

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of Advanced Television Systems        )  
and Their Impact upon the                                ) MB Docket No. 87-268  
Existing Television Broadcast Service                 )

**REPLY COMMENTS OF CBS CORPORATION**

CBS Corporation (“CBS”) respectfully submits these reply comments in connection with the Commission’s consideration of the proposed post-transition DTV Table of Allotments (the “Proposed DTV Table”) issued with the *Seventh Further Notice of Proposed Rulemaking* (the “Notice”) in this docket.<sup>1</sup> We address two matters.

First, CBS requests revised technical parameters for WFRV-TV, Green Bay, Wisconsin, to allow the station to continue broadcasting with its current ERP of 1,000 kW after the final digital transition. As explained below, WFRV’s currently authorized digital operation reaches approximately 31,000 more viewers than would the facilities specified in the Proposed DTV Table, which are based on the pre-election certification filed for the station in November 2004. Accordingly, this is a situation “where a station already has constructed . . . facilities on its TCD that provide service to areas that extend beyond that to which the station certified [in] FCC Form 381.”<sup>2</sup> In the *Seventh Further*

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<sup>1</sup> *Seventh Further Notice of Proposed Rulemaking* in MB Docket No. 87-268, *In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, 21 FCC Rcd 12100 (2006).

<sup>2</sup> *Notice* at ¶ 28.

*Notice*, the Commission expressly indicated that a request for modified facilities would be entertained in these circumstances.<sup>3</sup> Since the present WFRV operation would not cause new interference in excess of 0.1 percent to the facilities of any other station as specified in the Proposed DTV Table, the table should be amended to allow continued service by WFRV to a larger number of viewers.

Second, we respond briefly to the comments filed by Larry L. Schrecongost, (“Schrecongost”), licensee of Class A television station WLLS-CA, Indiana, Pennsylvania, concerning the facilities specified in the Proposed DTV Table for WPCW, Jeannette, Pennsylvania. Schrecongost objects to those specified facilities because they reflect a channel change for WPCW approved by the Commission in a *Report and Order* that amended the initial DTV Table of Allotments.<sup>4</sup> In addition to a petition for reconsideration of that *Report and Order*, Schrecongost currently has pending (1) a petition to deny CBS’s application for a construction permit to build WPCW’s digital facilities, (2) a separate petition to stay action on that application, and (3) a petition retroactively to stay the *Report and Order*, filed more than three months after its effective date. Each of these pleadings makes essentially identical arguments, and there is accordingly no need for the staff to consider yet another duplicative filing in the present context. Rather, the Commission should proceed with all possible expedition to issue a decision on Schrecongost’s petition for reconsideration of the *Report and Order* --

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<sup>3</sup> *Id.*

<sup>4</sup> *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Johnstown and Jeannette, Pennsylvania)*, MB Docket No. 05-52, 21 FCC Rcd 1350 (released February 15, 2006) (the “*Report and Order*”).

which has been ripe for decision for almost ten months -- which will necessarily resolve any issues relevant to the instant proceeding.

**WFRV-TV, Green Bay, Wisconsin.**

When CBS filed its pre-election certification of the digital facilities WFRV would construct to meet the Commission's certification deadline of November 4, 2004, the station had been granted a construction permit for maximized facilities with an ERP of 1,000 kW on its out-of-core, transitional digital frequency (Channel 56).<sup>5</sup> CBS had also successfully petitioned for a change in WFRV's digital allotment to Channel 39.<sup>6</sup> However, because this change to the initial DTV Table of Allotments was not yet effective<sup>7</sup> -- and given the Commission's instructions that certification of maximized facilities could be based only on an existing authorization -- CBS certified to maximized facilities based on WFRV's Channel 56 construction permit.

The facilities specified for WFRV in the Proposed DTV Table are based on a carry-over to Channel 39 of the parameters authorized by the station's Channel 56 construction permit. Applying the so-called "dipole factor," which effects a power correction based on channel number, the Commission determined that an ERP of only 738 kW was necessary for a Channel 39 operation to duplicate the service area of a station operating at an ERP of 1,000 kW on Channel 56. *See*, Engineering Statement of

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<sup>5</sup> *See*, File No. BMPCDT-20020201AMM.

