

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

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

To: The Commission

Reply to Opposition to Petition for Reconsideration

WOOD License Company, LLC (“LIN”) hereby replies to the Opposition filed by Barrington Traverse City License LLC (“Barrington”) to LIN’s Petition for Reconsideration (“Petition”) of the Commission’s decision in Eighth Report and Order, *Advanced Television Systems and Their Impact Upon the Existing Television Service*, 23 FCC Rcd 4220 (2008) (“*Eighth Report and Order*”), with respect to the changes the Commission made in the Appendix B facilities specified for Station WPBN-DT, Traverse City, Michigan (Facility ID No. 21253).

LIN, the licensee of Station WOOD-DT, Grand Rapids, Michigan, argued in the Petition that the facilities specified for WPBN-DT would reduce digital service because the changes to Appendix B would result in two full-power television stations operating on channel 7 in close proximity to one another, resulting in substantial interference to the post-transition operations of both stations. LIN pointed out in the Petition and in its Informal Objection to Barrington’s application for a construction permit^{1/} that the combination of Barrington’s initial request to

^{1/} Informal Objection to Application of Barrington Traverse City License LLC, FCC File No. BPCDT-20080321ACW (filed March 28, 2008). The Informal Objection was also appended to LIN’s Petition.

change its post-transition digital channel and its last-minute request to move its post-transition facility 55.7 kilometers south of the location originally specified for WPBN would result in *46 times more interference* than the Commission's 0.1 percent limit on new interference for stations asking to change digital channels.^{2/}

Barrington does not argue with LIN's central premise – that operating two stations on the same channel in adjacent markets and in close proximity will result in substantial and ongoing interference to local television service. It claims only that Commission policy permits these levels of interference because they are no higher than the interference that WOOD-DT suffered *pre-transition* from WPBN-TV's *analog* operations.

LIN recognized that the Commission, in granting Barrington's petition for reconsideration to change WPBN-DT's Appendix B facilities, had indeed treated the pre-transition interference to WOOD-DT as a baseline from which to measure post-transition interference.^{3/} The issue addressed in LIN's Petition was not whether the Barrington request might technically comply with the maximum limits on interference allowed in any circumstance by the Commission, but instead whether granting a request that would result in such high levels of long-term interference was consistent with the Commission's stated goal of achieving the maximum level of interference-free digital service,^{4/} particularly where there was no showing that Barrington lacked alternatives for post-transition digital service for WPBN. Barrington's Opposition does not attempt to address that question.

^{2/} Report and Order, *Second Periodic Review of the Commission's Rules and Practices Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279, 18302 (2004) ("Second Periodic Review").

^{3/} Petition at 2; Informal Objection at 6.

^{4/} See, e.g., Notice of Proposed Rulemaking, *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 22 FCC Rcd 9478, 9483 (2007).

As explained in the Petition, a shortage of available channels – particularly given the close proximity of these stations to Canada – resulted in WOOD-DT being assigned channel 7 for pre-transition operations, the same channel used by WPBN-TV to provide analog service. That short-spaced allocation was hardly desirable since it resulted in high levels of interference. WPBN was assigned channel 50 for its pre-transition channel, and constructed its digital facility in Traverse City, its community of license, many miles to the north of its analog transmitter. In 2004, WPBN told the Commission that it would use the channel 50 facility in Traverse City as its permanent digital facility.^{5/} It later elected instead to return to its analog channel, but did not then indicate that it planned to broadcast from its analog location. The Commission acceded to its request, assigning it channel 7, using the transmitter, antenna, location and power levels that WPBN-DT is using pre-transition.^{6/} Only then did Barrington ask to use its pre-transition facility for its post-transition digital operations.

Barrington (Opposition at 4 n.10) discounts the significance of this history because these certifications and elections were made by a previous licensee. That fact is irrelevant; when Barrington acquired WPBN, the information concerning its digital elections was publicly available. Barrington must be deemed to have had full knowledge of them. It cites no decision even suggesting that subsequent licensees are free to disregard channel elections and other engineering choices earlier made by their predecessors. Such a policy would lead to constant instability.

The only reason Barrington suggests as a justification for moving to its pre-transition facility is that, from its Traverse City location, it would not be able to serve “a significant

^{5/} See FCC File No. BCERCT-20041103AHR.

