this conclusion will be furnished to the Commission upon request. The least preclusive of these channels, however, is CH 284 (104.7 MHz). The proposed **WDDM** site is located within the protected 54 dBu coverage contours of second adjacent Class B stations WAXQ and WWPR-FM, both licensed to New York, New York. These two facilities are co owned by AMFM Radio Licenses, L.L.C. and are additionally co-located operating with identical facilities. Exhibit 18 contains full particulars relating to the waiver request associated with the specification of CH 284 in this displacement application.

3) It is believed that a waiver of Section 73.512(c) of the rules is warranted with respect to the instant **WDDM** application for CP permit based on the following:

- a. The proposed site change will result in a change of coverage area of 234.7% which is greater than the maximum of 50% which constitutes this application as a major change. The specific area and population data associated with the proposal is shown below:

Licensed 60 dBu contour = 42 sq kM, 42,493 persons

Proposed 60 dBu contour = 93 sq kM, 58,904 persons

Common overlap area = 18.2 sq kM, 23,194 persons

Population loss = 19,299 persons

Population gain = 35,710 persons

Area loss = 23.8 sq kM

Area gain = 74.8 sq kM

Resulting percent of proposed area change = 234.7%

- b. It should be noted that **WDDM** does not seek to move its transmitter site to a location which would require a change in its community of license and there is continued significant overlap between the presently licensed and proposed 60 dBu contours as depicted on the coverage mapping in Exhibit 16.

5) The proposed site change is necessitated due to the exorbitant monthly tower rental increase that has been imposed by the licensed site tower owner; as a non commercial, nonprofit entity, **WDDM** is unable to assume this rental fee.

6) The site proposed is the closest viable site that the applicant was able to locate.

7) There are no *Section 73.509* issues at the proposed site location. All licensed or proposed full service and secondary service FM facilities are fully protected at the proposed site as shown on *Figure 1*.

8) This request is believed consistent with past Commission precedent concerning waiver of Section 73.512(c). Cases cited (and which engineering was prepared by the affiant) include:

WPLS-FM, Greenville, SC, BPED-940222MD, FCC Mass Media Bureau, Audio Services Division, Letter Decision dated June 12, 1995, 1800B3-BJB.

WNYK(FM), Nyack, NY, BPED-940506IZ, FCC Mass Media Bureau, Audio Services Division, Letter Decision dated July 21, 1995, 1800B3-BJB.

WUDR(FM), Dayton, OH, BPED-20040819ACA, CP granted April 20, 2005.

CONCLUSION

It is believed that a waiver of Section 73.512(c) of the Commission's Rules regarding Class D major change applications is warranted with respect to the instant **WDDM** Application for CP. The proposed **WDDM** frequency change is necessitated due to its displacement by a new co channel full service facility and associated site change due to significant monetary considerations at the current site. **WDDM** has been silent due to the displacement channel change and wishes to reinstate service to the public as soon as possible. The proposed site change will not require a change in community of license of Hazlet, NJ and, further, all of the community of license will continue to be covered by the 60 dBu contour of the proposed facility. Based on the Commission's previous and continued expressed desire to assist Class D facilities with the ability to preserve their service to the public, it is believed that such a waiver has been demonstrated to be in the public interest and is, thus, respectfully requested in the processing of the instant **WDDM** application for construction permit.