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February 26, 2007

Our File No. 20939-0101-60

ELECTRONIC FILING

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 of Larry L. Schrecongost**
Advanced Television Systems
And Their Impact upon the
Existing Television Broadcast Service
MB Docket No. 87-268

Dear Ms. Dortch:

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

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

Sincerely,

John M. Pelkey

Enclosures
JMP:yg

DC_DOCS:661551.1

Before the
Federal Communications Commission
Washington, D.C. 20554

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

REPLY COMMENTS OF LARRY L. SCHRECONGOST

Larry L. Schrecongost, licensee of Class A Television Station WLLS, Indiana, Pennsylvania ("WLLS"), hereby submits his Reply Comments with respect to the *Seventh Further Notice of Proposed Rule Making ("Seventh Further Notice")* that has been issued by the Commission in the above-captioned proceeding.

In his comments, Mr. Schrecongost explained that the proposed DTV Table of Allotments appended to the *Seventh Further Notice* as Appendix A could not be adopted in its present form inasmuch as the proposed DTV Table specifies that the station allocated to Jeannette, Pennsylvania, would operate on Channel 49 and such operation would cause interference to WLLS in violation of the Community Broadcasters Protection Act of 1999 (the "CBPA").[1] The CBPA prohibits the Commission from making any television allocation, or granting any television application, that would result in interference to a Class A station unless certain preconditions are met. Those preconditions were not met in the present case. In particular, WPCW, which is the station allocated to Jeannette, did not file a maximization application by May 1, 2000. Moreover, no technical problem exists that would warrant a change

[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 U.S.C. § 336(f).

in WPCW's allotted channel. As a result, both the Commission and Pittsburgh Television Station WPCW Inc., a wholly owned subsidiary of CBS that is presently the licensee of WPCW, are statutorily prohibited from taking any action that would cause interference to WLLS.

In his comments, Mr. Schrecongost noted with approval the fact that the S*eventh Further Notice* affirmed reference coordinates for WPCW that are the same as the reference coordinates established for that station by the Commission in the *Sixth Report and Order* in MM Docket No. 87-268.[2] Those coordinates formed the basis for WPCW's 1997 request seeking an exemption from the freeze that was then in effect. Unfortunately, however, the *Seventh Further Notice* mistakenly specified that WPCW is to operate its DTV facilities on Channel 49. The allocation of Channel 49 to Jeannette is in error inasmuch as any regional facility operating on Channel 49 would necessarily interfere with WLLS given the fact that WLLS also operates on Channel 49 from a transmitter site only 30 miles from Jeannette.

In its comments filed with respect to the DTV Table of Allotments proposed in the *Seventh Further Notice*, CBS claims that Appendix B to the *Seventh Further Notice* is in error because, with respect to the Jeannette allocation, it specifies the ERP, HAAT and antenna site specified in the 1997 DTV Table of Allotments.[3] In so claiming, CBS relies upon the Commission's February 2006 *Report and Order* amending the DTV Table of Allotments by substituting Channel 49 for Channel 30 at Jeannette, Pennsylvania.[4] That reliance is misplaced, however. As CBS is well aware, that decision is currently under review and cannot stand. WLLS demonstrated in its Petition for Reconsideration of the *Report and Order* that the *Report and Order* is fatally undermined by the fact that the two statutory prerequisites for Commission

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[2] 12 FCC Rcd 14588, 14750 (1997).
[3] Comments of CBS Corporation on Seventh Further Notice of Proposed Rule Making ("CBS Comments"), pp. 8 – 10.
[4] *Johnstown and Jeannette, Pennsylvania*, 21 FCC Rcd 1350 (2006).

action allotting Channel 49 to Jeannette were not met. First, WPCW never filed a maximization application and, in fact, did not file any form of DTV application until after the *Report and Order* was issued. Second, there was no technical problem warranting the allocation of Channel 49 to Jeannette. As a result, both the Commission and WPCW are foreclosed from taking any action that would cause any interference to WLLS.

