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May 26, 2010

Unitarian Universalist Fellowship of Ames
1015 N. Hyland Avenue
Ames, IA 50014-4005

In re: KHOI(FM), Story City, IA
Unitarian Universalist Fellowship
of Ames ("Unitarian")
Facility ID No.: 175288
BMPED-20100511AAB

Dear Applicant:

This letter is in reference to the above-captioned minor change application for noncommercial educational FM Station KHOI(FM) to change the directional antenna pattern. In the application, Unitarian requests waiver of the contour overlap provisions of 47 C.F.R § 73.509. For the reasons stated below, we grant the waiver request and application.

Waiver Request

An engineering study of the application reveals that the proposed facility would result in prohibited contour overlap received from the licensed facility (BLED-20070430AAT) of third-adjacent channel FM Station KURE(FM), Ames, Iowa on Channel 203A, in violation of § 73.509. Specifically, the proposed 60 dBu protected contour would be overlapped by the 100 dBu interfering contour of KURE. Unitarian recognizes this violation and requests waiver of the contour overlap provisions of § 73.509.

In support of the waiver request, Unitarian states that the proposed KHOI facility will not cause interference to KURE. Unitarian further states that the proposed 60 dBu contour would encompass an area of 1197 km^2 and that the population served would more than double, from 33,629 to 73,328 people. It also states that the interference area is only 8.1 km^2 (0.7%) of the station's proposed 60 dBu service area. Unitarian cites *Educational Information Corporation,* 6 FCC Rcd 2207 (1991), as evidence of the Commission's willingness to consider waivers of such overlap in certain instances. It argues that the overlap area is within the scope of the Commission's waiver policy. Finally, Unitarian contends that the "benefit of more than doubling the NCE service of KHOI heavily outweighs the potential for interference-received in a very limited area." Therefore, Unitarian believes that waiver of § 73.509 is in the public interest and is justified.

Discussion

Unitarian's request to receive third-adjacent channel overlap is similar to the request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case. In that case it was stated that:

> The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a *per se* modification of the waiver recipient's license.

Accordingly, in light of the Commission's policy on this matter, the requested waiver of 47 C.F.R. § 73.509 will be granted.

Conclusion

We have afforded the request for waiver of § 73.509 the "hard look" called for under *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), and find that the facts and circumstances presented in the applicant's justification is sufficient to establish that grant of the requested waiver would be in the public interest. Accordingly, Unitarian's request for waiver of 47 C.F.R. § 73.509 IS HEREBY GRANTED. Furthermore, Application File No. BMPED-20100511AAB IS HEREBY GRANTED subject to the following condition:

> Future modifications by FM Station KURE(FM), Ames, Iowa (Facility ID No. 55777) will not be construed as a "*per se*" modification of KHOI's construction permit (BMPED-20100511AAB). (*See Educational Information Corporation*, 6 FCC Rcd 2207 (1991)).

The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

Arthur E. Doak

Arthur E. Doak
Senior Engineer
Audio Division
Media Bureau

cc: Michael Couzens, Esq.
Brown Broadcast Services, Inc.

enclosure