<sup>6</sup> *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations(Green Bay, Wisconsin), Report and Order, MM Docket No. 01-334, 19 FCC Rcd 19719 (released October 20, 2004).*

<sup>7</sup> *Id.* The effective date of the amendment to the Table of Allotments was December 6, 2004.

Joseph M. Davis, attached as Exhibit A (hereafter “Engineering Statement”). The parameters for WFRV in the Proposed DTV Table accordingly specify an ERP of 738 kW.

However, as shown by the attached Engineering Statement, the service area of the Channel 39 operation at 1,000 kW ultimately authorized by the Commission,<sup>8</sup> and built out by WFRV,<sup>9</sup> extends beyond the one specified for WFRV in the Proposed DTV Table.<sup>10</sup> Thus the instant facts present the very situation contemplated by the Commission in the *Seventh Further Notice*, when it indicated that a station could apply for modification of its parameters in the Proposed DTV Table if it had obtained authorization for facilities that would serve a larger area.<sup>11</sup>

The facilities with which WFRV-DT is presently operating do not cause impermissible interference to any station, and would not cause such interference to any station’s tentatively-designated post-transition operation.<sup>12</sup> The Commission should, therefore, modify WFRV’s parameters as listed in the Proposed DTV Table to specify an

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<sup>8</sup> See, File No. BMPCDT-20041129AEH

<sup>9</sup> An application for license to cover is pending. See, File No. BLCDDT-20051004ABD. In this connection, we note that an informal objection to that application was filed by the Wisconsin Educational Communications Board (“WECB”) on November 29, 2005, alleging interference to WPNE, its Channel 38 analog station in Green Bay. WFRV promptly took corrective measures, and WECB has now withdrawn its objection, stating that it “no longer objects to the WFRV-DT license to cover application.” A copy of WECB’s withdrawal of its complaint is attached as Exhibit B.

<sup>10</sup> Engineering Statement at 3 and Figure 1.

<sup>11</sup> Notice at ¶ 28.

<sup>12</sup> Engineering Statement at 3-4 and Table 1.

ERP of 1,000 kW, and thus allow continued service to a larger audience after the digital transition.<sup>13</sup>

**WPCW, Jeannette, Pennsylvania.**

In his comments, Schrecongost states he is filing “so as to bring to the Commission’s attention the fact that the proposed table incorrectly specifies that DTV Channel 49, rather than DTV channel 30, is allocated to Jeannette, Pennsylvania.”<sup>14</sup> That statement is clearly false; Channel 30 is *not* allocated to Jeannette, since the Commission amended the DTV Table of Allotments to substitute Channel 49, after a duly-conducted rulemaking proceeding.<sup>15</sup>

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<sup>13</sup> CBS did not seek this relief in its initial comments due to an oversight. We respectfully request that the Commission nonetheless consider and grant the requested modification to the Proposed DTV Table, since no new interference even approaching the impermissible level will be caused to any station, and therefore no third party will be prejudiced by CBS’s raising the issue at this time. Moreover, since service to a larger number of viewers is possible without causing impermissible interference to any station, the Commission’s grant of the requested relief would manifestly serve the public interest.

<sup>14</sup> Schrecongost Comments at 1.

<sup>15</sup> While Schrecongost thus appears to attribute a species of absent-mindedness to the Commission -- suggesting that it does not know what DTV channel is in fact allocated to Jeannette -- he at the same time “notes with approval” that the Proposed DTV Table “affirm[s] the [same] reference coordinates for the WPCW DTV facility . . . [as] established . . . in the *Sixth Report and Order*.” Schrecongost Comments at 7. In implying that the Commission’s listing of those coordinates was deliberate, Schrecongost gets the identification of intention and error precisely backward. As discussed in CBS’s initial comments in response to the *Notice*, the Commission in the *Report and Order* not only approved WPCW’s request for a channel change, but also amended the DTV Table to specify new coordinates for the station. The Commission was manifestly focusing on the issue of WPCW’s coordinates when it stated, in the *Report and Order*, that “DTV channel 49 can be allotted to Jeannette in compliance with the principle [sic] community coverage requirement . . . at coordinates 40-23-34 N. and 79-46-54 W” (emphasis added). It is thus clear that the Commission did not err in amending the station’s parameters in the rulemaking proceeding, but rather in

Schrecongost has filed a petition for reconsideration of the *Report and Order* in that proceeding, as is his right. But the issues he raises in his comments herein have been fully argued in that proceeding, as they have in connection with his petition to deny CBS's application for a construction permit, and the several motions for stays of Commission action that he has serially filed. All of these issues can and should be considered in the rulemaking proceeding. Schrecongost raises absolutely nothing new here.

