

F.C.C. 75-1347

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

Policy with respect to agreements between
short-spaced FM stations

December 15, 1975

The Commission by Commissioner Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn and Robinson issued the following PUBLIC NOTICE:

COMMISSION REAFFIRMS POLICY WITH RESPECT TO
AGREEMENTS BETWEEN SHORT-SPACED FM STATIONS

Section 73.213(a) of our rules provides for an increase in the authorized facilities (height above average terrain and effective radiated power) of existing FM stations, which are presently separated from other co-channel or first-adjacent channel FM stations by a distance less than the minimum distance required by section 73.207 of the rules. In essence, section 73.213(a) specifies the maximum permissible facilities for existing short-spaced FM stations based upon the prescribed mileage bracket applicable to the particular FM stations. In adopting this rule, we rejected the proposal of permitting such an increase in facilities solely on the basis of an agreement between the short-spaced stations. However, in paragraph 19 of our *Fourth Report and Order* in Docket No. 14185, 40 FCC 868 (1964), we agreed to consider, on an *ad hoc* basis, increases in the facilities of short-spaced FM stations beyond the maximum facilities provided for in section 73.213(a) of the rules, where a mutual agreement exists between the stations. As stated in paragraph 19 of that document, this agreement must include a showing as to how the public interest will be served by full implementation of the agreement.

Since 1964, we have received numerous applications with accompanying agreements proposing facilities which are in excess of the maximums permitted by section 73.213(a) of the rules. At this point, we feel that it is necessary to reaffirm our intention to adhere to the policy that a public interest showing be part of any such proposal. We continue to believe that this policy is consistent with our stated intention of an efficient and orderly development of the FM broadcast service. Consequently, in order to simplify the processing of these applications and aid applicants who are contemplating entering into such an agreement, we are issuing this Public Notice to clarify the guidelines which are used in evaluating a particular agreement.

We will take into consideration the additional areas and populations which will receive primary service assuming *full* implementation of the agreement. By contrast, we will also consider the areas and populations which will receive interference¹ as a result of the mutual in-

¹ For the purposes of these showings only, the normally protected service area is considered to be the area within the 1 mV/m (60 dBu) contour, and interference within the service area is considered to exist when the ratio of desired to undesired signals is less than 10 to 1 for co-channel stations and less than 2 to 1 for first-adjacent channel stations. The F (50,50) curves should be used for service contours, and the F (50,10) curves should be used for interfering contours.

creases in facilities. In this regard, it will be necessary to determine the availability of other aural services to the interference areas created by full implementation of the agreement. Once the initial application is granted to increase facilities in line with an agreement found to be in the public interest, subsequent applications for incremental increases in authorized facilities looking toward full implementation of the agreement will be routinely granted.

In no event will a proposal be favorably considered which provides for facilities in excess of maximum power and antenna height limitations set forth in section 73.211(b) of the rules. Furthermore, it must be reiterated that the agreements contemplated in the *Fourth Report and Order, supra*, pertain only to increases in facilities and not transmitter site relocations. Therefore, notwithstanding any restriction contained in an agreement to the contrary, the relocation of transmitter sites will continue to be governed by section 73.213(f)(2)(ii) of the rules. In this regard, site change proposals falling within the applicant's present mileage bracket will be routinely granted with facilities up to the maximum contemplated by such agreement.

It should also be noted that these guidelines are only general in nature and do not, in any way, preclude us from requesting additional information when warranted. In addition, we wish to re-emphasize that these agreements are intended only to provide a limited means by which some existing FM stations, authorized under previous allocation standards, may increase their facilities; agreements will not be favorably considered where an applicant proposes, for the first time, to create a mileage separation shortage under section 73.207(a) of the rules. The provision for such agreements does not constitute a departure from the FM allocation standards set forth in our *First Report and Order* in Docket No. 14185, 33 FCC 309 (1962). Accordingly, except for the limited provision for agreements discussed herein, FM allocation, including the nature and extent of interference protection accorded commercial FM stations, will continue to be determined solely by the mileage separation, power, and antenna height limitations set forth in sections 73.207, 73.211 and 73.213 of the rules, without regard to the concept of protected and interfering contours previously employed.