

F.C.C. 70-537

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In Re Application of	}
BROADCASTERS, INC., MILFORD, DEL.	
Requests: 95.9 m.c., Channel 240; 3 kw.	
(H); 3 kw. (V); 231.3 ft.	
For Construction Permit	

MEMORANDUM OPINION AND ORDER

(Adopted May 20, 1970)

BY THE COMMISSION :

1. The Commission has before it for consideration the above-captioned and described application for a construction permit for a new FM broadcast station and a request for waiver of section 73.207(a) of the Commission's rules to permit acceptance of the application.

2. The transmitter site proposed for the station, the site of the applicant's AM station WTHD, involves a short-spacing of 4 miles with the new site authorized WISZ-FM on October 17, 1969. At the time (April 17, 1969) applicant's engineering statement was prepared, station WISZ-FM had not yet been granted authority to move to its present site. As a result, applicant's waiver request which was filed on February 12, 1970, speaks about a 1.3-mile shortage and does not take into account the effects of the new site.

3. In support of the request for waiver of the short-spacing, applicant states that if it were required to operate its facilities from different sites, it obviously would add to the burdens of management and operations. Moreover, it contends that the economic burden of constructing a new tower for the FM station in order to eliminate a minor short-spacing problem would be substantial. For these operational and economic reasons, it believes that the use of the existing AM tower would be more practical and thus expedite inauguration of the first local FM and first local nighttime service to Milford.

4. The proposed transmitter site for the Milford station is approximately 3.5 miles from the center of the city in the direction of WISZ-FM which accounts for the magnitude of the short-spacing. It appears that a site selected in Milford or in the area north, east, or south of the city would involve no short-spacings. Operation of the FM facilities by remote control from the site of station WTHD would reduce operating costs. Although it may be economically advantageous to the applicant to use the site of WTHD, it does not appear that this reason or any of the others advanced by the applicant are sufficiently compelling to warrant a waiver of the short-spacing of 4 miles. A

waiver of this magnitude could be justified only on the basis of a compelling showing. This, applicant has failed to provide.

5. Although channel 240 is the only channel assigned to Milford, it appears that others could be assigned there which would permit the use of the WTHD site. A petition by the applicant to institute rulemaking for another assignment would receive consideration by the Commission. This course may be followed should the applicant not desire to select a site involving no short-spacings with the use of channel 240.

6. Accordingly, *It is ordered*, That the request of Broadcasters, Inc., for waiver of section 73.207(a) of the Commission's rules *Is hereby denied*, and that the above-captioned proposal *Is returned* to the applicant.

FEDERAL COMMUNICATIONS COMMISSION,  
BEN F. WAPLE, *Secretary*.