

**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 WVVA TELEVISION, INC.

WVVA Television, Inc., (“WTI”), licensee of NTSC television station WVVA, Channel 6, and permittee of WVVA-DT, Channel 46, Bluefield, West Virginia (Facility ID No. 74176), by its attorneys and pursuant to Section 1.415 of the FCC’s rules, hereby files its reply comments in the above-captioned proceeding.¹ Specifically, WTI opposes the DTV channel change proposed in initial comments by WMYT-TV, Inc. (“WMYT”), the licensee of WMYT-TV and permittee of WMYT-DT, Rock Hill, South Carolina, to the extent that it would cause additional interference to WVVA-DT above the 0.1% threshold established by the Commission.

I. BACKGROUND

In the 7th *FNPRM*, the Commission asked that television licensees review the accuracy of the information about their stations in the proposed new digital television Table of Allotments (“DTV Table”) and associated Appendix B (containing information about each station’s technical facilities) and to comment on any discrepancies.

Additionally, the FCC stated that where a station already has constructed or received

¹ *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MB Docket No. 87-268, FCC 06-150 (“7th *FNPRM*”).

authorization to construct facilities on its digital tentative channel designation (“TCD”) that provide service to areas that extend beyond that to which the station certified using FCC Form 381, it may file comments proposing to modify its certified facilities to match its authorized or constructed facilities.² In initial comments filed January 25, 2007, WTI proposed that the Commission modify Appendix B to reflect the parameters of WVVA-DT as built on its TCD Channel 46 (see Attachment A for WVVA-DT’s technical parameters as constructed). As explained in WTI’s initial comments, the reason for the slight change in parameters was the necessity to build a new tower, because a structural analysis showed that it was not feasible to add a maximized digital facility to the pre-existing tower. WTI also requested to modify its certified facilities to match its authorized and constructed facilities under CDBS File No. BMPCDT-20060707ABJ. As required by paragraph 29 of the 7th FNPRM, WTI attached an engineering analysis that demonstrated that the constructed facilities do not result in interference in excess of 0.1 percent to any existing TCD.

II. OPPOSITION TO PROPOSED CHANNEL CHANGE

In its initial comments, WMYT proposed the substitution of Channel 46 in lieu of its current TCD Channel 39. WMYT claims that it is eligible for a channel change under Category 1 of Paragraph 25 of the 7th FNPRM: “(1) licensees unable to construct full, authorized DTV facilities³ on the TCDs that they requested and received because, in order to avoid causing impermissible interference to other TCDs and still obtain their preferred channel, they had to agree to construct facilities on their TCD that are smaller

² *Id.* at ¶28.

³ The term “full, authorized DTV facilities” here refers to the original facilities certified by the licensee in its FCC Form 381. The Commission stated that it will not preclude requests for alternative channel assignments from licensees that modified their certified facilities after receiving a conflict letter in the first and second channel election rounds.

than those to which they had certified on FCC Form 381.” As described in the attached engineering statement, WMYT does not fit within Category 1 because WMYT certified maximization on its FCC Form 381, specifying a facility with 200 kW ERP. The FCC subsequently awarded WMYT the TCD it requested and the maximization facilities and power level it certified to.

More significantly from WTI’s perspective, WMYT’s attached engineering statement indicates that the proposed channel change for WMYT-DT would cause new interference substantially above the Commission’s 0.1% threshold to WVVA-DT’s Channel 46. According to WMYT’s engineering statement, the amount of predicted interference caused to WVVA depends on the level of power that would be authorized for WMYT-DT on Channel 46, ranging from 0.67% at 228 kW ERP, to 0.85% at 336.4 kW ERP, and 1.21% at 1000 kW ERP.⁴ In fact, however, because of the slight parameter changes for WVVA-DT as constructed due to the need to build a new tower, the interference to WVVA-DT that would be caused by changing the TCD for WMYT-DT from Channel 39 to Channel 46 would be even greater than is described in the initial comments of WMYT. The engineering statement attached to these reply comments demonstrates that the predicted interference caused to WVVA ranges from 0.8% at 228 kW ERP, 1.0% at 336.4 kW ERP, and 1.6% at 1000 kW ERP.

To the extent the Commission grants WMYT’s proposal to change the TCD of WMYT-DT to Channel 46, the Commission should limit WMYT-DT’s power so that it will cause no more than 0.1% interference to WVVA-DT’s facility as constructed (see Attachment A).

⁴ WMYT has not requested a waiver of the FCC’s 0.1% interference threshold.

Respectfully submitted,
WVVA Television, Inc.

/s/

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February 26, 2007

ATTACHMENT A

WVVA-DT's Proposed Appendix B Parameters To Match As-Built Facility

WVVA-DT
Facility ID: 74176
City/State: Bluefield, WV
DTV Ch: 46
ERP (kW): 1000
HAAT (m): 372
Antenna ID:
Latitude 37° 15' 20"
Longitude 81° 10' 54"
Area (sq. km): 25465
Population (thou): 699
% Interference: 0.2%

ENGINEERING STATEMENT

RE: REPLY COMMENTS OF WVVA TELEVISION, INC.

This statement was prepared on behalf of WVVA Television, Inc. (“WTI”), licensee of analog television broadcast station WVVA, and permittee of WVVA-DT, Bluefield, WV in reply to Comments filed by WMYT-TV, Inc. (“WMYT”), licensee of WMYT-TV/WMYT-DT Rock Hill, SC.

