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June 13, 1997

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Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

Mr. William Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

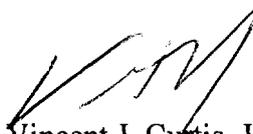
Re: Advanced Television Systems and Their Impact Upon the
Existing Television Broadcast Service (MM Docket No. 87-268)

Dear Sir:

On behalf of Warwick Communications, Inc., there is transmitted herewith an original and eleven (11) copies of their Peition for Partial Reconsideration in the above-captioned proceeding.

Should any questions arise concerning this matter, please communicate with this office.

Sincerely yours,



Vincent J. Curtis, Jr.
Counsel for Warwick Communications, Inc.

VJC:mlp

Enclosures

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Before the
Federal Communications Commission
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| In the Matter of |) | |
| |) | |
| Advanced Television Systems |) | |
| and Their Impact Upon the |) | MM Docket No. 87-268 |
| Existing Television Broadcast |) | |
| Service |) | |

TO: The Commission

**WARWICK COMMUNICATIONS, INC.'S
PETITION FOR PARTIAL RECONSIDERATION
OF THE SIXTH REPORT AND ORDER**

Warwick Communications, Inc. ("Warwick"), licensee of low power television station K22EH (also known as "KLPN"), by its counsel and pursuant to Section 1.429 of the Commission's rules, hereby respectfully petitions for reconsideration of the Commission's assignment of Channel 22 as the DTV paired channel for Station KETK-TV, Jacksonville, Texas, in the Sixth Report and Order (the "R&O"). In support hereof, petitioner states as follows:

1. In Table 1 to the R&O at page B-40, KETK-TV, which operates on NTSC Channel 56, is assigned Channel 22 as its DTV paired channel. Unfortunately, Warwick currently operates an LPTV facility on that channel at Longview. Because of the proximity of the facilities, Warwick would be forced to cease operation of KLPN if Channel 22 were to be activated as a DTV facility at Jacksonville. (See the attached engineering exhibit prepared by Joseph Davis, consultant to Warwick.)

2. In the R&O, the Commission acknowledged the “benefits that lower power stations provide to the public.” (R&O, at 52.) It “therefore indicated that we would attempt to minimize the impact of our DTV allotment and spectrum recovery proposals on low power TV operations.” (Id.) While allowing replacement of displaced LPTV channels was one option the Commission elected to continue in order to “preserve access to LPTV programming” (R&O, at 53), compelling displacement of KLPN here would cause great inconvenience and expense for petitioner. It would adversely affect television owners in East Texas. Warwick has invested substantial sums in building, promoting and branding its LPTV outlet on Channel 22, which serves as the primary United Paramount Network (“UPN”) affiliate in the Longview-Tyler-Jacksonville DMA. In addition to serving as the outlet for an emerging network, the station also airs substantial amounts of local and regional sports and other programming, such as broadcasts of Texas Rangers, Dallas Mavericks and Houston Rockets games, local minor league baseball games, and high school football events. KLPN’s UPN and local programming is geared in part to serve the 18% minority population in its market. The Commission has recognized that the public interest in programming diversity and competition is served by the emergence and operation of new networks like UPN and by providing programming of interest to minorities and local audiences. The combination of these factors warrants an effort to save KLPN, a fledgling station less than a year old. Moving it to another channel would seriously undermine this effort without any obvious benefit to the public interest.

3. Accordingly, Warwick proposes that Channel 57, rather than Channel 22, be assigned as KETK-TV’s paired DTV channel. In his attached exhibit, Mr. Fisher states that,

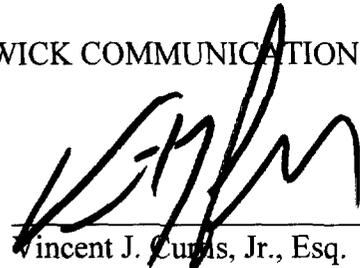
based on his analysis¹, such an allotment would not be short-spaced under the Commission's rules to any NTSC or DTV facility or allotment, nor would it require displacement or termination of any licensed LPTV service.

4. Given this situation, the Commission should reconsider its allotment of Channel 22 to KETK-TV and instead assign Channel 57 as the paired DTV channel for KETK-TV.

Respectfully submitted,

WARWICK COMMUNICATIONS, INC.

By:



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Its Attorneys

Date: June 13, 1997

¹ Neither Pappas nor its consulting engineer currently has access to the computer software or the underlying assumptions that the Commission used to construct the Table of DTV Channel Allotments set forth in Table 1 to the R&O. Therefore, Mr. Fisher's analysis is necessarily limited to the currently available data and standards concerning these matters.

ENGINEERING STATEMENT
prepared for
Warwick Communications, Inc.
K22EH Longview, Texas

This engineering statement has been prepared on behalf of *Warwick Communications, Inc.* ("*Warwick*"), in support of a *Petition for Reconsideration* of the Federal Communications Commission's Sixth Report and Order ("6th R&O") in MM Docket 87-268.¹ *Warwick* is the licensee of "low power" television station K22EH, Longview, Texas. *Warwick's* petition requests a change in one DTV channel allotment in the 6th R&O such that operation of K22EH is not displaced.

