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June 9, 2000

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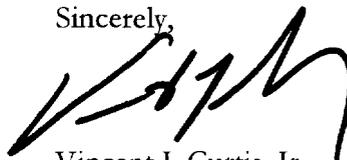
Washington, DC 20554

Re: Petition for Reconsideration
MM Docket No. 00-10

Dear Ms. Salas:

On behalf of Mid State Television, Inc., the licensee of Station WOHz-LP, Mansfield, Ohio, there is transmitted herewith an original and four copies of its Petition for Reconsideration in the above-captioned matter.

Sincerely,



Vincent J. Curtis, Jr.

Counsel for Mid State Television, Inc.

VJC:deb

Enclosures

cc: Service List

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ORIGINAL

Before the
Federal Communications Commission
Washington DC 20554

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JUN - 9 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Establishment of a Class A)
Television Service) MM Docket No. 00-10

Directed To: The Commission

Petition for Reconsideration

Comes now Mid State Television, Inc. (Mid State), licensee of LPTV Station WOHz-LP, Mansfield, Ohio, by its attorneys, and respectfully submits its Petition for Reconsideration, of the Commission's *Report and Order*, FCC 00-115, Released April 4, 2000 (hereinafter "*R&O*"), in connection with the above-captioned proceeding. In support thereof, the following is stated:

1. This Petition for Reconsideration is limited to the issue of the use of off-set as a legitimate and vital tool in both providing the opportunity for maximum and efficient use of the spectrum while allowing full protection to those involved. Clearly, the use of off-set permits both the public and the broadcasters involved to win without any harm to either. It is a truly win-win situation.

2. Although the Commission agreed with the Comments filed by the consulting engineering firm of du Treil, Lundin & Rackley, Inc. (dLR)¹ that the use of off-set would allow for "minimization of interference and maximization of service" (*R&O* at p. 68), it refused to either make off-set use a condition of Class A licensing or to require other television translator

¹For the convenience of the staff, there is attached hereto selected excerpts from the dLR Comments (See Attachment A).

stations, whether or not of Class A stations, to go to an off-set to allow maximum use of the spectrum. It is the position of Mid State as set forth below, that this limitation permits private parties to arbitrarily and unnecessarily to thwart both the intent of Congress² and the ultimate purpose of the *R&O* to extend the widest possible protection to LPTV operations qualifying for Class A status.

3. The concern that Mid State presents is a real world situation. Although Mid State's WOHz-LP has been found eligible for Class A status,³ it will be unable to file for a Class A license until it can find a displacement channel within the Channel 2-52 Core. While it has found such a channel, it would require an existing LPTV operator, who also has been found eligible for Class A status, to use an off-set. Although Mid State has made several attempts to have the other station agree to an off-set operation, to date this has fallen on deaf ears, even though Mid State has agreed to be responsible for all reasonable related expenses. Thus, an individual party is permitted to delay and perhaps totally thwart the ability of a fully qualified LPTV operation to achieve Class A licensed status for no apparent reason.⁴

²See, *Community Broadcasters Protection Act of 1999*, Pub. L. No. 106-113, 133 Stat. App. I at pp. 1510A-594 - 1501A-598 (1999), Codified as 47 USC §336 (f) (CBPA).

³See, *Public Notice*, DA00-1224, Released June 2, 2000 at p. 19.

⁴It has been argued that since the other station is also Class A eligible that any further attempts to make changes in its facility will require use of an off-set (*R&O* at ¶ 68), Mid State would clearly be providing the ability of the other station to be in this position, without incurring any of the expenses. This position has also been rejected without any solid reason.

4. If the Commission is reluctant to require off-set as a condition of Class A license eligibility,⁵ then it should at the least require both LPTV and Class A stations to change to an off-set, where such change will allow for Class A eligible stations to move into the basic core and will not cause substantial interference. All reasonable expenses related to such a change would be the responsibility of the requesting station. It is submitted that this proposal is no different and, in effect, less intrusive (since it does not require a change in channel), than the long time rules on FM allocations.⁶

5. The procedures for this proposal can be relatively simple. First, the requesting party must contact the effected station to determine whether they can reach an agreement as to the off-set issue. If the parties agree, then the requesting party can move forward with the filing of both its Class A license and displacement channel change application as well as the application of the effected station for modification to off-set and Class A status.