DISCUSSION

In response to the Commission’s *Seventh Further Notice of Proposed Rule Making* (“7th FNPRM”), WMYT has requested a channel change to substitute Channel 46 in lieu of its assigned Channel 39. WMYT alleges that it qualifies for a channel change under Category 1 as set forth in Paragraph 25 of the 7th FNPRM. Category 1 of the 7th FNPRM provides for alternate channel assignment requests only from licenses unable to construct full, authorized DTV facilities on the TCDs that they requested and received because, in order to avoid causing impermissible interference to other TCDs and still obtain their preferred channel, they had to agree to construct facilities on their TCD that are smaller than those to which they certified on FCC Form 381.

WMYT submits that it had anticipated being able to construct maximized facilities of 1000 kW ERP on Channel 39 and certified on its FCC Form 381 that it would

maximize its facilities. That certification, however requests maximization as authorized in BMPCDT- 20000501ACC with facilities of 200 kW at 595 meters AAT. It does not appear that WMYT-DT has been precluded from constructing in accordance with their maximization facilities and, in fact, has, presumably, been operating under an STA (BDSTA-20020515AAW) with the facilities of 200 kW at 571 meters AAT from the transmitter site authorized in BMPCDT-20000501ACC. WMYT's request for an alternate channel is not eligible under Category 1 of Paragraph 25 of the 7th FNPRM since WMYT-DT is technically able to construct its full authorized DTV facilities on its, TCD and did not receive a conflict letter in the first round of channel elections that subsequently resulted in a facility downgrade.

WMYT also submits that in the event the Commission finds that WMYT-DT is ineligible under Category 1 there are a number of factors that justify a waiver to permit WMYT-DT to change its channel to Channel 46. The primary justification for the waiver is that the channel change will increase the number of viewers capable of receiving an over-the-air digital service after the transition.

The issue of increased service is addressed in an engineering statement attached to WMYT's Comments. The statement provides the results of interference studies and populations served with WMYT-DT operating with power levels of 228 kW, 336.4 kW and 1000 kW on Channel 46. The 228 kW level is sufficient to replicate the authorized power for WMYT-DT on Channel 39, the 336.4 kW level is the maximum power permissible at the proposed HAAT and the 1000 kW level is described as necessary in

order to match the largest station facility in the DMA. At 228 kW there is a slight reduction in service, at 336.4 kW there is an increase in service of 3.98 percent over the Channel 39 authorization and at 1000 kW there is an increase of 18.7 percent.

As reported by WMYT's consulting engineer the WVVA-DT Post-Transition TCD at Bluefield, WV on Channel 46 will receive new interference of 0.67 percent with WMYT-DT operating on Channel 46 with 228 kW, new interference of 0.85 percent with WMYT-DT operating with 336.4 kW and 1.21 percent with WMYT-DT operating with 1000 kW. It should be noted that WTI submitted comments on January 25, 2007 requesting a slight change in the WVVA-DT TCD. The change was due to the necessity of constructing of a new tower to support the WVVA antenna. Although the change was minimal, interference studies of the proposed change in certification were conducted to demonstrate compliance with the 0.1 percent new interference limitation. The analysis results were submitted with the comments, to demonstrate that the change will not result in any interference in excess of 0.1 percent to any existing licensee's TCD. Upon analysis of the impact on the WVVA TCD, as modified, the WMYT-DT proposed power levels on Channel 46 result in slightly higher levels of interference than would be received by the current WVVA TCD. With WMYT-DT at 228 kW, WVVA-DT will receive interference to 0.8 percent of the TCD; with WMYT-DT at 336.4 kW WVVA-DT will receive interference to 1.0 percent of the TCD; and, with WMYT-DT at 1000 kW, WVVA-DT will receive interference to 1.6 percent of the TCD.

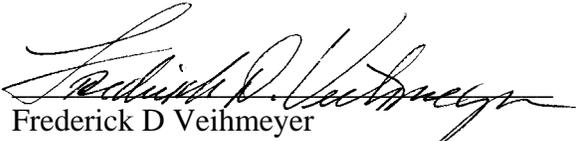
OPPOSITION TO PROPOSED CHANNEL CHANGE

The 7th FNPRM states that at this stage in the DTV channel election process the Commission will consider requests for alternative channel assignments only from licenses that meet the conditions described in Paragraph 25 of the notice. The WMYT proposal does not meet those conditions and therefore should not be considered by the Commission at this time.

The Commission also made it perfectly clear in the 7th FNPRM that during the seventh and final stage of the DTV channel election process they will continue to limit additional interference to DTV stations to 0.1 percent. As described above, the WMYT proposal will cause interference to WVVA in excess of 0.1 percent at all three power levels proposed for WMYT-DT based on the Comments submitted on behalf of WMYT.

The proposal by WMYT is not eligible for consideration under the conditions described in Paragraph 25 of the 7th FNPRM and as proposed WMYT-DT will cause impermissible interference to the WVVA TCD and therefore should be set aside until the proposed DTV Table of Allotments is finalized by the Commission and the freeze of TV applications and petitions for rulemaking is lifted.

Respectfully submitted,
Lohnes and Culver


Frederick D Veihmeyer

February 2007