

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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

To: The Commission

**OPPOSITION OF  
WTNH BROADCASTING, INC.**

Pursuant to Section 1.429(f) of the Commission’s rules,<sup>1</sup> WTNH Broadcasting, Inc. (“LIN”), licensee of WTNH-TV/DT, New Haven, Connecticut (Facility ID 74109) (DTV Ch. 10) (“WTNH”), by its attorneys, hereby opposes the Petition for Reconsideration (“Petition”) of the Seventh Report and Order (“*Seventh R&O*”)<sup>2</sup> in the above-captioned proceeding filed by Connecticut Public Broadcasting, Inc. (“CPBI”), licensee of station WEDN-TV/DT, Norwich, Connecticut (Facility ID 13607) (DTV Ch. 9) (“WEDN”).<sup>3</sup> The Petition proposes to increase certain technical parameters of the post-transition digital television (“DTV”) facilities of WEDN found in Appendix B (“DTV Table”) of the *Seventh R&O*. The proposed changes to WEDN’s facilities will cause additional interference to WTNH, above and beyond the interference that WEDN’s currently allotted facilities cause, resulting in a cumulative loss to

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<sup>1</sup> 47 C.F.R. § 1.429(f).

<sup>2</sup> See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Seventh Report and Order, 22 FCC Rcd 15581 (2007) (“*Seventh R&O*”).

<sup>3</sup> See Petition for Reconsideration of Connecticut Public Broadcasting, Inc., MB Docket No. 87-268 (filed Oct. 26, 2007) (“Petition”). The Petition was placed on public notice by Federal Register publication on November 16, 2007. See 72 Fed. Reg. 64628 (Nov. 16, 2007).

WTNH of nearly 70,000 existing viewers. For the reasons discussed below, LIN respectfully requests that the Petition be denied.

In the *Seventh R&O*, WEDN received a substitute allotment on DTV channel 9 in Norwich, Connecticut, for post-transition operation with a directional ERP of 3.2 kW.<sup>4</sup> As a result of the new allotment, WEDN will be able to increase its service area to include previously unserved viewers in Connecticut and bordering states. However, WEDN's newly allotted 3.2 kW facility on channel 9 is predicted to cause significant interference to WTNH's licensed DTV facilities on channel 10. Specifically, with its present allotment, WEDN will cause interference to over 47,000 viewers currently served by WTNH.<sup>5</sup>

Not content with its windfall in the *Seventh R&O*, WEDN now proposes to increase its ERP from 3.2 kW to 6.0 kW and to use a non-directional antenna in lieu of the directional antenna specified in the DTV Table. The proposed higher power facilities will enable WEDN to further increase service but also will significantly increase the already existing interference to WTNH by an additional 21,000 viewers.<sup>6</sup> In total, WEDN's proposed facilities are predicted to cause unique interference to nearly 70,000 viewers currently served by WTNH, representing 1.1 percent of WTNH's interference-free service population.<sup>7</sup>

The Petition contends that any increase in interference resulting from WEDN's higher power facilities should be permitted under the 2.0 percent interference standard.<sup>8</sup>

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<sup>4</sup> See *Seventh R&O*, ¶ 110 & Appendix B.

<sup>5</sup> See Engineering Exhibit, attached hereto.

<sup>6</sup> See *id.*

<sup>7</sup> See *id.* Engineering Exhibit, attached hereto. The differences between WEDN's current and proposed facilities are summarized in Attachment A hereto.

<sup>8</sup> See Petition at 3.