6. In the event that no agreement can be reached within thirty (30) days, then the requesting station may file its application for its displacement channel and Class A license. It must set forth its attempts to reach agreement and request that the effected station be required to change to an off-set. An engineering showing that the effected station will have minimal interference, if any, and willingness to pay all related expenses should be included. A copy of the filing would be sent to the effected station, who would have the opportunity to file comments. If

⁵Mid State finds this somewhat contrary to the Commission's finding that any future changes in the facilities of Class A stations will require off-set operations (*R&O* at ¶68), particularly in light of the estimated low costs involved. (See, Comments of dLr at n. 2.)

⁶See, *In Re Circleville, Ohio*, 8 FCC 2d 159 (1967).

the Commission agrees with the requesting party, then it would grant its application and direct the effected party to change to an off-set operation.⁷

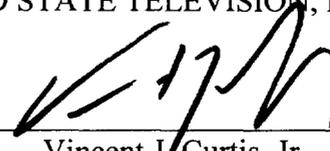
CONCLUSION

Mid State submits that this is a simple procedure but yet one that is vital to prevent private parties from unreasonably thwarting the will of Congress and the intent of the Commission.

Respectfully submitted,

MID STATE TELEVISION, INC.

By



Vincent J. Curtis, Jr.

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1300 North 17th Street, 11th Floor
Arlington, VA 22209
703-812-0400

Its Attorney

June 9, 2000

⁷To prevent delay, the effected station would be required to file its off-set application within thirty (30) days after receiving the Commission's order by Certified Mail. The requesting station would, within this time period, either (at the election of the effected station) provide the engineering for such a filing or the payment of cost of such engineering.

MM Docket No. 00-10
Petition for Reconsideration
Attachment A

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
)	MM Docket No. 00-10
Establishment of a Class A)	MM Docket No. 99-292
Television Service)	RM-9260

COMMENTS

The firm of du Treil, Lundin & Rackley, Inc. (dLR) respectfully submits these Comments in the above captioned proceeding relating to the establishment of a Class A Television license available to licensees of qualifying low power television (LPTV) stations as prescribed by the Community Broadcasters Protection Act of 1999 (CPBA) enacted by Congress on November 29, 1999. dLR has provided consulting engineering services to the communications industry for almost 60 years as well as to the LPTV industry since its inception in 1982. dLR is cognizant of the arduous task the Federal Communications Commission (FCC) has undertaken in this proceeding, including the short 120-day statutory deadline imposed by the CPBA. As such, these Comments are being provided to assist the FCC in developing the various technical regulations applicable to Class A stations.

Paragraph 10

Analog (NTSC) Class A Protected Service Area: dLR agrees that the protected service area of an NTSC Class A station should be protected signal contours as currently defined in the Section 74.707(a) for LPTV stations: 62 dBu for stations on channels 2-6; 68 dBu for stations on channels 7-13; and 74 dBu for stations on channels 14-69. These contours have been used since the inception of the LPTV service in 1982 and have served the industry well in balancing service and interference.

Digital TV (DTV) Class A Protected Service Area: dLR believes it would be inappropriate to use the current NTSC protected contours for DTV Class A stations. The Federal Communications Commission (FCC) used the 28 dBu (low VHF channels 2-6), 36 dBu (high VHF channels 7-13) and the 41 dBu (UHF channels 14-69) noise-limited contours to replicate full-service NTSC Grade B coverage. LPTV stations are protected to a higher value for each service band. Therefore, dLR suggests that the FCC consider a similar "ratio" approach for the DTV Class A service which takes into account the differences in the protected contour values between full-

given to adding a “dB” factor to these ERP levels. For instance, a 3 dB increase might be considered as this would double the ERP without significantly effecting D/U ratios.

Finally, Class A stations should also be permitted to increase their DTV facilities in the future, provided appropriate interference protection is provided (see proposed interference protection criteria below). In this regard, it is expected maximum permitted ERP values will also need to be developed. dLR suggests the ERP levels listed in Section 74.735(b) for digital low power TV stations as the basis for digital Class A ERP limitations.

Paragraph 12

Alternative Class A Eligibility Criteria: dLR believes that an eligible Class A stations should be required to operate with a carrier frequency “offset” for its NTSC operation.¹ This will permit minimization of interference and maximization of service.