That being the case, CBS does not propose now to reargue these matters. Nor will we burden the Commission with unnecessary paper by attaching our previous filings on the subject. Rather, we incorporate by reference the *Opposition of Pittsburgh Television Station WPCW Inc. to Petition for Reconsideration*, MM Docket 05-52 (filed April 27, 2006) and the *Consolidated Opposition of Pittsburgh Television Station WPCW Inc. to Motion for Stay and Opposition to and Motion to Dismiss Petition to Deny*, File No. BPCDT-20060510AAI (filed June 21, 2006).

As we have noted previously, there is one species of relief Schrecongost has never requested in his multiple filings: namely, expedited action on his petition for reconsideration and related pleadings. On the other hand, CBS has repeatedly asked for expedition. Bearing in mind that Schrecongost's petition will clearly have to be disposed of before the final DTV Table is promulgated, CBS again requests that the Commission

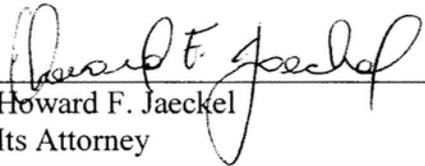
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transposing the coordinates approved in the *Report and Order* to the Proposed DTV Table.

issue its decision with all possible dispatch.

Respectfully submitted,

**CBS CORPORATION**

By:   
Howard F. Jaeckel  
Its Attorney

51 West 52<sup>nd</sup> Street  
New York, New York 10019  
February 26, 2007

## **EXHIBIT A**

**Engineering Statement**  
in support of  
**REPLY COMMENTS in MB DOCKET 87-268**  
prepared for  
**CBS Broadcasting Inc.**  
WFRV-TV Green Bay, Wisconsin  
Facility ID 9635

This engineering statement has been prepared on behalf of *CBS Broadcasting Inc.* (“CBS”), licensee of WFRV-TV (Facility ID 9635, Green Bay, WI), in support of *Reply Comments* being filed in the Seventh Further Notice of Proposed Rulemaking (“FNPRM”), Media Bureau Docket 87-268.<sup>1</sup> The subject docket sets forth a proposed new digital television (“DTV”) allotment table for the post-transition period. A Tentative Channel Designation (“TCD”) is listed in Appendix B of the FNPRM for each eligible television station. *CBS* requests herein that alternative technical parameters be employed for the WFRV-TV TCD.

The FNPRM (§ 28-29) allows qualifying licensees to propose a change in their certified technical parameters. *CBS* herein proposes that revised parameters which are currently authorized be employed in place of the current technical parameters for WFRV-TV’s TCD.

**Discussion - Background**

The licensed WFRV-TV analog facility is on Channel 5 (BMLCT-19990720LC) and its digital operation is authorized on Channel 39 (BMPCDT-20041129AEH). An Application for License is pending to cover construction of the Channel 39 digital operation (BLCDT-20051004ABD). Prior to the construction of the Channel 39 facility, WFRV-TV’s digital allotment was changed from Channel 56 to Channel 39 pursuant to MM Docket 01-334.<sup>2</sup> Before the digital allotment was changed, a Construction Permit (“CP”) authorized WFRV-TV to operate on digital Channel 56 (BMPCDT-20020201AAM) with 1000 kW effective radiated power (“ERP”) and 364 meters antenna height above average terrain (“HAAT”). The Channel 56 CP authorized an

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<sup>1</sup> *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MB Docket No. 87-268, FCC 06-150, released October 20, 2006.

<sup>2</sup> *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Green Bay, Wisconsin)*, DA 04-3236, released October 20, 2004.

## Engineering Statement

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expansion in service area beyond the original allotment (replication) parameters, and was therefore considered a “maximized” facility.

