



Federal Communications Commission  
Washington, D.C. 20554

March 31, 2011

**DA 11-584**

*In Reply Refer to:*

1800B3-TN

Released: March 31, 2011

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Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006

Re: **FM Broadcast Auction 91**  
WFCR Foundation, Inc.  
Form 175 Application to Participate  
in FM Broadcast Auction 91

Dear Counsel:

The Commission has received WFCR Foundation, Inc.'s ("WFCR") Petition for Reconsideration ("Petition") of the staff's March 10, 2011, letter.<sup>1</sup> In the Acceptance Letter, the staff indicated that, according to its analysis, which was based on ground conductivity data from Figure M3 only, the daytime principal community (5 mV/m) contour of WFCR's station WNNZ(AM) overlaps the predicted principal community contour of FM allotment MM-FM797-A at Adams, Massachusetts, the only Auction 91 FM allotment WFCR selected in its FCC Form 175 application. Under Section 73.5007(b) of the Commission's Rules, an applicant is not entitled to a bidding credit if any commonly controlled mass media facility serves the "same area" as the broadcast permit selected in the short-form application.<sup>2</sup> Because the staff found that the Adams allotment is in the "same area" as WNNZ(AM), it concluded in the Acceptance Letter that WFCR was ineligible to claim a new entrant bidding credit in Auction 91.<sup>3</sup>

On March 17, 2011, WFCR filed the Petition, presenting its own study of WNNZ(AM)'s daytime principal community (5 mV/m) contour. WFCR's contour analysis is based on measured ground conductivity data from a full proof of performance done for WNNZ(AM) in 1987,<sup>4</sup> supplemented by data from Figure M3 where measured data were not available.<sup>5</sup> Based on the measured ground conductivity data, which was accepted by the Commission when submitted in 1987, WFCR contends there is no

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<sup>1</sup> *Mr. Richard Malawista*, Letter, Ref. No. 1800B3-TSN (MB Mar. 10, 2011) ("Acceptance Letter").

<sup>2</sup> 47 C.F.R. § 73.5007(b).

<sup>3</sup> *See* Acceptance Letter, citing 47 C.F.R. § 73.5007(b).

<sup>4</sup> *See* File No. BL-19870622AF.

<sup>5</sup> *See* 47 C.F.R. §§ 73.183(b)(1), 73.190 Figure R3.

overlap between WNNZ(AM)'s daytime principal community contour and the predicted principal community (70 dB $\mu$ ) contour of the Adams allotment.<sup>6</sup>

The Commission's Rules state that measured conductivity data are to be used when determining groundwave strength, and that Figure M3 ground conductivity data are used only in the absence of valid measured data.<sup>7</sup> Based on WFCR's presentation of the WNNZ(AM) contour as calculated using accepted ground conductivity measurements, we are satisfied that the principal community contour of WNNZ(AM) does not overlap the predicted principal community contour of FM allotment MM-FM797-A, Adams, Massachusetts. Thus, pursuant to Section 73.5007 of the Rules,<sup>8</sup> WFCR is eligible to claim a 25 percent new entrant bidding credit in Auction 91.

Accordingly, WFCR's Petition for Reconsideration IS GRANTED, and the FCC Auction System records will be revised to reflect that WFCR is claiming a new entrant bidding credit of 25 percent.

Sincerely,

Peter H. Doyle, Chief  
Audio Division  
Media Bureau

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<sup>6</sup> The principal community contour of an FM allotment is calculated based on full class facilities at the allotment coordinates. *See Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order and Further Notice of Proposed Rule Making, 25 FCC Rcd 1583, 1609-10 (2010).

<sup>7</sup> 47 C.F.R. § 73.183(b)(1).

<sup>8</sup> *Id.* § 73.5007(b).