In order to control co-channel interference and maximize spectrum usage, the FCC allots full service NTSC TV assignments with an offset designation. All full service NTSC TV assignments have an offset designation. However, not all LPTV stations have a designated offset. When an LPTV station has no offset, then the FCC’s more restrictive interference standards must be employed, namely, a desired-to-undesired (D/U) interference ratio of 45 dB. This same ratio is employed if the LPTV stations under study have the same offset. This ratio not only applies to interference caused, but also impacts interference received (i.e. the proposed service area). If, however, the stations employ different offsets, then a more relaxed D/U interference ratio of 28 dB can be used. Not only is interference protection still provided to the other station, but a reduction in interference received can also be achieved. Furthermore, a new offset for a station which had no previous offset can: (1) foster a reduction in interference to other existing LPTV stations which could not be offset with it before; (2) permit increases in the facilities of stations previously not offset with each other (i.e. service improvement); and (3) permit new LPTV service to areas that were previously precluded due to the more restrictive D/U ratio. Hence,

¹ Offset operation is permitted by Sections 74.705 and 74.707 of the LPTV rules as a means for limiting interference. The possible offsets are the same for full service NTSC TV stations: zero (o), at the standard carrier frequency for the channel; plus (+), with the carrier frequency 10 kHz above the zero offset carrier; and minus (-), with the carrier frequency 10 kHz below the zero offset carrier. The frequency tolerance of a LPTV station operating with a specified offset will be ± 1 kHz, the same as the full service TV station frequency tolerance. The frequency tolerance for LPTV stations operating without a specified offset is $\pm 0.02\%$ of the assigned carrier frequency for transmitters rated at no more than 100 watts, and $\pm 0.002\%$ of the assigned carrier frequency for transmitters rated at more than 100 watts.

LPTV stations using offset fosters spectrum efficiency, in an age of diminishing spectrum availability, and increases TV service to the public.²

Paragraph 13

Class A Interference Protection: dLR believes that “mutual interference agreements” should be permitted between a Class A station and other NTSC and DTV stations to allow increased interference. It is noted that this is currently permitted for LPTV stations.

Paragraph 14

Class A NTSC Interference Protection: dLR believes that the interference protection criteria to be used by other NTSC facilities (Class A, LPTV and full-service NTSC) to protect Class A stations should “initially” be based on the contour overlap method currently used for LPTV applications protecting the Grade B contours of a full service NTSC station as set forth in Section 74.705 of the LPTV rules, with some exceptions noted below. This method has been successfully used by LPTV stations since the inception of the service 18 years ago to protect other LPTV and full service NTSC stations and is considered a reasonable allocation tool.

UHF LPTV stations have historically been allotted without consideration being given to interference “received” by other LPTV or NTSC stations operating the so-called “taboo” channels, namely, on (1) the second, third, fourth and fifth channels above and below their channel ($\pm 2-5$, intermodulation taboo), (2) the seventh below their channel (-7 , oscillator taboo) and (3) the fourteenth and fifteenth channel above their channel ($+14$, sound image, and $+15$, picture image taboos).³ Generally, the potential for interference to the LPTV station is limited to the area in the immediate vicinity of the taboo channel station’s transmitter site.⁴ Furthermore, dLR is not aware of any instances of significant “received” interference being experienced by an existing LPTV station from another LPTV or full-service NTSC station operating on the aforementioned “taboo” channels. In addition, this approach is believed to offer a reasonable “trade-off” of protection of a Class A station’s coverage area and the continued introduction of new and expanded NTSC (and future DTV) service. Therefore, it seems unreasonable at this late

² Inquiries to LPTV transmitter manufacturers indicate the conversion costs to run from \$500 to \$2500 depending on the transmitter. In the worst case, a new transmitter may have to be purchased if, for some reason, the existing transmitter cannot be modified for the new offset.

³ The exception to this has been mutually exclusive LPTV applications, which have had to consider the seven and fourteen channel interference potential. However, it is noted that this interference potential is routinely “waived” by the FCC based on mutual agreement, terrain considerations, etc.

⁴ OET Bulletin No. 69 indicates that the D/U ratios for the $\pm 2-4$ channels and the $+14$ channel taboos, which were used to develop the DTV allotment table, are between -23 dB and -33 dB. Thus, for the

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary for the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that a true copy of the foregoing "Petition for Reconsideration" was mailed first class, postage prepaid, this 9th day of June, 2000, to the following:

Chairman William E. Kennard*
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Gloria Tristani*
Federal Communications Commission
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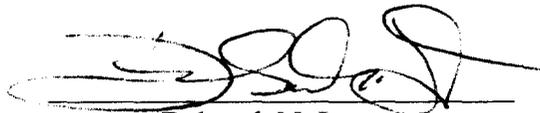
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*By Hand Delivery


Deborah N. Lunt