Evidencing its obvious sensitivity to the fact that WPCW did not file a maximization application, CBS attempts to divert the debate by alluding to several instances in which stations have been granted a change in their digital allocations during the DTV transition that resulted in expanded coverage beyond the original replication area.[5] CBS points, in particular, to two stations, WJSU-TV and WOLF-TV, that have changed channels and made changes in their transmitter site locations during the transition period. CBS argues that those two stations present situations that are "similar" to that of WPCW. In fact, however, an examination of the application filing histories of WJSU-TV and WOLF-TV provides further evidence that WPCW is precluded from operating on Channel 49 because it, unlike, WJSU-TV and WOLF-TV, rather haughtily decided that it was under no obligation to file any form of digital application.

WJSU-TV, even though it was hoping to have its digital allocation change from Channel 58 to Channel 9, filed a DTV application on October 28, 1999, i.e., by the date established for the filing of DTV applications, and then amended that application on April 27, 2000, i.e., just in time to meet the May 1, 2000 due date for the submission of maximization applications.[6] Moreover, there is no indication that the proposed WJSU-TV facilities would in any way interfere with any Class A television station. Moreover, WJSU-TV sought extensions of its construction permit as necessary. Finally, WJSU-TV constructed its DTV facilities and filed the

[5] CBS Comments, Exhibit 10.
[6] See BPCDT- 19991028ACB.

requisite covering license application. By contrast, WPCW did not file a DTV application by the specified due date. It did not file a maximization application by May 1, 2000. It never sought or received any extension of the build-out due dates. It never constructed any DTV facilities. Of course, the WPCW proposal is most fundamentally distinguished from the WJSU-TV proposal in that the WPCW proposal would cause ruinous interference to a protected Class A station.

Similarly, even though it hoped to be able to change its DTV allocation from Channel 9 to Channel 45, WOLF-TV filed a DTV application for Channel 9 in 1998. Although it apparently did not file a maximization application, there is no indication that WOLF-TV was proposing an operation that would interfere with a Class A station. As was also true with respect to WJSU-TV, WOLF-TV filed applications as necessary to obtain extensions of its digital construction permit. Finally, as was also true with respect to WJSU-TV, WOLF-TV constructed its digital facilities and filed the requisite license application. Thus, CBS's reliance upon the WOLF-TV situation is simply misplaced.

In fact, in trying to find situations analogous to WPCW's, CBS need have looked no further than WPCB-DT, a station that operates from the very transmitter site that CBS wishes to use as WPCW's transmitter site. In its most recent facilities modification application (BMPCDT-20020913AAL), WPCB-DT reduced its power in the direction of WTOO-CA from 340 kW to 163 kW to provide the requisite protection to that Class A station.[7] Similarly, in that same application, WPCB-DT provided an interference study demonstrating that it would not cause any interference to Class A station WBYD-CA. CBS should have provided the same level of protection to WLLS. CBS simply refused to do so despite the clear mandate of the CBPA.

At heart, what distinguishes WPCW from WJSU-TV, WOLF-TV and virtually every other television station in the country is that WPCW decided to stonewall the Commission

[7] At the time that WPCB-DT filed its application, WTOO-CA was using the call sign "W23AX."

Apparently deciding that it would be able to rely upon the Commission's largesse, WPCW did not file any DTV application whatsoever until after the issuance of the 2006 Jeannette *Report and Order*. It apparently decided that the Commission would be unwilling to take any action against it for failing to file a DTV application other than imposing a forfeiture and WPCW no doubt concluded that, from a business perspective, it made more sense to pay the fine rather than going to the expense of preparing applications for, and constructing, a facility that it hoped that it would be able to relocate. WPCW took a gamble and, when the CBPA became law, it lost the bet. WPCW knew that it was required to file a maximization application and even informed the Commission that it would be filing a maximization application.[8] It did not file that application. Curiously, the various engineering exhibits filed by WPCW prior to the Reply Comments that it filed in response to the issuance of the 2005 Notice of Proposed Rule Making that led to the 2006 Jeannette *Report and Order* did not even recognize WLLS's existence. This omission is telling. In October 1999, Mr. Schrecongost, after hearing at a trade association meeting that WPCW (which then operated under the call sign "WNPA") was seeking to change its digital allocation from Channel 30 to Channel 49, wrote a letter to WPCW to inform it of WLLS's existence and provide the station's operating parameters, to explain to WPCW that WPCW's operation on Channel 49 would cause ruinous interference to WLLS and to request both that WLLS be served with any pleadings filed by WPCW and be included in any local industry coordinating committee addressing the conflict between WPCW's proposed use of Channel 49 and WLLS's current use of Channel 49. WPCW's counsel responded that WPCW did not intend to take advantage of the services of any coordinating committee, but promised that WPCW would serve