At the time of the pre-election certification deadline (November 4, 2004), the Channel 39 order in MM Docket 01-334 had just been released (October 20, 2004) and was not yet effective. CBS’s certification on Form 381 (BCERCT-20041028AEL) specified that the post-transition WFRV-TV DTV facility should be based on its maximized Channel 56 facility (BMPCDT-20020201AAM). Subsequently, CBS successfully elected Channel 39 as its final digital channel in the first round (approved June 23, 2005, DA 05-1743). Accordingly, The TCD Channel 39 listed in the *FNPRM* corresponds to the carry-over of the Channel 56 CP parameters to Channel 39. Due to use of the dipole factor (which applies a power correction based on channel number), the carry-over of 1000 kW ERP on Channel 56 results in an ERP of 738 kW on the Channel 39 TCD. The currently authorized Channel 39 digital facility operates at 1000 kW and serves a larger area than the TCD parameters would allow.

### **Proposed Change in Certified Facilities**

CBS proposes herein to modify the WFRV-TV Channel 39 TCD parameters to correspond to the 1000 kW WFRV-TV digital construction permit (BMPCDT-20041129AEH). The attached **Figure 1** provides a contour comparison map of the current and proposed WFRV-TV TCD facilities. The proposed TCD facility (1000 kW) contour extends beyond the current TCD (738 kW) contour.

The *FNPRM* states that a change in certified facilities may be sought by those stations that have received authorization to extend their service beyond their certified areas (§ 28-29). For the case at hand, the 1000 kW Channel 39 facility parameters in BMPCDT-20041129AEH extend service beyond the area that was certified (see **Figure 1**). Thus WFRV-TV qualifies for the change in certification facility. No change in channel is sought.

Technical parameters sought herein are those corresponding to the WFRV-TV digital Channel 39 CP (BMPCDT-20041129AEH). The changes are with respect to ERP and antenna

**Engineering Statement**

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pattern, as summarized below. The resulting area, population, and received interference were recalculated by the undersigned.

**Present TCD**

Facility ID	State and City		NTSC	DTV								
				Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)	Area (sq km)	Population (thous)
9635	WI	GREEN BAY	5	39	738	364	74654	442001	875856	27692	1085	1

**Proposed TCD (same as BMPCDT-20041129AEH)**

Facility ID	State and City		NTSC	DTV								
				Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)	Area (sq km)	Population (thous)
9635	WI	GREEN BAY	5	39	1000	364	68312	442001	875856	30785	1116	1.4

The results of an engineering interference analysis per OET Bulletin 69<sup>3</sup> are supplied in **Table 1**, and demonstrate that new interference to any other station's TCD does not exceed the 0.1 percent limit in compliance with the FNPRM.

The engineering analysis was conducted using the same methodology that the Commission's staff employed to identify conflicts during the three election rounds, as described in the following text from the FNPRM (§ 21):

“New interference to post-transition DTV operations was defined as interference beyond that caused by existing analog and DTV operations, as set forth in the certification database information. . . . In performing conflict analyses, the staff applied the standard that an interference conflict exists when it was predicted that more than 0.1 percent new interference would be caused to another station.”

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<sup>3</sup> FCC Office of Engineering and Technology Bulletin number 69, *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, February 6, 2004 (“OET-69”). The implementation of OET-69 for this study followed the guidelines of OET-69 as specified therein. A standard cell size of 2 km was employed with 2000 Census data. Comparisons of various results of this computer program (run on a Sun processor) to the Commission's implementation of OET-69 show excellent correlation.

**Engineering Statement**

(page 4 of 4)

It is acknowledged that in seeking the modified parameters, CBS will accept interference from any other TCD already approved.

**Class A Station Protection**

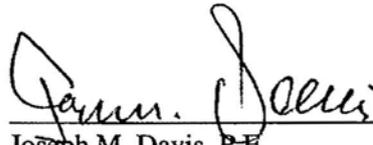
No new interference to any authorized Class A Television station will result from this proposal.

**Conclusion**

CBS seeks herein to change WFRV-TV's certified parameters to correspond to the presently authorized WFRV-TV digital Channel 39 facility. Interference to any other station's TCD does not exceed 0.1 percent.

**Certification**

The undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief.