Discussion

The 6th R&O has not provided protection to all existing low power television ("LPTV") and translator stations. An engineering review of the DTV allotments in the region surrounding Longview showed that DTV channel 22 has been allotted to KETK-TV Jacksonville, Texas, at a distance of 57.8 kilometers from K22EH. At this close distance, K22EH, which operates on channel 22, would cause interference to the DTV channel 22 allotment. Thus, once the DTV channel 22 station at Jacksonville commences operation, K22EH would be displaced. No other DTV allotments on channel 22 or adjacent channels appear to have the potential for displacing K22EH.

An engineering review of the Jacksonville, TX DTV channel 22 allotment was performed to determine if an alternate channel could be used at Jacksonville that would not displace K22EH. Interference studies were performed using an application of the terrain-dependent Longley-Rice methodology, similar to that employed by the Commission in developing the DTV table of

¹See FCC 97-115 *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, released April 21, 1997.

ENGINEERING STATEMENT

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allotments.² The studies showed that DTV channel 57 could be used at KETK-TV Jacksonville, TX, in lieu of DTV channel 22, at 188.6 kW effective radiated power.³ KETK-TV DTV channel 57 would provide coverage to 99.3 percent of the area of the interference-limited KETK-TV NTSC channel 56 coverage area.

The interference study also examined the potential impact the use of DTV channel 57 at Jacksonville would have on other DTV allotments and existing NTSC assignments. Among those studied were co-channel DTV allotments at Columbia, LA and Waco, TX and NTSC station KVVV Baytown, TX. Adjacent channel facilities studied included DTV allotments at Lafayette, LA, and Austin, TX and NTSC station KDTX-TV Dallas, TX. Many other stations with "taboo" channel relationships to DTV channel 57 were also included. The interference studies showed that a minimal amount of interference is predicted to be caused to the DTV channel 57 allotment for KWKT at Waco, TX. No interference is predicted to be caused to any other DTV allotment or NTSC assignment by the use of DTV channel 57 at Jacksonville, TX.

The predicted interference caused to the KWKT DTV channel 57 allotment covers 41 square kilometers. Considering this area in addition to other areas of interference caused by other stations, the interference-limited predicted coverage area KWKT's DTV channel 57 allotment

²Although the 6th R&O refers to OET Bulletin 69 for guidance in evaluating interference using the Longley-Rice methodology, such bulletin is not available at this writing. The time-shared "HDTV" computer program offered by the National Telecommunications and Information Administration's TA Services in Boulder, Colorado was employed as the method for coverage and interference prediction. The HDTV program is based upon the Longley-Rice propagation model, which uses the methods described in the National Bureau of Standards Technical Note 101, and has been developed in close coordination with the Commission's OET staff. All area and population predictions were based on the Longley-Rice methodology as employed by TA Services and included "clipping" the extent of coverage at the Grade B contour distance, as determined with the Commission's traditional average elevation method, per the 6th R&O's Appendix B.

³Further studies or allotment table rearrangements may reveal additional channels for the Jacksonville, TX DTV allotment that do not displace K22EH.

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encompasses 101.8 percent of the KWKT NTSC interference-limited coverage area. Without consideration of interference caused by using DTV channel 57 at Jacksonville, TX, the interference-limited predicted coverage area of KWKT's DTV channel 57 allotment encompasses 102.0 percent of the KWKT NTSC interference-limited coverage area. Thus, the impact of using DTV channel 57 at Jacksonville, TX on KWKT's DTV channel 57 allotment would be negligible, as the resulting DTV to NTSC coverage match for KWKT varies only 0.2 percent and remains above the 100 percent level.⁴

Summary

Based on these studies, it appears that K22EH Longview, TX would be displaced under the 6th R&O by the DTV channel 22 allotment for Jacksonville, TX. An alternate DTV channel could be used at Jacksonville, TX that would not displace K22EH. For example, the Jacksonville, TX DTV allotment could be changed to channel 57 and provide 99.3 percent coverage area match of its existing paired NTSC channel. Minimal, inconsequential interference is predicted to be caused to one other DTV allotment as a result of using DTV channel 57 at Jacksonville, TX, however, that allotment would still match its NTSC coverage by over 100 percent.

Certification

The undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief. Mr. Davis is a principal in the firm of *Cavell, Mertz & Perryman, Inc.*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental

⁴For cases in the 6th R&O's allotment table where the match is above 100 percent, a value of 100 percent is shown regardless of the actual value.

ENGINEERING STATEMENT

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authorities and the Federal Communications Commission. His qualifications are a matter of record with that agency.



Joseph M. Davis, P.E.

June 12, 1997

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(703) 591-0110

CERTIFICATE OF SERVICE

I, Martha L. Powell, a secretary in the law offices of Fletcher, Heald & Hildreth, hereby certify that I have on this 13th day of June, 1997, had copies of the foregoing "Warwick Communications, Inc.'s Petition for Partial Reconsideration of the Sixth Report and Order" mailed by U.S. Mail first class, postage prepaid, to the following:

William M. Barnard, Esq.
Evans & Sill, P.C.
1627 Eye Street, N.W.
Suite 810
Washington, D.C. 20006

Attorney for KETK-TV

A handwritten signature in cursive script that reads "Martha L. Powell". The signature is written in black ink and is positioned above a horizontal line.

Martha L. Powell