Regardless of the applicable interference standard,<sup>9</sup> the relief requested in the Petition disserves the public interest and should be denied for several reasons. First, WEDN already has had the benefit of a new allotment on DTV channel 9 that will enable it to increase service, to the detriment of WTNH, by creating new interference to over 47,000 viewers. The changes proposed in the Petition will exacerbate this harm by further decreasing WTNH's service area by 21,000 viewers—in addition to the 47,000 viewers who already are predicted to receive harmful interference from WEDN's current facilities. A loss of existing viewers of this magnitude would be objectionable to any station. In fact, the Commission recently approved a channel swap for WEDN's sister station, WEDH-TV/DT, Hartford, Connecticut ("WEDH"), because WEDH was expected to lose 20,000 viewers due to interference on its former allotment.<sup>10</sup>

Moreover, because WTNH-DT was an early adopter of DTV technology and has been on the air for nearly a decade,<sup>11</sup> the increased interference will affect existing viewers of WTNH. In contrast, WEDN's proposal represents a gain of currently unserved viewers located

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<sup>9</sup> In fact, it not entirely certain what the applicable interference standard for post-transition DTV operations will be. The Commission has proposed to replace its 2.0 interference standard for requested changes to the post-transition DTV Table with a more stringent standard. *See Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rulemaking, 22 FCC Rcd 9478, ¶ 104 (2007). Moreover, as the Commission recently affirmed, the higher 2.0 percent interference standard "was appropriate in the context of *pre*-transition digital operations" and "in developing the *initial* DTV Table . . . to fit DTV stations in the DTV Table while analog stations were also in operation." *See Seventh R&O*, ¶ 31 (emphasis added); *see also* 47 C.F.R. § 73.623(c)(1) (petitions to modify a channel allotment included in the *initial* DTV Table of Allotments must satisfy 2 percent interference standard) (emphasis added). WEDN's proposal relates to the *post*-transition digital operation of the station, and this proceeding concerns the development of the *final* DTV Table.

<sup>10</sup> *See Seventh R&O*, ¶ 110; *see also Seventh FNPRM*, ¶ 40.

<sup>11</sup> WTNH-DT was first licensed in 1999. *See* File No. BLCDT-19990416KI (granted May 12, 1999).

in areas largely outside of the state of Connecticut where WEDN is chartered to serve.<sup>12</sup>

Consequently, viewers in WEDN's gain area have no expectation of service from WEDN, which is not the case with the 70,000 existing viewers WTNH will lose. Moreover, the service area of WEDN's sister station WEDH almost completely encompasses the area where WEDN is proposing to increase service.<sup>13</sup> As both stations are commonly owned and operated by Connecticut Public Television and air virtually identical programming, the additional service WEDN proposes will be duplicative.<sup>14</sup> Thus, there is no benefit in granting WEDN's proposal to the further detriment of the DTV service that WTNH has provided to the public for years.

The Petition also contends that WEDN's proposal should be afforded priority because CPBI filed a petition for rulemaking and subsequent application proposing WEDN's use of channel 9 prior to the commencement of the channel election process.<sup>15</sup> However, when it established the channel election process, the Commission made clear that, although it would attempt to accommodate new allotments in outstanding or completed rulemakings, "there may be a few cases where [it] must modify, restrict or eliminate [a] requested allotment in order to accommodate all eligible broadcasters with a post-transition DTV allotment."<sup>16</sup> The Commission's action in this proceeding, which granted WEDN a new allotment on channel 9 at 3.2 kW and minimizes interference to other stations, is entirely consistent with this stated policy. Consequently, there is no merit to the allegations in the Petition that the Commission's action

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<sup>12</sup> See CPBI Ex Parte Filing, MB Docket No. 03-15 (filed May 25, 2006).

<sup>13</sup> See *id.*

<sup>14</sup> See Connecticut Public Television, available at <http://www.cptv.org/about/networks.asp>.

<sup>15</sup> See Petition at 2-3.

<sup>16</sup> *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd 18279, ¶ 67 (2004).

“fails to reach the standard of ‘reasoned decision-making’” and “violates the requirements of the Administrative Procedure Act.”<sup>17</sup> To the contrary, by granting WEDN a new allotment on channel 9 at 3.2 kW, the Commission has significantly improved the service WEDN will be able to provide post-transition while preventing additional service loss to 21,000 viewers currently served by WTNH.