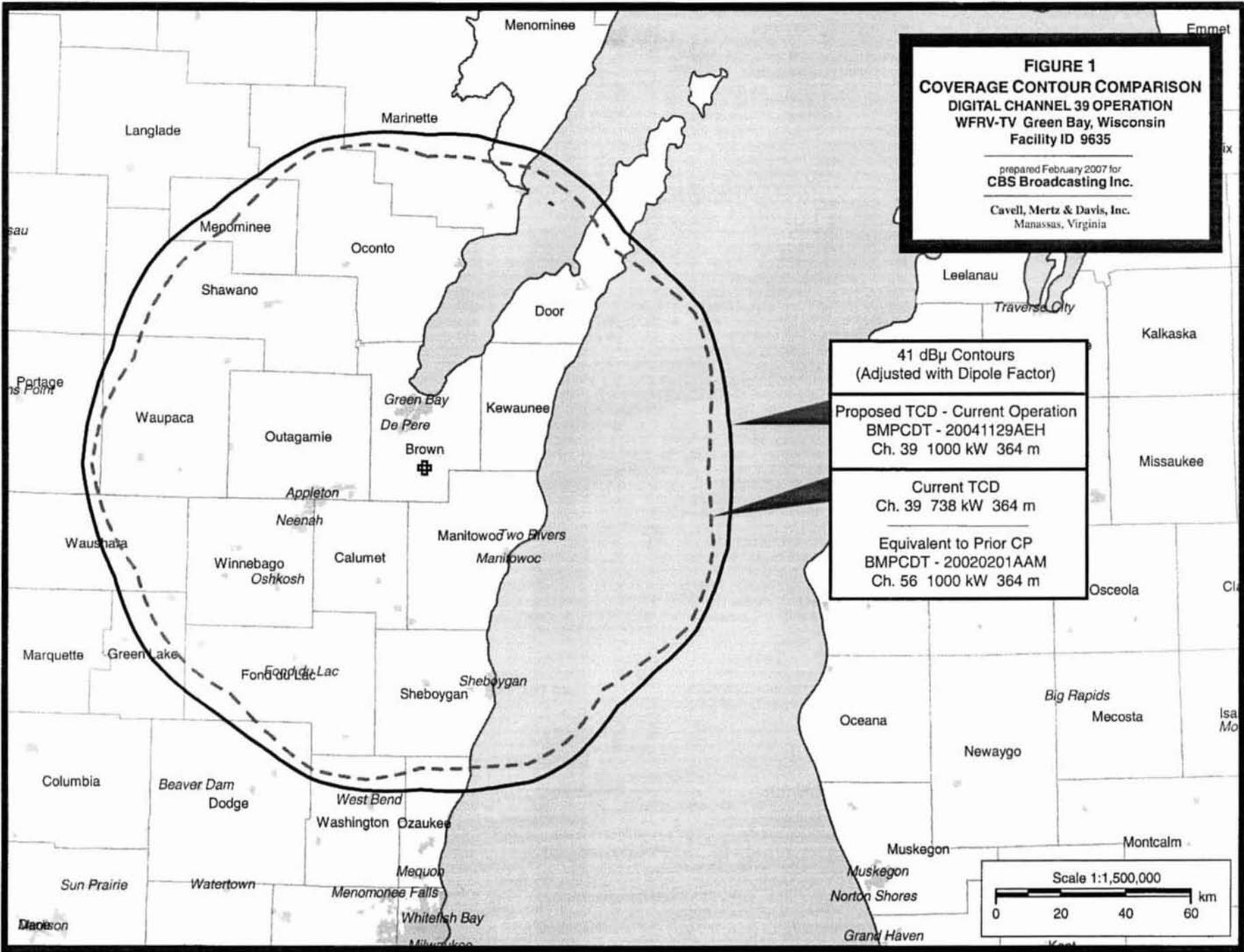
Joseph M. Davis, P.E.

February 26, 2007

Cavell, Mertz & Davis, Inc.  
7839 Ashton Avenue  
Manassas, VA 20109  
703-392-9090

**List of Attachments**

Figure 1	Coverage Contour Comparison
Table 1	Interference Analysis Results Summary



**FIGURE 1**  
**COVERAGE CONTOUR COMPARISON**  
**DIGITAL CHANNEL 39 OPERATION**  
**WFRV-TV Green Bay, Wisconsin**  
**Facility ID 9635**

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prepared February 2007 for  
**CBS Broadcasting Inc.**

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Cavell, Mertz & Davis, Inc.  
 Manassas, Virginia