^{6/} Seventh Report and Order, *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 22 FCC Rcd 15581, 15625 & Appendix B (2007). That assignment would have resulted in interference to only 33 persons in WOOD-DT’s service area.

number of persons served by the WPBN analog facilities.” First, the limitations on WPBN’s digital service were a direct result of the choices WPBN itself made in the Commission’s channel election process.^{7/} Second, Barrington does not offer any evidence that it could not have modified the facilities at either location to avoid or reduce interference to WOOD-DT, while serving a greater part of its analog population, perhaps by installing a directional antenna or increasing power on channel 50. Third, since the increase in Barrington’s ability to provide service to more of the population in WPBN’s analog service area is mirrored by the *reduction* in LIN’s ability to serve the population who now receive analog service from WOOD-TV,^{8/} this argument does not establish that the public interest weighs in favor of Barrington’s proposal.

Instead, the public interest weighs heavily in favor of reconsideration. Unlike the pre-transition allocations for WOOD-DT and WPBN-DT, where high levels of interference had to be accepted because there were no viable alternatives, and the interference was temporary; the allocation approved for WPBN-DT in the *Eighth Report and Order* is permanent, and under Commission procedures, could be made worse if Barrington seeks to maximize its facilities. Many viewers in the Grand Rapids DMA will as a result lose over-the-air NBC network service altogether. The Commission has appropriately sought to avoid digital allocations which result in a loss of over-the-air service.

^{7/} Contrary to Barrington’s suggestion, LIN is not arguing that the Commission’s channel election process should not apply to WPBN. Instead, LIN points to the history to show that Barrington had alternatives that it, or its predecessor licensee deemed acceptable, and that – since the present conflict is one entirely of Barrington’s own making, it should not be allowed to change decisions on which LIN relied. For, as LIN pointed out, the Commission expected that, in making their channel elections, stations like WOOD would “be able to consider the *commitments* of other licensees” made in their certifications. Report and Order, *Second Periodic Review of the Commission’s Rules and Practices Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279, 18296 (2004)(emphasis added).

^{8/} Informal Objection at 6 & Appendix A. Much of the interference to WOOD-DT will occur in counties in the Grand Rapids DMA and in the area where WOOD-TV now provides interference-free analog service.

If the decision in the *Eighth Report and Order* is not reconsidered, the result will be two full-power digital television stations separated by only 177.3 kilometers. Under the Commission's *analog* mileage separation rules, the minimum distance allowed between co-channel allotments in Zone I was 272.7 kilometers. See Section 73.610(b) of the Commission's Rules, 47 CFR § 73.610(b). And, as the Commission has recognized, DTV stations have a greater interference impact on a co-channel DTV station than on a similar NTSC station.^{9/} The allocation granted to Barrington on its face, therefore, violates good engineering practices and should be reconsidered.

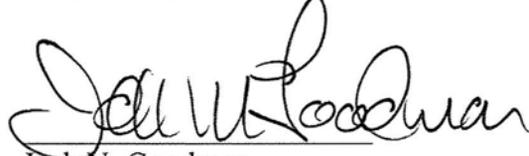
Another reason supporting reconsideration is the fact that, unless Barrington stays with its pre-transition digital facility, it must construct a new digital plant. LIN, by contrast, has completed construction and licensing of the WOOD-DT facilities. Having constructed and licensed complete new facilities in reliance on the Commission's earlier decisions and on the certifications by WPBN, LIN should not at this point be subjected to new interference on that facility.

Barrington has not claimed that there are no feasible alternatives to the extreme short-spacing it proposed. Unless there are no alternatives, the public interest does not support the Commission's decision to diminish digital service for viewers of both stations. Accordingly, the

^{9/} *Second Periodic Review*, 19 FCC Rcd at 18299.

Commission should reconsider the changes specified in the *Eighth Report and Order* for the Appendix B facilities for WPBN-DT.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jack N. Goodman". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Jack N. Goodman
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 663-6000

Jean W. Benz
Senior Regulatory Counsel
LIN Television Corporation
4 Richmond Square, Suite 200
Providence, Rhode Island 02906
(401) 457-9525

Counsel for WOOD License Company, LLC

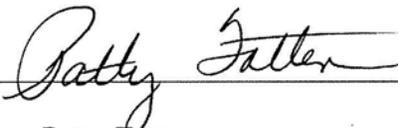
May 30, 2008

Certificate of Service

I, Patty Totten, hereby certify that I have, this 30th day of May, 2008, caused to be sent by mail, first-class postage prepaid, copies of the foregoing "Reply to Opposition to Petition for Reconsideration" to:

Marnie K. Sarver, Esq.
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006

Counsel for Barrington Traverse City License LLC


Patty Totten