Finally, the relief requested in the Petition should be denied as a premature modification request. In the *Seventh R&O*, the Commission dismissed similar premature and speculative requests to change the post-transition facilities of stations that will operate on a different channel from their current DTV channel.<sup>18</sup> Like these stations, WEDN will migrate to a VHF channel for post-transition operation.<sup>19</sup> Although the Commission has acknowledged that stations in this situation may need to request different operating parameters from those currently specified in the DTV Table, it also has given clear direction on this issue. Specifically, stations should apply to modify their post-transition facilities in their applications for their post-transition facilities.<sup>20</sup> Thus, WEDN will have an opportunity at a later date to modify its post-transition facilities in accordance with the standards that will be adopted in the Third DTV Periodic Review proceeding.<sup>21</sup>

In sum, the relief requested in the Petition will result in additional harmful interference to WTNH with no commensurate benefit to the public. WEDN already benefits from a substantially improved service area with its new allotment in the DTV Table, whereas

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<sup>17</sup> Petition at 2.

<sup>18</sup> See *Seventh R&O*, ¶ 87.

<sup>19</sup> See Petition at 2.

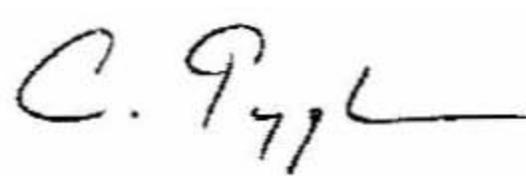
<sup>20</sup> See *Seventh R&O*, ¶ 87.

<sup>21</sup> See *id.*; see also *Third Periodic NPRM*, ¶ 93.

WTNH has suffered a significant service loss as a result of the new allotment. Further expansion of WEDN's facilities to include currently unserved areas would result in even greater harm to WTNH's existing viewers. For the foregoing reasons, LIN respectfully requests that the Petition be denied.

Respectfully submitted,

**WTNH BROADCASTING, INC.**

A handwritten signature in black ink, appearing to read "C. Tygh". The signature is written in a cursive style with a long horizontal stroke at the end.

By: \_\_\_\_\_  
Mace J. Rosenstein  
Christopher G. Tygh

COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue NW  
Washington, DC 20004-2401  
(202) 662-6000

Its Attorneys

December 3, 2007

**ATTACHMENT A**

<b>WEDN-DT Norwich, CT DTV Ch. 9</b>	<b>ERP (kW)</b>	<b>HAAT (meters)</b>	<b>Antenna ID</b>	<b>Interference to WTNH-DT, New Haven, CT DTV Ch. 10</b>
Current Allotment	3.2	192	75021	0.76% 47,719 persons
Proposed Allotment	<u>6.0</u>	192	<u>Non- Directional</u>	1.1% 69,041 persons



**Engineering Statement Concerning  
Proposed Post DTV Transition Allotment Parameter Change by  
WEDN Norwich, CT and Potential Impact on WTNH New Haven, CT  
November 30, 2007**

In the recently concluded Federal Communications Commission (FCC) Post Transition Digital Television (DTV) channel election process WEDN Norwich, CT selected and was allotted channel 9. The allotment parameters for this facility were based on replicating the service of a facility proposed in an application by WEDN for channel 32 (BMPEDT-20031008AAT) as specified in its PRE-ELECTION CERTIFICATION FORM 381 filing. The channel 32 application was in connection with a proposed channel swap between WEDN and WEDH Hartford, CT. This application has been dismissed and WEDN is currently operating on its original DTV allotted channel 45.

WEDN contends that at the time the Form 381 was filed it had a pending Rule Making Petition (BPRM-20040109AEI) to move its DTV operation to channel 9 utilizing a non-directional antenna with an effective radiated power (ERP) of 6 kW at a height above average terrain (HAAT) of 192 m. WEDN further contends that the FCC would not let it specify the channel 9 facility in its Form 381 filing. In view of that WEDN has asked that its post transition allotment parameters be modified to reflect those specified in the yet to be granted Rule Making Petition BPRM-20040109AEI.



It is noted that had the channel 9 facility listed in the allotment table not been considered as an existing DTV allotment it would have failed the election process criteria in that it would have caused interference in excess of the permitted 0.1% to at least WTNH (0.18%) (Its potential impact on other stations was not evaluated). In addition, the proposal to amend that allotment and increase the power and use a non-directional antenna would have further violated the election criteria by causing 0.27% interference to WTNH.

