

APR 11 1986

8920-DEB/GRM

Bible Broadcasting Network, Inc.
P. O. Box 1818
Chesapeake, Virginia 23320

WCMS Radio Norfolk, Inc.
900 Commonwealth Place
Virginia Beach, Virginia 23464

In re: WYFI(FM); Norfolk, Virginia
Bible Broadcasting Network, Inc.
BPH-860110IE

Gentlemen:

Bible Broadcasting Network, Inc. ("WYFI") has filed the above-referenced application to collocate its transmitting facilities with WWDE(FM) tower licensed under BLH-850327KR. The proposed move by WYFI is sought to reduce the level of intermodulation interference between WWDE(FM), WYFI(FM), and WCMS(FM). At WYFI's request, an STA granting experimental authority was issued by telegram March 25, 1986. WCMS Radio Norfolk, Inc. ("WCMS(FM)") has filed an informal objection in which it requests that WYFI be required to conduct special tests or, in the alternative, any authorization to collocate WYFI(FM) with WWDE(FM) be conditioned to require that the interference situation be improved before the authorization becomes permanent.

Last year WWDE(FM) moved under construction permit BPH-831013AI. The resulting interference to WYFI(FM) and WCMS(FM) necessitated revocation of program test authority to WWDE(FM), under the Commission's "newcomer" policy. WWDE(FM) was permitted to resume operations from its new site only after providing a detailed showing that all interference complaints had been satisfactorily resolved (license application BLH-850327KR, as amended September 18, 1985).

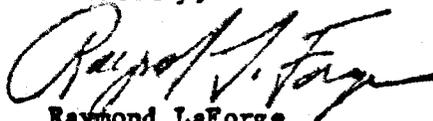
Commission policy with respect to interference to existing licensees caused by a "newcomer's" proximity dates back to Midnight Sun Broadcasting Co., 11 FCC 1119 (1974), where we held the "newcomer" to be responsible for resolving the interference problem to another broadcaster. Since that decision, many other cases have held that a permittee causing interference to existing services due to proximity, is responsible for correcting the problem at the permittee's expense. See, e.g. Sudbrink Broadcasting of Georgia, 65 FCC 2d 691 (1977); and Jesse Willard Shirley, 24 RR 2d 982 (1972). See also Western Slope Communications, LTD., Mimeo No. 4431,

released May 31, 1983, wherein we stated that "the Commission policy generally provides that broadcasters second in time are first in responsibility to resolve interference problems due to proximity."

The instant WYFI application falls within the scope of the "newcomer" policy. Any operations under Special Temporary Authority would be subject to the same limitations concerning interference as would operations on program test authority pursuant to 47 C.F.R. Section 73.1620. Accordingly, special conditions on the WYFI construction permit are not required to afford WCMS-FM the protection it seeks. However, we note that excessive interference could result in the revocation or modification of program test authority pursuant to 47 C.F.R. Section 73.1620 and the WWDE(FM) precedent. Accordingly, the informal objection filed by WCMS(FM) is hereby DENIED, the construction permit BPH-8601101E is hereby GRANTED.

In light of this action, the experimental authority granted to WYFI by Commission telegram dated March 25, 1986 is rendered moot and is hereby CANCELLED as of the date of this letter.

Sincerely,



Raymond LaForge
Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: Keith & Smithwick (WYFI-FM)
Arent, Fox, Kintner, Plotkin
& Kahn (WCMS-FM)
Shrinsky, Weitzman & Eisen (WWDE-FM)