FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

IN REPLY REFER TO:
1800B3-DEB/DJF

OCT 04 1995

Columbia Bible College Broadcasting Company
Radio Station WMHK
PO Box 3122
Columbia, SC 29230-3122

Re: WMHK(FM); Columbia, SC
Columbia Bible College
Broadcasting Company ("CBC")
BMLED-940609KZ

Dear Applicant:

The Division processing staff is reviewing the above-captioned modification of license application filed by CBC to use the former main antenna authorized by license BLED-790131AC as an auxiliary antenna. CBC's application requests waiver of 47 CFR § 73.1675(a). For the reasons set forth below, we deny CBC's waiver and return its application.

WAIVER REQUEST

Our engineering review of this proposal determined that the 60 dBu (1 mV/m) contour of the auxiliary facility will exceed the 60 dBu contour of the main facility. Therefore, this application violates § 73.1675(a). CBC recognizes this violation and requests waiver of the rule.

In support of the waiver request, CBC states the following:

1. Operation with the auxiliary antenna with less than the authorized effective radiated power of 100 kW will exacerbate the loss of service to newly served areas.
2. The area where the 60 dBu (1 mV/m) contour of the auxiliary facility exceeds the 60 dBu contour of the main facility contains only approximately 13,000 people.
3. The area where the 60 dBu (1 mV/m) contour of the auxiliary facility exceeds the 60 dBu contour of the main facility will not interfere with any other existing stations.
4. Due to the limiting factor of the coverage area of WMHK's main antenna, the practicability of future applications by other stations resulting in prohibited overlap with the exceeding area is near zero.

When an applicant seeks a waiver of the rules, it must plead with particularity the facts and circumstances which warrant such action. Rio Grande Family Radio Fellowship, Inc. v. FCC, 406 F.2d 644 (D.C. Cir. 1968). We have afforded the waiver request the "hard look" called for under the WAIT doctrine, WAIT Radio v. FCC, 418 F.2d 1153 (D.C. Cir. 1969), but find that the facts and circumstances set forth in these justifications are insufficient to establish that waiver of § 73.1675(a) is in the public interest.

Auxiliary broadcast facilities are authorized to allow a station to continue service while the licensed main facility is not operating due to repairs or other reasons. Generally, the operation of an auxiliary facility is intermittent in nature and of relatively short duration. Auxiliary facilities historically have been limited so that the auxiliary operation's 1 mV/m (60 dBu) contour does not extend past the location of the main station's 1 mV/m contour. See 47 CFR § 73.1675.

It is not surprising that the proposed 1 mV/m service area from the proposed WMHK auxiliary operation will be materially less than that of the authorized main facility. This result is common to the many stations whose auxiliary facility is located at a different transmitter site, particularly where the main and auxiliary facilities are located some distance apart (here, 28.4 km). The area served by the proposed auxiliary operation may be increased by bringing the main and auxiliary facilities closer together. However, CBC has not chosen this approach.

The fact that the proposed auxiliary facility will not cause interference to or receive interference from other stations also does not justify waiver of the rule. Auxiliary stations are authorized solely by the 1 mV/m provision in § 73.1675 and not by a spacing rule or a contour protection rule. Also, population considerations are not weighed when considering an auxiliary facility application. Thus, CBC's observations concerning lack of interference and populations served do not provide strong support of this waiver request.

While the public interest is certainly served by permitting temporary operations with auxiliary facilities, as opposed to a cessation of operations, broadcast stations are not required by the Commission to construct a backup operation. The reduced coverage generally realized from an auxiliary operation serves as a spur to the licensee to correct any problems with the licensed main facility in the least possible time. The public is better served by full operation of the main facility than by a lesser temporary operation. Allowing a broadcast station to operate an auxiliary station with its 1 mV/m partially outside the main station's 1 mv/m diminishes that incentive. Furthermore, the rule prevents excessive operation of the auxiliary facility by removing the temptation to serve areas outside the station's main 1 mV/m contour.

Consequently, we find that waiver of 47 CFR § 73.1675(a) is not warranted in this instance.

CONCLUSION

We have examined the request for waiver of 47 CFR § 73.1675(a) and have concluded that the facts and circumstances set forth in the application are insufficient to establish that grant of the requested waiver would better serve the public interest than adherence to the rule. Consequently, the requested waiver of 47 CFR § 73.1675(a) is DENIED. Application BMLED-940609KZ is unacceptable for filing and IS RETURNED. This action is taken pursuant to 47 CFR § 0.283 of the Commission's rules.

Sincerely,

Dennis Williams

Dennis Williams
Assistant Chief (Engineering)
Audio Services Division
Mass Media Bureau

cc: Rini & Coran, PC