<p>41 dB<math>\mu</math> Contours          (Adjusted with Dipole Factor)</p>
<p>Proposed TCD - Current Operation          BMPCDT - 20041129AEH          Ch. 39 1000 kW 364 m</p>
<p>Current TCD          Ch. 39 738 kW 364 m</p>
<p>Equivalent to Prior CP          BMPCDT - 20020201AAM          Ch. 56 1000 kW 364 m</p>

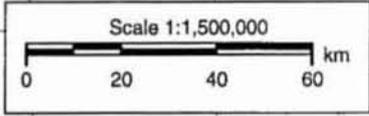


Table 1  
**INTERFERENCE ANALYSIS RESULTS SUMMARY**  
**PROPOSED CHANNEL 39 PARAMETERS**

prepared for  
**CBS Broadcasting, Inc.**  
WFRV-TV Green Bay, Wisconsin  
Facility ID 9635

Ch	Call Sign Service	City/State File Number	Fac. ID	Latitude Longitude	Power HAAT	Distance Bearing	Baseline Population	New Interference Population	Percent
40	WPXE DT	KENOSHA, WI BLCDT-20040206AAT	37104	43 05 44 87 54 17	830 358	137.7 177.4	2,883,039	946	0.03%

## **EXHIBIT B**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION**

**Washington, D.C. 20554**

In the Matter of	)	
	)	
License Application of CBS Broadcasting Inc.	)	BLCDT-20051004ABD
For Digital Television Station	)	
WFRV-DT, Green Bay, Wisconsin	)	
	)	

To: The Secretary, FCC  
Attn: Chief, Video Division, Media Bureau

**WITHDRAWAL OF INFORMAL OBJECTION**

State of Wisconsin – Educational Communications Board (“WECB”), licensee of noncommercial educational station WPNE-TV, NTSC Channel 38, Green Bay, Wisconsin, by its counsel, hereby withdraws its previous objection to above-captioned license to cover application for WFRV-DT, DTV Channel 39, Green Bay, Wisconsin.

Pursuant to Section 73.3587 of the Commission’s Rules, WECB filed an informal objection to the WFRV-DT license application on November 29, 2005 based on concerns over interference from WFRV-DT, DTV Channel 39 to WECB’s station WPNE-TV, NTSC Channel 38. Due to changed circumstances, WECB no longer objects to the WFRV-DT license to cover application in FCC File No. BLCDT-20051004ABD.

Respectfully submitted,

**STATE OF WISCONSIN – EDUCATIONAL  
COMMUNICATIONS BOARD**

By: Barry Persh  
Margaret L. Miller  
Barry S. Persh  
Its Counsel

Dow Lohnes PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
(202) 776-2000  
January 30, 2007

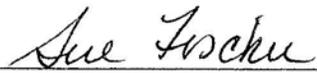
**CERTIFICATE OF SERVICE**

I, Sue Fischer, certify that a copy of the foregoing "Withdrawal of Informal Objection" was served this 30th day of January, 2007, by hand delivery or First Class United States mail, postage prepaid, upon the following:

Chief, Video Division, Media Bureau\*  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Raymond C. Benedict  
Viacom, Inc.  
2000 K Street, N.W.  
Suite 725  
Washington, DC 20006-1809

Howard F. Jaeckel  
CBS Television  
1515 Broadway  
New York, NY 10036-5794  
Counsel for CBS Broadcasting Inc.

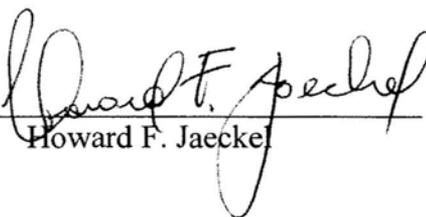
  
\_\_\_\_\_  
Sue Fischer

\*By Hand Delivery

## CERTIFICATE OF SERVICE

I, Howard F. Jaeckel, hereby certify that on this 26th day of February, 2007, I caused a copy of the foregoing "Reply Comments of CBS Corporation" to be served by U.S. First Class Mail, postage prepaid, on:

John M. Pelkey, Esq.  
Garvey Schubert Barer  
1000 Potomac Street, NW  
Fifth Floor, Flour Mill Building  
Washington, D.C. 20007-3501

  
Howard F. Jaeckel