

**Before The
Federal Communications Commission
Washington DC 20554**

W230AR New Castle,IN

File BMPFT-20051114AJY

Opposition to Petition To Deny

This opposition 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.

An Engineering Showing demonstrates there is no interference to licensed facilities. Counsel for Indy Lico admits it's filing is untimely. The listener is outside of any current authorised or proposed facilities which may chnage based on a Rule Making Decision.

Indiana Community Radio would request it's facilities be protected outside of contours so it could upgrade in the future also...

Background

Most broadcasters would prefer their Class A stations have Class B signals.

Indiana Community Radio Corporation and W230AR requested a Rulemaking resolution for W230AR as it relates to Indy Lico's 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 facilites 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. WISG is licensed as a Class A station. W230AR is licensed as a translator. 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 states it is asking the Commission 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

How can a listener in New Castle hear the current facilities for WISG on a clock radio in his home? This is the more important aspect of the Petition by Indy Lico Inc. The *licensed facilities* WISG is *licensed to operate* cannot be heard in New Castle Indiana on a radio without an outdoor antenna.

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 original Construction Permit or the current facilities would both impede the listener from hearing WISG. The listener location is outside of any WISG contour.

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 untimely and in opposition to Commission Rules and the public interest.

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.

Jennifer Cox-Hensley

President Indiana Community Radio Corporation

CERTIFICATE OF SERVICE

I am Jennifer Cox-Hensley and the Opposition to Petition For Reconsideration certify that I caused to be ailed first class Postage December 27 2005 the Opposition To petition For Reconsideration and Engineering Showing to Mark Lipp Vincent and Elkins LLP The Willard Office Bldg 1455 Pennsylvanie Avenue NW Washignton DC 20004-1008

Jennifer Cox-Hensley