[8] See http://www.fcc.gov/mb/video/files/dtvmax.html. At the time that stations were required to notify the Commission of their intent to file maximization applications, WPCW was using the call sign "WNPA."

WLLS with any filings by WPCW at the Commission.[9] Despite the fact that it had explicitly been placed on notice of WLLS's existence, WPCW chose not to file a maximization application.[10] Given the fact that WPCW had been placed on explicit notice of WLLS's existence, WPCW's failure to file the statutorily-prescribed maximization application is especially arrogant and is in keeping with its failure to file any of the required DTV applications or extension requests. Whatever the reason may have been for WPCW's failure, however, the simple, unalterable fact is that WPCW did not file a maximization application and thus cannot construct facilities that would interfere with WLLS.

Similarly, WPCW failed to demonstrate the existence of any technical problem that warranted a change in its channel. The only technical problem to which even casual reference was made was to an alleged problem with a first-adjacent channel station operating on Channel 29. That station, however, was co-located with WPCW and thus would not present an interference problem. Moreover, as is set forth in the Proposed DTV Table of Allotments appended to the *Seventh Further Notice*, the station that had been allocated DTV Channel 29 has been moved to Channel 8 so, even assuming that there ever was a technical problem, that problem no longer exists.[11]

Simply stated, given the potential for ruinous interference to WLLS, WPCW cannot operate on Channel 49 unless (1) WPCW filed a timely maximization application and (2) a technical problem exists that required the allocation of Channel 49 to WPCW. Because neither

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[9] A copy of the correspondence between Mr. Schrecongost and WPCW, exclusive of WPCW's attached Petition for Rulemaking and Request for Expedited Action presented to the Commission on August 25, 1999, is appended hereto.

[10] WPCW also failed to serve WLLS with its 2000 and 2001 amendments to the rule making proposal whereby it sought to use Channel 49 at Jeannette.

[11] Ironically, in its Comments, CBS proposes reference coordinates for WPCW that are the same coordinates as the coordinates for WPCB-DT, which operates on Channel 50, the channel which is first adjacent to the channel on which CBS would have WPCW operate.

precondition was met, WPCW cannot use Channel 49 and the DTV Table must be modified to once again specify Channel 30 as WPCW's allotted channel. [12]

Respectfully submitted,

LARRY L. SCHRECONGOST

By: _____

John M. Pelkey, Esquire
Garvey Schubert Barer
1000 Potomac Street, N.W.
Fifth Flour, Flour Mill Building
Washington, D.C. 20007-3501
(202) 965-7880

Date: February 26, 2007

DC_DOCS:661436.1

[12] WLLS does not object to the allocation of Channel 30 to Jeannette. Given WPCW's failure to file any DTV application, to construct any DTV facilities or to even seek an extension of the time within which to construct its digital facilities, a question necessarily arises as to whether CBS should be the licensee of the DTV facilities at Jeannette.

Exhibit

Paramount Pictures

Stations Group
5202 River Road
Bethesda, MD 20816
301-986-9322
Fax 301-652-6780

Ray White
Senior Attorney

October 18, 1999

Larry L. Schrecongost
Licensee of Station WLLS-LP
P.O. Box 1032
Indiana, Pennsylvania 15071

Dear Mr. Schrecongost:

This is in response to your letter of October 12, 1999. You state that you are the licensee of low power television station WLLS-LP, which operates on channel 49 in Indiana, Pennsylvania. You make reference to the fact that Paramount Stations Group of Pittsburgh, Inc. (Paramount), licensee of station WNPA-DT, (channel 30), Johnstown, Pennsylvania, has petitioned the Federal Communications Commission (FCC) to change the channel allotment for WNPA-DT to channel 49 at Jeanette, Pennsylvania. You request that you be included as a party with any local advisory coordinating committee that Paramount either has or intends to serve notice upon in connection with our proposed channel change for WNPA-DT.

