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John E. Logan

March 16, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW - Room 4-C321
Washington D.C. 20554

Re: Ex Parte Presentation, *In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, MM Docket No. 99-292, RM-9260

Dear Ms. Salas:

Today, Deputy Chief Vincent M. Mansfield and Lieutenant Edward Dempsey, of the New York City Police Department (NYPD), and the undersigned, representing the NYPD and the New York Metropolitan Advisory Committee (NYMAC), met with Mr. Adam Krinsky, Legal Advisor to Commissioner Gloria Tristani.

At the meeting, the NYPD/NYMAC representatives discussed its position with regard to the proceedings, which is discussed more fully in the Comments it filed. A copy of the Comments is attached.

Respectfully,

John E. Logan

John E. Logan

Attachment

Copy to: Mr.Adam Krinsky, w/o attachment

The City of New York
POLICE DEPARTMENT

February 9, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. - Room 4-C321
Washington D.C. 20554

Re: Comments in Response to Notice Of Proposed Rulemaking, *In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, MM Docket No. 99-292, RM-9260

Dear Ms. Salas:

These comments are submitted on behalf of the Police Department of the City of New York (NYPD), and the New York Metropolitan Advisory Committee (NYMAC), in response to the Commission's Notice of Proposed Rulemaking (NPRM), released January 13, 2000, relating to the Establishment of a Class A Television Service, MM Docket, No. 00-10.

The NPRM relates to the Commission's implementation of the Community Broadcasters Protection Act of 1999 (CBPA), which requires the Commission to prescribe regulations establishing Class A television licenses for qualifying low-power television (LPTV) stations. Of importance to the NYPD is ensuring that present license holders are afforded adequate interference protection from holders of Class A licenses. The failure of the Commission to provide necessary protection will cause substantial detriment to public safety communications throughout the New York City, Nassau and Suffolk Counties and Northern New Jersey area.

On March 14, 1995, the Commission waived Parts 2 and 90 of its rules to permit the assignment of frequencies in the 482-488 MHz band, television channel 16, to the public safety agencies in the New York City Metropolitan area for a period of at least five years. The Commission's decision was premised on the urgent need to relieve congestion faced by the New York area public safety agencies.[1] The Commission found that the public safety agencies in the New York City metropolitan area had an urgent and immediate need for additional spectrum capacity. The Commission noted, in authorizing use of channel 16, that the grant would do much to allow for the development of interoperable communications among the areas public safety agencies.

[1] *In the Matter of Waiver of Parts 2 and 90 of the Commission's Rules to Permit New York Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz on a Conditional Basis*, 10 FCC Rcd 4466, FCC 95-115 (1995).

metropolitan area[2] made substantial investment to obtain the maximum benefit of channel 16. Underlying this investment is a fundamental policy of the Commission - - pursue public safety communications that embrace efficient use of the spectrum, including an effective means of providing interoperability capability throughout the New York City metropolitan area. The result of this investment has provided tangible improvement to public safety communications, enabling police, fire, emergency services and other agencies to respond more quickly and effectively to citizens in need. The investment made is premised on use of channel 16 for many years to come.

Paragraphs 39 and 40 of the NPRM address section (f)(7)(c) of the CBPA, and state that this section protects the public safety communications that have been allocated the use of TV channels 14-20 in certain urban areas of the country, including channel 16 in the New York City metropolitan area. The NYPD endorses the Commission's statement that these land mobile operations be protected by Class A applicants. The NPRM goes on to note a condition placed on the waiver New York Waiver Order, that LPTV station, W17BM, now WEBR-LP, has no responsibility to protect land mobile operations on the adjacent TV Channel 16 other than from spurious emissions that exceed those permitted by these rules. The NPRM states that the Commission is inclined to determine that station WEBR-LP is excepted from the requirement to show interference protection with regard to channel 16.

NYPD takes no position, at this time, with regard to whether WEBR-LP is eligible for a Class A license. NYPD does object to the premise that there is no obligation on the part of WEBR-LP to ensure that its activities do not cause harmful interference to public safety communications transmitted over channel 16. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. While it is difficult to circumscribe or predict what additional rights accrue to LPTV stations, a critical concern of the NYPD is that there be no disruption of the public safety communications network that represents such substantial investment by the local governments of the New York metropolitan area and is a key element in responding to emergency circumstances. The NYPD believes there must an affirmative obligation on the part of WEBR-LP or its successors to advise and coordinate with the NYPD and other member agencies, prior to making any modification that would alter power levels, signal direction, antennae, or other action that would adversely effect public safety communications. Notably, the NPRM ignores the current practice between the member public safety agencies and WEBR-LP to coordinate actions and ensure that neither party interferes with the others transmission.

[2] The following New York City Metropolitan area municipal agencies are members of the NYMAC: New York City Police Dept., New York City Fire Dept., New York City Dept. of Corrections, New York City Dept. of Parks and Recreation, New York City Dept. of Information Technology and Telecommunications, New York City Dept. of Transportation, New York City Transit Authority; City of Yonkers, New York, Fire Dept.; City of Yonkers, New York, Police Dept.; City of New Rochelle, New York, Police Dept.; Nassau County, New York, Police Dept.; Suffolk County, New York, Police Dept. (representing Suffolk County); Elmont, New York, Fire District; Bergen County, New Jersey, Police Dept.

The Commission's previous actions and sound judgment with regard to channel 16 in the New York metropolitan area requires that public safety communications be protected in the rules governing Class A Television Service. Failing to ensure that proper and timely coordination takes place will create potential disruption to critical public safety communications and operations in New York City, Nassau County, Suffolk County and Northern New Jersey. The detriment to the public health and safety will be counter to the reasons the Commission committed this spectrum to public safety- to provide immediate and necessary relief to public safety agencies and to further interoperable communications among these agencies. On behalf of the Police Department of the City of New York, and the New York Metropolitan Advisory Committee, I urge that the Commission reflect these concerns in its decision addressing Class A Television Service.

Please place these Comments in the docket of this and related proceedings. The necessary copies are enclosed.

Respectfully,

Vincent M. Mansfield
Deputy Chief
Commanding Officer
Office of Technology and
Systems Development

cc: Roy Stewart, Chief, Mass Media Bureau
Susan Fox, Deputy Chief, Mass Media Bureau
Linda Blair, Chief, Video Services Division, Mass Media Bureau
Thomas Sugure, Chief, Wireless Telecommunications Bureau, FCC
Kathleen Ham, Deputy Chief, Wireless Telecommunications Bureau
Ms. D'wana Terry, Chief, Public Safety & Private Wireless Division, FCC
Mr. Dale Hatfield, Chief, Office of Engineering & Technology, FCC
Ari Fitzgerald, Legal Advisor to Chairman Kennard

NYMAC