

# Engineering Showing

## Opposition to Petition To Deny

This Engineering Showing is to demonstrate the Federal Communication Commission acted properly and within it's guidelines in granting the facilities upgrade of W230AR in New Castle Indiana.

Indy Lico presents no showing which demonstrates it has **actual interference to licensed** facilities but instead claims it may have interference *in the future*.

Indiana Community Radio Corporation and W230AR requested a Rulemaking resolution for W230AR as it relates to WISG. WISG opposes protection for their **possible** upgrade *at a time in the future* and opposes inclusion of W230AR in the Rulemaking Proceeding. As this Proceeding has not been resolved by 05-17 WISG is inviting the Commission to revisit the Legal and Engineering aspects it has already considered but not resolved.

The single listener complaint is within 1 mile of the W230AR location. The current constructed facilities and the original CP facilities would both properly impede the complainant from hearing WISG.

### **RM 05-17**

Indy Lico Inc and it's station WISG filed to improperly request protection of facilities which have not been applied for by application. Specifically , Indy Lico, Inc is asking the Commission to protect facilities which have not been granted, and, which have been opposed in the Rulemaking Process. As the requested facilities are subject to the Commissions RM : 05-17, this matter is not settled and is not resolved.

More appropriately, the Commission has been asked to protect W230AR in the Rulemaking Process. Counsel for Indy Lico indicates W230AR is a "secondary service." The Commission has two possible scenarios on "secondary service" which would place the W230AR Rulemaking request and 05-17 as the best place for resolving the question.

The Commission has previously held that Low Power FM stations and translators are "secondary". This does not mean the two are not capable of being involved in Rulemaking Proceedings.

The Commission is considering Columbus Indiana WPUM-LP's request for full power Class A Status through a Rulemaking Proceeding and has posted Public Notice that this secondary service can in fact be granted an upgrade to primary status through the Rule Making Process.

Indiana Community Radio Corporation has requested protection for WISG through the Rule Making Process as it relates to W230AR. Indiana Community Radio has cited both current Commission practice and precedent for WPUM which would allow the Commission to set a Rule Making Proceeding for it's translator stations which are subject to displacement. This request was made prior to the current "freeze" and has not been acted upon.

### **Current Authorization of W230AR and WISG**

The Commission acted properly by it's Rules in granting the W230AR modification. W230AR and WISG have licensed facilities which currently do not overlap. All facilities meet Commission regulatory guidelines. No 60dbu interference takes place.

## **Contingent Application Complaint**

The Commission will not tender "contingent applications" and accordingly should not consider "contingent application complaints." The complaint is based on possible Commission action in the future which might create interference. Indy Lico and WISG are asking the Commission to protect it's **possible** upgrade which is in the Rule Making Process.

Indy Lico by it's complaint clearly displays it's Rule Making is on the "inside track" to be granted and has the power to violate Commission spacing standards and protection without concern for the fact that the Rule Making has not been approved and that the Indiana Community Radio Corporation Rule Making request has not been acted on.

## **Actual WISG Contours**

WISG has presented the Commission it's proposed coverage map. In actuality this is the current WISG facility. A station so bold as to assert it's future contours are yet to be protected does so for a reason. It is already operating at the facilities it plans to license at a future date.

The WISG contours as observed through field strength readings taken at multiple locations indicate the map provided by counsel are the facilities which WISG is currently operating at while licensed as a Class A station.

More importantly, how can a listener in New Castle hear the current facilities fo WISG on a clock radio in his home? After the change of city of license from Noblesville to "Fishers" the station operated for a short time on a new tower. These facilities could not be heard in New Castle. In Greenfield, a few miles from the WISG tower severe multipath was noted. In the months after this the signal changed dramatically as WISG upgraded to it's B1 facilities.

WISG Engineer and Indy Lico Engineering Director Max Turner has prepared the engineering community for his build out of WISG. The B1 facilities have been constructed and are operating awaiting a **possible** Rule Making proceeding which has not yet been approved. The licensed facilities are not in operation.

## **Interference Complaint outside of protected contours of WISG and operation at B1 power level**

WISG cites a complaint from a listener. Aaron Pierson lives at 302 Bundy Avenue in New Castle. This location is within one mile of the W230AR facilities. Clearly the upgrade to the facilities would make no difference in the listener complaint presented by WISG. The 10 watt facilities which received an original Constrction Permit or the current facilities would both impede the listener from hearing WISG. The listener location is outside of any WISG contour (current licensed or proposed which are in operation). **Field strength readings are clearly indicative WISG is already in operation at Class B1 power and facilities.**

## **Complaint within W230AR Contours**

The listener location is within all 60dbu contours of any W230AR Construction Permit. The listener should not be able to hear the WISG licensed facilities at this distance and more importantly was hearing WISG.

The operation of W230AR at any power level would properly impede the complainant from hearing WISG. WISG should not have reception in New Castle as licensed.

## **W230AR Facilities**

W230AR began operation following License application utilizing FCC Form 350. The facilities

constructed are those which were approved in the Construction Permit.

### **Conclusion**

**W230AR was properly licensed by Commission Rules and the Petition by Indy Lico is an attempt to protect facilities which are beyond those which are currently authorized by the Commission.**

Indiana Community Radio Corporation has requested a change in channel and power through a Rule Making Proceeding and will prosecute engineering changes requested in the Rule Making Proceedings which have been formerly requested prior to the current freeze.

The Petition by Indy Lico Inc is untimely and counsel for Indy Lico concedes it is untimely, and does not lie.

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