An analysis of the impact of the WEDN post transition channel 9 allotment on the channel 10 allotment of WTNH indicates that it is predicted to cause interference to 47,719 (0.76%) people whereas the modified facility proposed by WEDN would increase the predicted interference to 69,041 (1.1%). Please note that these percentages are greater than those discussed above because the analysis conducted for the channel election process was in the current environment and included interference masking from both existing analog and digital stations whereas the post transition interference masking environment is substantially different.

It is also noted that all of the above computations are based on the FCC's analysis methodology wherein the analysis grid cell size is set at 2 km and any analysis grid points that are identified by the Longley-Rice propagation analysis model as potentially unreliable are ignored. The consequences of this methodology (ignoring specific cells) are that any



cells where the service prediction is flagged as potentially unreliable, the assumption is made that service exists at that cell. However, no interference computations are made toward these cells because the desired signal level prediction is assumed to not be valid.

In view of the above a second analysis was performed with the Longley-Rice flags ignored. In addition a more accurate grid cell size of 1 km was also used. That analysis shows that the predicted interference population caused by the WEDN allotment to WTNH is 64,280 (1.1%) and the predicted interference from the proposed amended WEDN facility increases to 86,016 (1.4%)

Attached to this report are maps showing the impact of both the allotted WEDN facility and the proposed 6 kW omni-directional WEDN facility on WTNH for both the FCC methodology and the alternative methodology as discussed above. As can be seen from the maps the interference from WEDN is clearly within the DMA served by WTNH. In addition, the significant number of cells where the FCC's methodology assumes service without any actual computation of either service or interference is clearly evident (the un-computed cells are shown in gray).

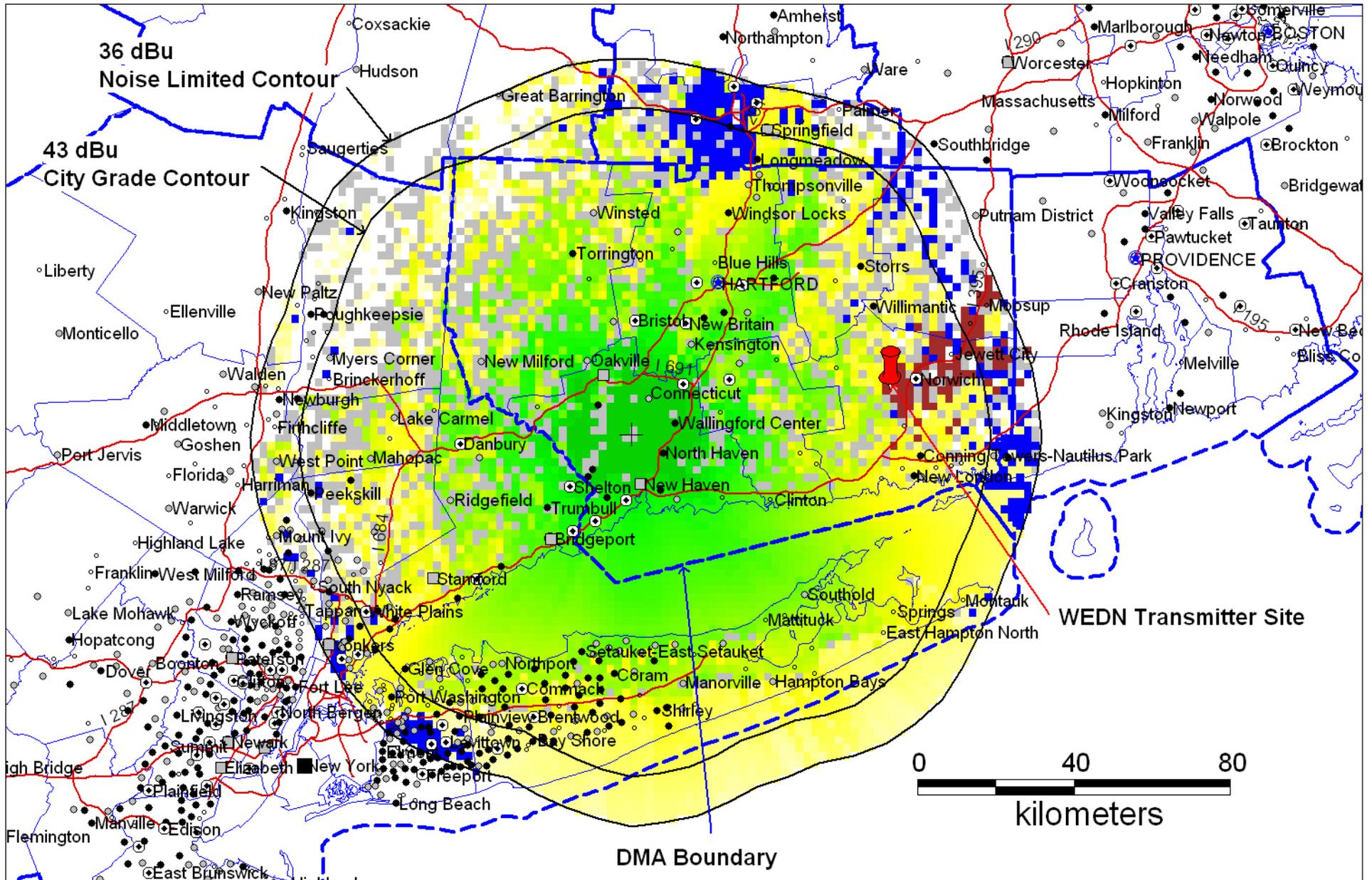
In that the request to change the pre-transition allotment of WEDN to channel 9 has not been granted there would not appear to be any basis for allowing the requested modification