Paramount has not been involved with any local industry coordinating committee in connection with our request for a channel change for WNPA-DT. Nor does Paramount intend, at least this point, to involve itself with a local advisory coordinating committee with respect to this matter. For your reference, however, enclosed is a copy of our filing with the FCC. Further, as you request, Paramount will serve you with a copy of future filings regarding this matter.

Sincerely,

Raymond A White
Regulatory Counsel
Paramount Stations Group

WLLS-LP TV-49

COPY

P.O. Box 1032
Indiana, PA 15701

Phone 724-349-TV49
Fax 724-349-2518

October 12, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

WNPA Television
Paramount Stations Group of Pittsburgh, Inc.
1501 M Street, N.W.
Washington, D.C. 20005

Dear WNPA Licensee:

At the recent SBE Pittsburgh Chapter's convention equipment display held on September 28, 1999, it casually came to my attention that you may be planning to seek a digital channel allotment change from channel 30 to channel 49 for WNPA. This is to advise you that LPTV station WLLS-LP operates at coordinates North Latitude 40-37-38, West Longitude 79-12-49 on channel 49 and is licensed to Indiana, PA. A copy of the WLLS-LP license is enclosed for your reference.

Any area full power use of channel 49 would displace the established operation of WLLS-LP. Accordingly, WLLS-LP desires to be included as a party with any local industry coordinating committee or stations that you have already, or may intend to, serve notice upon in connection with any contemplated change to the digital allotment scheme for WNPA.

Kindly forward any and all relevant materials to me, as I believe the FCC's *Sixth Report and Order* requires such of full power licensees who seek digital allotment changes impacting on existing LPTV stations. I will expect to receive these materials at your earliest possible convenience at the above address.

Sincerely,

Larry L. Schredongost
Licensee, WLLS-LP

enclosure

Serving Our Area With Pride
An America One Network Affiliate

United States of America

FEDERAL COMMUNICATIONS COMMISSION

LOW POWER TELEVISION / TELEVISION TRANSLATOR BROADCAST STATION LICENSE

Authorizing Official:

Hossein Hashemzadeh
Supervisory Engineer, LPTV Branch
Video Services Division
Mass Media Bureau

Grant Date: JAN 24 1997

Official Mailing Address:

LARRY L. SCHRECONGOST
P.O. BOX 1032
INDIANA, PA 15701

Call Sign: W49BV

This license expires 3:00 a.m. local time, August 01, 1999

License File No.: BLTTL-961230JA

This license covers Permit No.: 960517RH

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Name of Licensee:

LARRY L. SCHRECONGOST

Station Location:

PA - INDIANA

Sign: W49BV License No.: BLTTL - 961230JA

Frequency (MHz): 680.0 - 686.0 Offset: ZERO

Channel: 49

Hours of Operation: Unlimited

Transmitter location (address or description):
APPROX. 2.4 KILOMETERS WEST OF INDIANA, PENNSYLVANIA

Transmitter: Type Accepted. See Section 74.750 of the Commission's Rules.

Antenna type: (directional or non-directional): Directional

Description: SWR SWLP16EC ANTENNA SIDE MOUNTED ON A EXISTING TOWER.

