



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

**[FCC 14-85]**

Radio Broadcasting Services; Columbia, Missouri

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; denial of application for review.

**SUMMARY:** In this document, the Federal Communications Commission (“Commission”) grants in part and denies in part the Application for Review filed by the Curators of the University of Missouri (“Petitioner”) of the Memorandum Opinion and Order of the Media Bureau (“Bureau”) in this proceeding, which denied the Petitioner’s request to waive the standard for reserving a vacant FM channel for noncommercial educational (“NCE”) use.

Although the Bureau erred by not giving a “hard look” to the waiver request, the Commission found that a waiver was not warranted.

**DATES:** [insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Memorandum Opinion and Order, FCC 14-85, adopted June 11, 2014, and released June 12, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this document may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12<sup>th</sup> Street, SW., Room CY-B402, Washington, DC

20554, telephone 1-800-378-3160 or [www.BCPIWEB.com](http://www.BCPIWEB.com).

On March 24, 2004, the Petitioner requested the reservation of vacant Channel 252C2 at Columbia, Missouri, for NCE use. Although its proposal would provide a second NCE service to over 22,000 persons that would comprise about 7 percent of its service area, the Petitioner requested a waiver of § 73.202(a)(1)(ii) because that rule requires that a station provide a first and/or second NCE service to at least ten percent of the population within the 1 mV/m contour of the proposed station that is at least 2,000 persons in order to reserve the channel.

The Bureau initially returned the Petition because it did not meet the ten percent channel reservation threshold and did not otherwise address the Petitioner's waiver request. Upon reconsideration, the Bureau found in the Memorandum Opinion and Order that a waiver was not warranted because the proposal fell well below the ten percent standard. See 71 FR 34279, June 14, 2006.

On review, the Commission finds that the Bureau failed to give the Petitioner's waiver request the required "hard look" and grants the Application for Review to that extent. However, the Commission finds that a waiver of the reservation standard is not warranted because it is not enough that the number of persons receiving a first or second NCE service exceeds the 2,000 person requirement. Rather, the Commission made clear, in adopting this rule, that the number of persons must constitute ten percent or more of the station's service area. Otherwise, the need for a reserved channel is not great enough.

The Commission also finds that the licensing circumstances that Petitioner faces are not exceptional because 13 other NCE FM stations provide some level of NCE service to the 288,383 persons located within the allotment's predicted service area. Finally, the Commission

rejects the Petitioner's argument that the ten percent standard is difficult to satisfy because, out of 129 petitions for the reservation of allotments, the Commission has granted 55. Accordingly, the Commission denies the Application for Review in all other respects.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of the Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the Application for Review was denied.)

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,  
Secretary.

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