of the WEDN allotment. Also there is even a question raised as to whether the allotment should have even been made in the first place. However, even if the allotment is allowed there is no current criteria for allowing changes that would increase interference to other allotments.

The above was prepared by:

William R. Meintel  
Partner, Meintel, Sgrignoli & Wallace



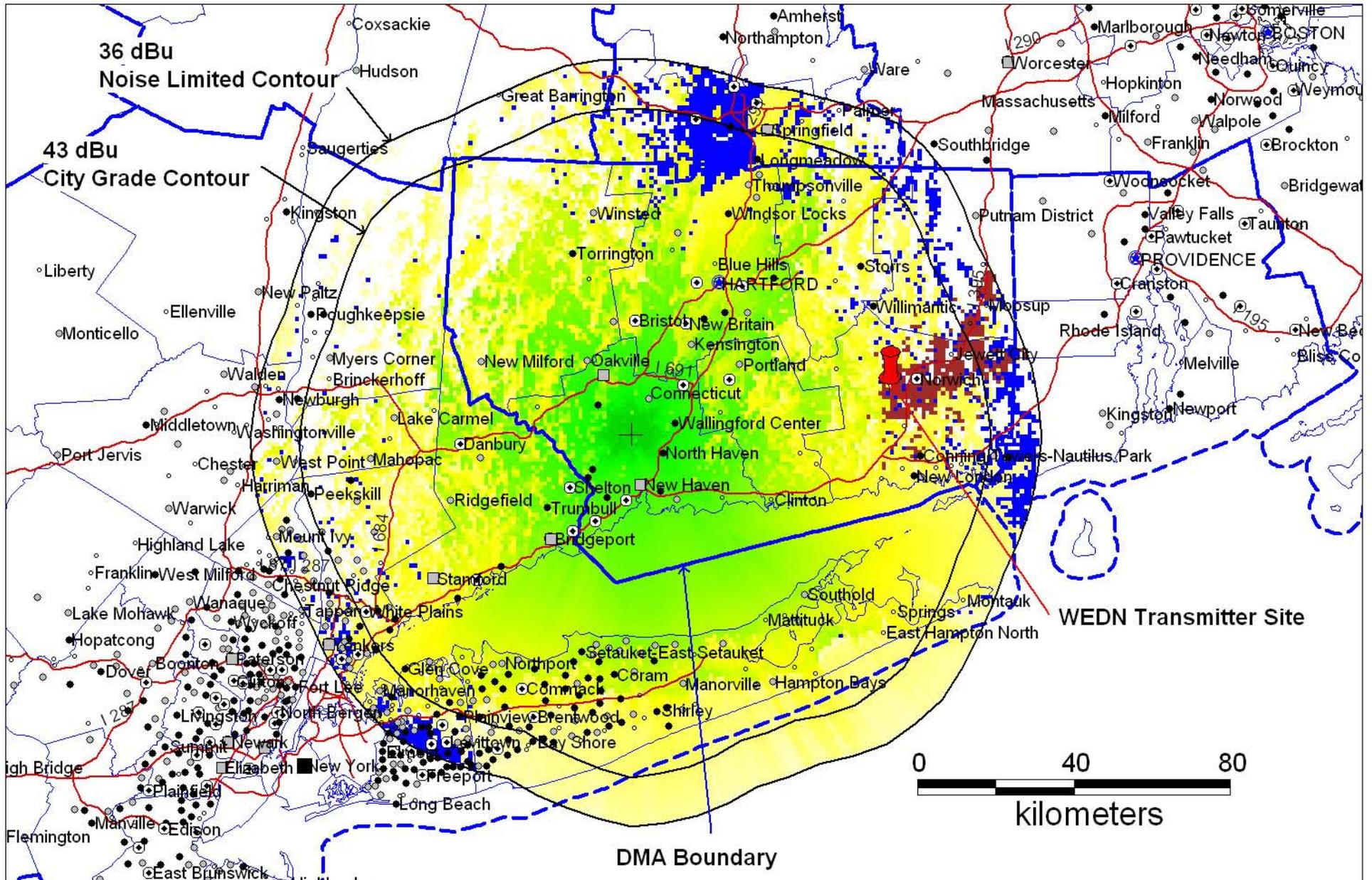
**WTNH Channel 10 New Haven, CT**

Green indicates high field strength fading  
to yellow and then to white at the Grade B threshold

Blue indicates DTV interference Gray indicates uncomputed points due to Longley-Rice Flags

Red indicates new interference from WEDN Channel 9 Norwich, CT Allotment Facility

