

June 28, 2006

VIA ECFS

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
ATTN: Video Services Division

Note: Exempt From Filing Fees

Re: **Request for Waiver of July 1, 2006 DTV Replication/Maximization Deadline**
Noncommercial Educational Station WQLN-DT, Erie, PA
Facility ID: 53716 / FRN: 0007473234
MB Docket No. 03-15

Dear Ms. Dortch:

Out of an abundance of caution, Public Broadcasting of Northwest Pennsylvania, Inc. (“PBNP”), licensee of noncommercial educational station WQLN(TV), Erie, Pennsylvania, provides the following explanation in consideration of the FCC’s July 1, 2006 replication/ maximization interference protection deadline and the FCC Public Notice in DA 06-1255, *DTV Channel Election Issues – Compliance with the July 1 Replication/Maximization Interference Protection Deadline* (June 14, 2006). To the extent necessary, PBNP also requests a waiver of the maximization/replication deadline as needed to maintain interference protection and continued processing for its pending modification application held up due to international coordination.

In the *Second DTV Periodic Report and Order*,¹ the Commission adopted replication/maximization interference deadlines for DTV stations, specifying a July 1, 2006 “use it or lose it” deadline for noncommercial DTV licensees.² In its November, 2004 Pre-Election Certification, PBNP certified that it would operate post-transition facilities for WQLN-DT according to the DTV facility application in FCC File No. BMPEDT-20000412AAR, which was

¹ Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, 19 FCC Rcd 18279 (rel. Sept. 7, 2004) (“Second Periodic Review”).

² Id., ¶ 78.

pending due to an international coordination issue. *See* FCC File No. BCERET-20041029AHW. Although the WQLN-DT modification application in BMPEDT-20000412AAR remains pending as of this date due to the international coordination process, PBNP has built-out and its operating its WQLN-DT digital facilities as authorized by the FCC in BPEDT-20000216AAG (license application on file in BLEDT-20060601BCQ). Given the continued pending status of its DTV maximization application for WQLN-DT, PBNP wishes to confirm the following in consideration of the replication/maximization deadline.

Although the FCC has suggested that it will dismiss all pending maximization applications as of July 1, 2006, PBNP will need to continue to pursue its application for WQLN-DT beyond that date, if it is not yet granted due to the on-going international coordination. In its Second Periodic Review, the Commission stated that it would “dismiss any applications and cancel any construction permits for facilities in excess of those in actual operation by a station as of the applicable interference protection date.”³ However, throughout the DTV channel election and transition process, the FCC has afforded special consideration to DTV facility proposals on hold due to international coordination, such as WQLN-DT’s pending modification application which has been on file since April, 2000.

By way of background, the FCC initially notified PBNP that Canada had objected to the WQLN-DT application based on concerns about protecting a Canadian allotment in Welland, Ontario. In response, PBNP worked with its consulting engineering and antenna manufacturer for a period of many months to develop a highly directionalized antenna in order to fully protect the Welland allotment. On October 27, 2004, PBNP submitted an amendment to its FCC application, proposing use of the special directionalized antenna, and including engineering calculations and maps showing that the predicted interference from the current proposal was less than that allowed by the original allotment that had been approved already by Canada.

Counsel for PBNP learned that the amended proposal was sent by the FCC to Canada on March 22, 2005. In mid-December, 2005, counsel was informed that Canada had rejected the proposal on October 27, 2005, and that FCC staff would issue a “30 day” notice to PBNP. By letter dated December 14, 2006, the Commission informed PBNP that the WQLN-DT application failed to protect Canadian NTSC and DTV channels based on the second step contour overlap method in the LOU with Industry Canada, and, specifically, would increase the level of overlap to DTV Channel 50 in Goderich, Ontario. As directed by that letter, PBNP filed a response on January 13, 2006 with a Longley-Rice analysis which demonstrates that the amended WQLN-DT proposal protects not only the Goderich, Ontario facility, but all other known Canadian NTSC and DTV facilities.

That latest PBNP response was sent to Canada on February 9, 2006. PBNP’s counsel was informed that the FCC contacted Canada on March 22, 2006 to with respect to its status, and around that time PBNP’s engineering consultants received positive informal word regarding Canada’s review of the submission. However, only recently on June 13, 2006, PBNP, its

³ Id., ¶ 109.

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consultants, and counsel received a copy of a letter (attached, dated May 30/31, 2006) from Industry Canada to the Commission which stated that Canada once again objected to the WQLN-DT proposal because "it would increase the amount of interference by more than 2% to a co-channel DTV allotment in Goderich, ON." Accordingly, the WQLN-DT maximization application continues to remain pending due the unresolved international coordination process.

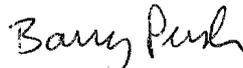
Since learning of the latest Canadian response two weeks ago, PBNP's consulting engineers and the FCC's International Bureau have attempted to gather more detailed information concerning the objection and Canada's consideration of the latest supplement and Longley-Rice showing. In particular, FCC International Bureau staff wrote to Industry Canada on June 14, 2006 to request a copy of their latest analysis and additional information regarding their findings and conclusions.

Given these latest events, it now appears that WQLN-DT's pending modification application in File No. BNPEDT-20000412AAR will not be cleared by Canada and granted by the FCC before July 1, 2006. Accordingly, PBNP requires and respectfully requests continued processing of, and interference protection for, that application. Although PBNP submits that it has satisfied its July 1, 2006 DTV build-out requirements to the fullest possible extent by virtue of its certified construction of its full (and only), authorized DTV facilities, it hereby requests a waiver of the replication/maximization deadline to the extent necessary to maintain its ability to prosecute its pending modification application held up by international coordination, and to construct and retain interference protection for those proposed facilities.

PBNP is a noncommercial educational broadcaster and operates station WQLN(TV/DT) on a noncommercial educational basis. PBNP is therefore exempt from filing fees pursuant to Section 1.1114 of the FCC's Rules, and exempt from regulatory fees pursuant to Section 1.1162 of the FCC's Rules. The applicant certifies that no party to this filing is subject to a denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Should any questions arise concerning this waiver request, kindly contact this office.

Very truly yours,



Todd D. Gray

Barry S. Persh

Counsel for Public Broadcasting
of Northwest Pennsylvania, Inc.

Enclosure

cc: Shaun Maher (at Shaun.Maher@fcc.gov)

 Industry Canada Industrie Canada
300 Slater Street
Ottawa, Ontario
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6128-5 (DBC-E)

Ms. Kathryn O'Brien
Chief, Strategic Analysis and Negotiations Division
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554, U.S.A.

MAY 30 2006

Dear Ms. O'Brien,

This is with reference to your letter dated February 9, 2006 requesting comments on the following Digital Television proposals:

- | | |
|----------------------------------|--|
| 1. City, State: | Erie, PA |
| 2. Transmitter Location: | 42-02-34 North Latitude
80-03-56 West Longitude |
| 3. Call Sign: | WQLN-DT |
| 4. Channel Number: | 50 |
| 5. Effective Radiated Power: | 200 kW |
| 6. Height Above Average Terrain: | 271 m |
| 7. Radiation Center AMSL: | 612 m |
| 8. Antenna System: | Directional |
- Make & Model: Dielectric 88-20 Special
Polarization: Horizontal, 0.75° electrical beam tilt

In reply, we wish to advise that the Department objects to the proposal at Erie, PA because it would increase the amount of interference by more than 2% to a co-channel DTV allotment in Goderich, ON.

Yours truly,

fr P. Vaccani
Director
Broadcast Applications Engineering
Radiocommunications and Broadcasting
Regulatory Branch

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