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April 19, 2005

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Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: **Reply Comments**
Amendment of Section 73.622(b)
Table of Allotments
Digital Television Broadcast Station
(Johnstown and Jeannette, Pennsylvania)
MB Docket No. 05-52
RM-10300

Dear Ms. Dortch:

Transmitted herewith on behalf of Larry L. Schrecongost, licensee of WLLS, Indiana, Pennsylvania, are an original and four copies of his Reply Comments in the above-referenced matter.

If there are any questions concerning this submission, please contact the undersigned directly.

Sincerely,

J M Pelkey (se)

John M. Pelkey

Enclosures
JMP:yg

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Section 73.622(b),	)	MB Docket No. 05-52
Table of Allotments	)	RM-10300
Digital Television Broadcast Station	)	
(Johnstown and Jeannette, Pennsylvania)	)	

To: **Office of the Secretary**

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APR 19 2005

Federal Communications Commission
Office of Secretary

Reply Comments

On April 4, 2005, Larry L. Schrecongost, licensee of Class A television station WLLS ("WLLS"), Indiana, Pennsylvania, filed Comments in the above-captioned rule making proceeding in which he demonstrated that the proposed rule making could not be adopted consistent with the public interest. In those comments, WLLS pointed out in particular that Paramount Stations Group of Pittsburgh Inc. ("Paramount"), which filed the petition for rule making leading to the issuance of the Notice of Proposed Rule Making in the present proceeding, had simply failed to demonstrate that the community of Jeannette, which is part of the well-served Pittsburgh DMA, is more deserving of service than is Johnstown, which is part of the much smaller Johnstown-Altoona DMA. Instead, Paramount simply assumed that Jeannette is more deserving of digital service than is Johnstown and then used its rule making petition as a mechanism to circumvent the fact that it had failed to seek reconsideration of the *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket No. 87-26 in which the Commission had specified that the digital channel paired with WNPA(TV)'s NTSC Channel 19 was to be allotted to Johnstown. More importantly, WLLS demonstrated in its

Comments that Paramount's rule making petition, both as originally filed and as supplemented, had failed to even take the existence of WLLS into account, despite the fact that WLLS had specifically informed Paramount of this deficiency. Paramount's failure to recognize WLLS's existence resulted in a dispositive flaw in the Paramount proposal when WLLS was granted Class A status inasmuch as the channel change proposed in the rule making would, if adopted, deny WLLS the protection to which it is entitled by virtue of the "primary status" accorded to it pursuant to the Community Broadcasters Protection Act of 1999 ("CBPA").[1]

Viacom's April 4, 2005 Comments fail to remedy these deficiencies.[2] First, despite the fact that it has never placed in the record any evidence that Jeannette is more deserving of digital service than is Johnstown, Viacom fails in its Comments to provide any evidence whatsoever concerning Jeannette or why Jeannette is more deserving of service than is Johnstown. Second, even though Viacom's counsel was personally alerted to the failure of the Viacom proposal to properly protect WLLS just days before Viacom filed its Comments, Viacom's Comments fail to provide any updated engineering. Instead, Viacom's Comments, which barely exceed one page in length, audaciously and sloppily pronounce that the Viacom proposal can be made in full conformance with the Commission's rules and, in support of that claim, do no more than attach the two outdated and incorrect engineering studies prepared for Paramount in 1999 and 2001. Totally omitted from these studies is any recognition that (1) the WLLS transmitter is located only 34 miles from the reference coordinates for the proposed WNPA-DT Channel 49 facility, (2) WLLS's protected 74 dBu protected coverage area would be wholly encompassed within the 48 dBu predicted principal community coverage contour of the proposed WNPA-DT facility or

[1] Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 - 1501A-598 (1999), codified at 47 US C § 336(f).
[2] The Comments were filed by Viacom Television Stations Group of Pittsburgh, Inc. ("Viacom"), which, according to the Viacom Comments, is the name by which Paramount is now known.

(3) WLLS, as a Class A station, is entitled to protection. Needless to say, the Viacom Comments fail to explain how the requisite protection is to be provided to WLLS under the Paramount proposal.

Viacom has failed to evidence the degree of care that the Commission has a right to expect from rule making proponents. Viacom failed to provide any justification for its proposed relocation of digital service to Jeannette (Pittsburg) at Johnstown's expense. It failed to even bother to update its engineering even though it had been warned just prior to the due date for the submission of comments in this proceeding that the 1999 and 2001 engineering statements on which it had previously relied were incorrect – with the result that its Comments misrepresent the proposal's compliance with the Commission's requirements. Indeed, the level of sloppiness even extends to the commitments that the Commission expects of rule making proponents. Even though the Notice of Proposed Rule Making proposes to allocate Channel 49 to Jeannette, Viacom does not commit to file an application to construct digital facilities on Channel 49. Instead, even though Viacom told the Commission in February of this year that it would operate on Channel 19 after the digital transition,[3] Viacom now tells the Commission in its Comments that it "will file an application for authority to construct the facilities of WNPA-DT, Jeannette, Pennsylvania, on Channel 30" and that the "station will be able to provide significantly improved service to Jeannette on Channel 30."[4]

Viacom has failed to demonstrate that Jeannette is to be preferred over Johnstown, that its proposal will protect WLLS and even that it is truly committed to constructing facilities on

[3] See BFRECT- 20050209ADA.

[4] Given Viacom's decision to construct its DTV facilities on Channel 19, the Commission may wish to consider treating the Channel 30 allotment as an open allotment and open it up to applications so that digital service can be provided to Johnstown.

Channel 49. It is time to require Viacom to take the Commission's allocations procedures seriously. The proposed rule making must be rejected.

Respectfully submitted,

LARRY L. SCHRECONGOST

By: _____

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Date: April 19, 2005

Certificate of Service

I, Yvette J. Graves, hereby certify that on this 19th day of April, 2005, copies of the foregoing "Reply Comments" have been served by U.S. first-class mail, postage prepaid to the following:

Howard Jaeckel, Esq.
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Yvette J. Graves

*Via Hand Delivery