Computation based on 2 km grid cells



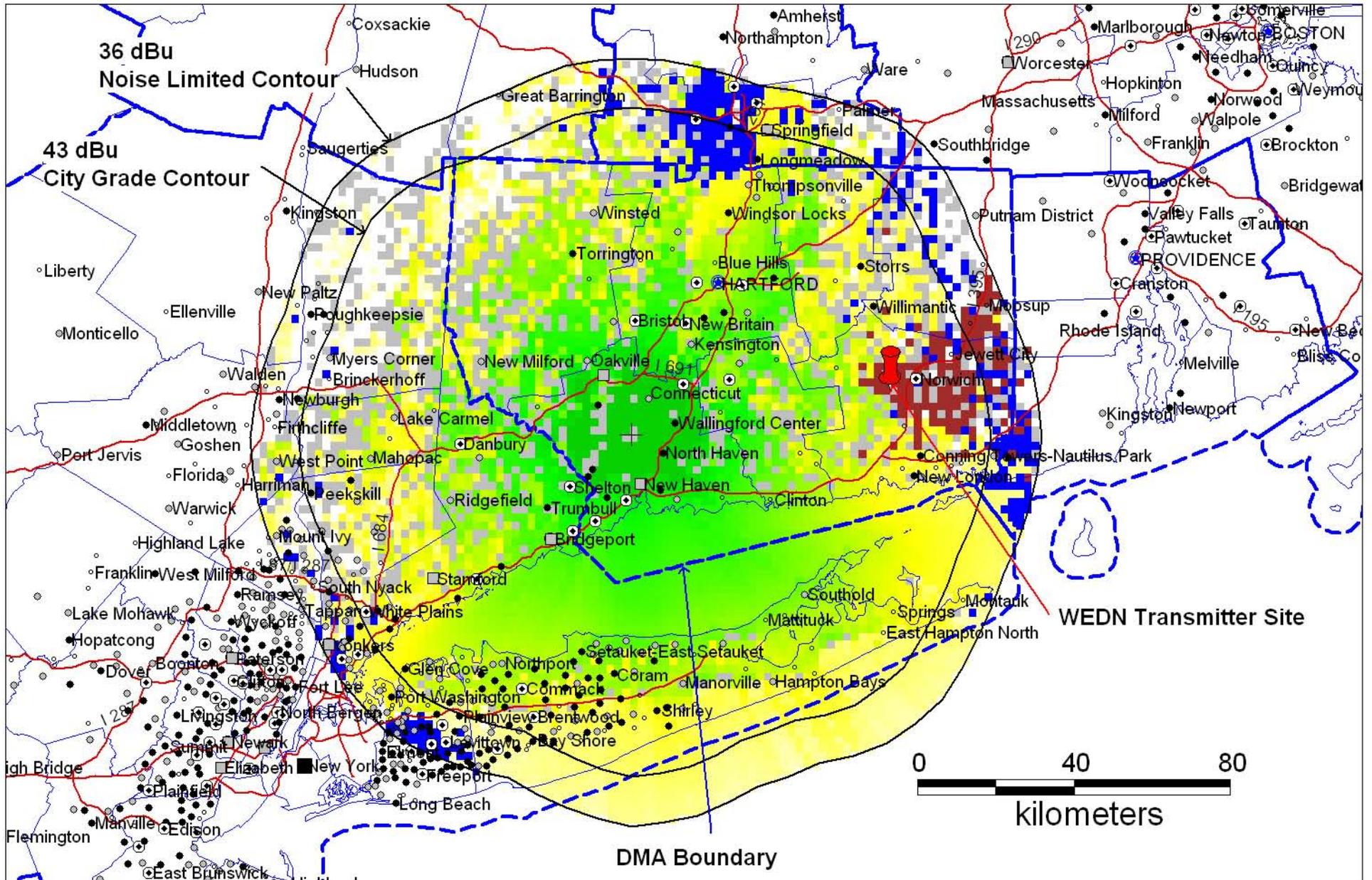
**WTNH Channel 10 New Haven, CT**

Green indicates high field strength fading  
to yellow and then to white at the Grade B threshold