Major lobe directions (degrees true): 305.0

Antenna Coordinates: North Lattitude: 40 37 38.0
West Longitude : 79 12 49.0

Transmitter output power (Visual).....: 1.000 kW

Maximum effective radiated power (Visual) : 21.300 kW

Height of radiation center above ground.....: 79.0 Meters

Height of radiation center above mean sea level : 585.0 Meters

Antenna structure registration number: none

Overall height of antenna structure above ground
(including obstruction lighting, if any).....: 89.9 Meters

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

PARAGRAPH A . , FCC FORM 715-A (MAY 1985):
There shall be installed at the top of the antenna structure a white capacitor discharge omindirectional light which conforms to FAA/DOD Specification L-856, High Intensity Obstruction Lighting Sytems. This light shall be mounted on the highest point of the structure. If the antenna or other appurtenance at its highest point is incapable of supporting the omindirectional light, one or more such lights shall be installed on a suitable adjacent support with the lights mounted not more than 20 feet below the tip of the appurtenance. The lights shall be positioned so as to permit unobstructed viewing of at least one light from aircraft at any normal angle of approach. The light unit(s) shall emit a beam with a peak intensity around its periphery of approximately 20,000 candelas during daytime and twilight, and

approximately 4,000 candelas at night.

PARAGRAPH H . , FCC FORM 715-A (MAY 1985):
All lights shall be syncronized to flash simultaneously at 40 pulses per minute. The light system shall be equipped with a light sensitive control device which shall face the north sky and cause the intensity steps to change automatically when the north sky illumination on a vertical surface is as follows:

1. Day to Twilight: Shall not occur before the illumination drops to 60 footcandles, but shall occur before it drops to 30 footcandles.
2. Twilight to Night: Shall not occur before the illumination drops to 5 footcandles, but shall occur before it drops to 2 footcandles.
3. Night to Day: The intensity changes listed in 1. and 2. above shall be reversed in transitioning from the night to day modes.

PARAGRAPH I . , FCC FORM 715-A (MAY 1985):
During construction of an antenna structure for which high intensity lighting is required, at least two lights shall be installed at the uppermost part of the structure. In addition, at each level where permanent obstruction lighting will be required, two similar lights shall be installed. Each temporary light shall consist of at least 1,500 candelas (peak effective intensity), syncronized to flash simultaneously at 40 pulses per minute. Temporary lights shall be operated continuously, except for periods of actual construction, until the permanent obstruction lights have been installed and placed in operation. Lights shall be positioned to ensure unobstructed viewing from aircraft at any normal angle of approach. If practical, the permanent obstruction lights may be installed at each level as the structure progresses. NOTE: If battery operated, the batteries should be replaced or recharged at regular intervals to preclude failure during operation.

PARAGRAPH A MODIFIED TO REQUIRE USE OF L-865 MEDIUM INTENSITY LIGHTS IN LIEU OF L-856. LIGHTS SHALL EMIT A PEAK INTENSITY OF APPROXIMATELY 2,000 CANDELAS AT NIGHT IN LIEU OF 4,000.

LPTV license operating conditions or restrictions:

None Required

*** END OF AUTHORIZATION ***

LICENSE RENEWAL AUTHORIZATION

THIS IS TO NOTIFY YOU THAT YOUR APPLICATION FOR RENEWAL OF LICENSE, BRTTL-990420AD, WAS GRANTED ON 8/20/1999 FOR A TERM EXPIRING ON 8/1/2007.

CHANNEL: 49

THIS IS YOUR LICENSE RENEWAL AUTHORIZATION FOR STATION WLLS-LP
FACILITY ID: 208
LOCATION: INDIANA, PA

THIS CARD MUST BE POSTED WITH THE STATION'S LICENSE CERTIFICATE AND ANY SUBSEQUENT MODIFICATIONS.

FCC 372 (4/95) NOTIFICATION

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

FIRST CLASS MAIL
POSTAGE & FEES PAID
FEDERAL COMMUNICATIONS COMMISSION
PERMIT NO. G-11

LARRY L. SCHRECONGOST
WLLS-LP UHF TRANSLATOR LOW POWER
P.O. BOX 1032
INDIANA, PA 15701

Certificate of Service

I, Yvette J. Graves, hereby certify that on this 26th day of February, 2007, copies of the foregoing "Reply Comments of Larry L. Schrecongost" have been served by U.S. first-class mail, postage prepaid to the following:

Howard Jaeckel, Esq.
CBS Broadcasting, Inc.
51 West 52nd Street
New York, NY 10019

Yvette J. Graves

Yvette J. Graves

DC_DOCS:661552.1