

Before the
Federal Communications Commission
Washington, D.C. 20554

FILED/ACCEPTED

MAR 2 2011

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Section 73.215 of the) RM-11620
Commission's Rules and Regulations)
Contour Protection for Short-Spaced)
FM Assignment)
)
To: Marlene Dortch, Secretary
Federal Communications Commission
Attn: Media Bureau

COMMENTS OF CALVARY CHAPEL OF COSTA MESA, INC.

Calvary Chapel of Costa Mesa, Inc. ("Calvary"), by its attorney, hereby respectfully Comments in support of the proposed changes to Section 73.215 of the Commission's Rules and Regulations, described in its Petition for Rule Making in this proceeding. In support thereof, it is alleged:

I. The Petition.

1. On January 18, 2011, Calvary filed a Petition for Rule Making ("Petition") to make changes in Section 73.215 of the Commission's Rules and Regulations, 47 C.F.R. §73.215. On February 18, 2011, the Commission released a Public Notice, Report No. 2927, inviting comments on Calvary's Petition. Calvary hereby supports the Petition.

II. Background.

2. Since the early 1960s, all commercial FM stations in the U.S. have been allocated in accordance with the table of minimum spacings, originally in miles and now in

kilometers, set forth in Section 73.207 of the Commission's Rules. On May 26, 1987, however, the Commission issued a Notice of Inquiry proposing to change that. *In the Matter of Amendment of Part 73 of the Commission's Rules to Permit Short-Spaced FM Station Assignments By Using Directional Antennas*, 2 FCC Rcd 3141 (The Commission 1987). Thereafter, on February 22, 1989, the Commission issued a Report and Order, adopting what is now Section 73.215 of the Rules. *In the Matter of Amendment of Part 73 of the Commission's Rules to Permit Short-Spaced FM Station Assignments By Using Directional Antennas*, 4 FCC Rcd 1681 (The Commission 1989). Since the adoption of that Report and Order, applicants have been permitted to specify a short spacing to a fully spaced station, provided that they maintain the contour protections specified in the rule. In general, Section 73.215 has been a great success. It has allowed the implementation of new service to the public from short-spaced sites while, at the same time, avoiding interference between stations.

3. In some instances, however, the current rule produces anomalies. This is so because the current rule requires interfering contours to be calculated on the assumption that the non-73.215 station is operating with maximum power and height for its class as specified in Section 73.211. To do this for a station operating with Height Above Average Terrain (HAAT) that is greater than the maximum for its class, an applicant invoking Section 73.215 must make an adjustment in the operating parameters of the fully spaced station with which it must avoid prohibited contour overlap. For that station, the actual HAAT must be reduced to the maximum specified for its class, while the Effective Radiated Power (ERP) is set to the maximum permissible for that class before calculating the interfering contour. This works fine in places like Florida where the terrain is flat. However, in mountainous terrain, where the Above Ground Level (AGL) of the antenna is small compared to the resulting HAAT, the maximization process

does not always work as intended. If a station is operating on top of a high mountain, with a short transmitting tower, the required adjustment in HAAT can result in a situation where the station's antenna center of radiation is adjusted such that it appears to be underground, *i.e.*, below the actual level of the ground at its transmitter site. An underground antenna obviously cannot possibly emit any signal. Therefore, the assumption required by the current rule amounts to an engineering fiction.

4. Chairman Genachowski has frequently said that the Commission's Rules must be fact based and data driven. To the extent that current provisions of Section 73.215 require a fictitious assumption regarding antenna height, those provisions are neither fact based nor data driven. Therefore action is needed to modernize the rules; bring them into the 21st Century; and make them fact based. That is what we propose to do.

III. Proposed Modifications.

5. Calculation of the interference contours from a facility with an assumed underground antenna results in distances to interfering contours that are unrealistic. In some instances, these distances are either severely underestimated or significantly overestimated. Section 73.211 of the Rules specifies the maximum facilities for the different classes of FM broadcast stations, ranging from Class A to Class C. In cases where a station's HAAT exceeds the reference HAAT for its class of station, the rule provides a method to determine what equivalent (ERP) to use to achieve the equivalent maximum class facilities based upon distance to the station's 60 dBu contour. Taking advantage of the Section 73.211 methodology, and in order to correct the underground antenna anomaly, we propose to change Section 73.215 to provide that in such instances the actual licensed HAAT of the interfering station will be used,

but the ERP will be adjusted such that the distance to the 60 dBu contour is the same as the one contemplated by Section 73.211 for a station of that class operating at maximum facilities.

6. All calculations will be done in the standard manner, using the Commission's F(50-50) & F(50,10) curves; the method of calculating the distance to the protected contour is not changed in any way. Thus, the proposed modification is entirely consistent with the original intent of the rule, which was to preserve for all fully spaced stations the ability to ultimately increase their facilities to the maximum specified for their station class. At the same time, it provides these fully spaced stations with greater flexibility when the time comes for them to make modifications to their existing facilities. Additionally, the proposed modification provides the station requesting processing under Section 73.215 with greater flexibility when selecting a short-spaced transmitter site by relieving them of the obligation to avoid overlaps from "interfering contours" which do not actually exist.

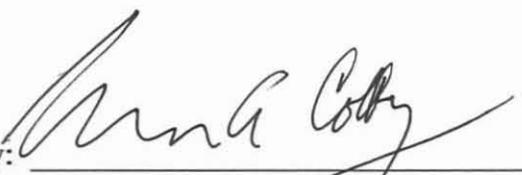
7. For these reasons, the modifications serve the public interest and the Commission should issue a Notice of Proposed Rule Making, looking towards the modification of the rules proposed by Calvary.

Respectfully submitted,

CALVARY CHAPEL OF COSTA MESA, INC.

March 2, 2011

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