Blue indicates DTV interference

Red indicates new interference from WEDN Channel 9 Norwich, CT Allotment

Computation based on 1 km grid cells and Longley Rice Flags Ignored



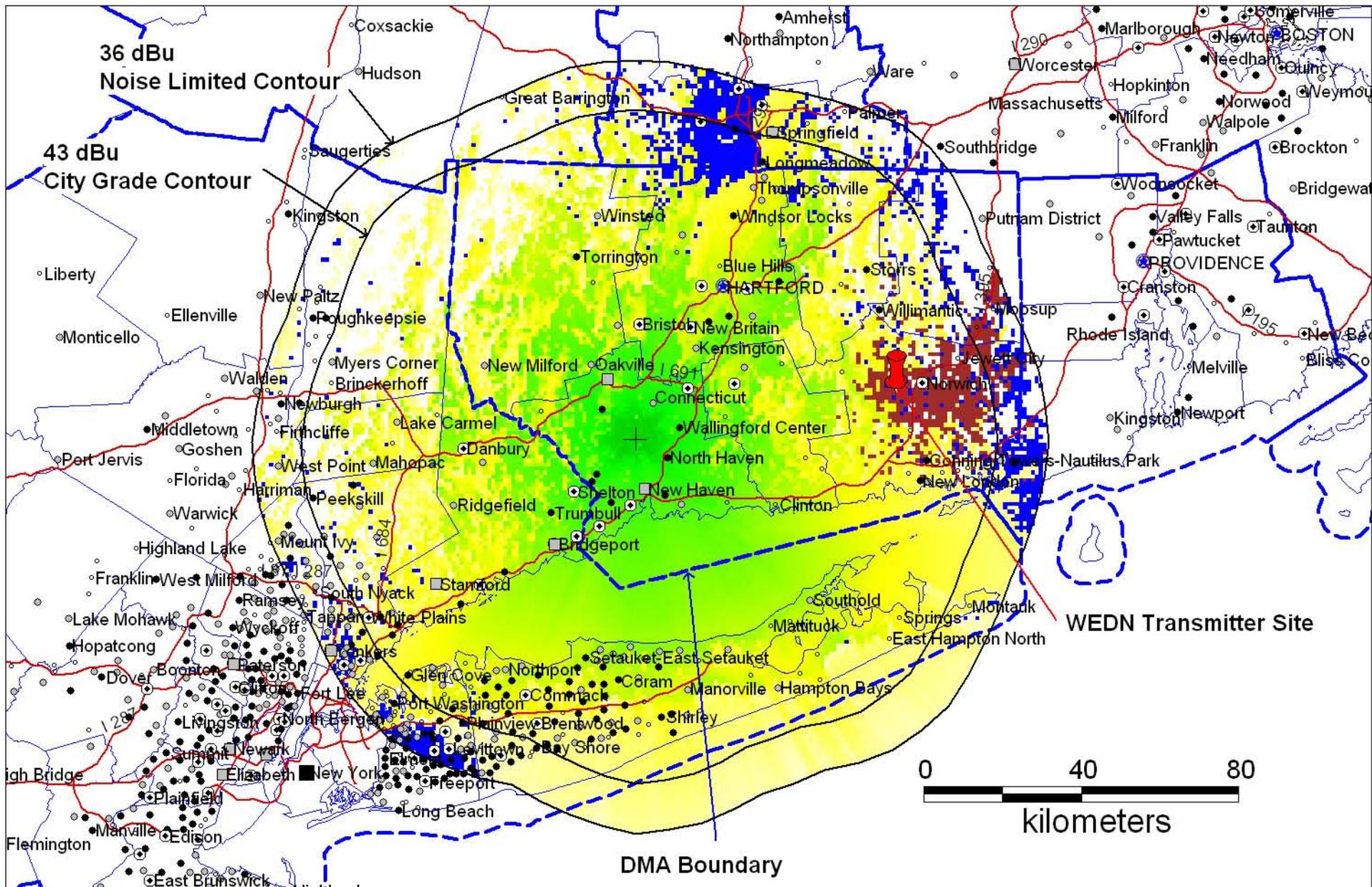
**WTNH Channel 10 New Haven, CT**

Green indicates high field strength fading  
to yellow and then to white at the Grade B threshold

Blue indicates DTV interference Gray indicates uncomputed points due to Longley-Rice Flags

Red indicates new interference from WEDN Channel 9 Norwich, CT at 6 kW Omni

Computation based on 2 km grid cells



**WTNH Channel 10 New Haven, CT**

Green indicates high field strength fading  
to yellow and then to white at the Grade B threshold

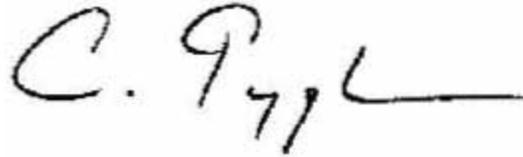
Blue indicates DTV interference

Red indicates new interference from WEDN Channel 9 Norwich, CT at 6 kW Omni

**CERTIFICATE OF SERVICE**

I, Christopher G. Tygh, hereby certify that on December 3, 2007, a copy of the foregoing Opposition of WTNH Broadcasting, Inc., was sent via first class mail, postage prepaid, to the following:

Steven C. Schaffer  
Schwartz, Woods & Miller  
Suite 610, The Lion Building  
1233 20th Street, N.W.  
Washington, DC 20036  
*Counsel to Connecticut Public Broadcasting, Inc.*

A handwritten signature in black ink, appearing to read "C. Tygh", with a horizontal line extending to the right from the end of the signature.

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Christopher G. Tygh