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BY ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: TELEVISION STATION SECTION 339(a)(2)(D)(viii) WAIVER REQUEST
REQUEST FOR EXTENSION OF SHVERA WAIVER
MB Docket No. 05-317
WBOY-DT, Clarksburg, WV (Facility ID No. 71220)**

Dear Ms. Dortch

On behalf of West Virginia Media Holdings, LLC, licensee of WBOY-TV (analog channel 12/pre-transition digital channel 52/post-transition digital channel 12), Clarksburg, WV, the purpose of this submission is to request a further extension of the waiver of Section 339(a)(2)(D) of the Communications Act, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"), that was granted to WBOY-DT on July 13, 2007¹ ("July 2007 Order"), and subsequently extended on January 16, 2008² and June 6, 2008³. The waiver is currently scheduled to expire on December 15, 2008.⁴

In support hereof, the following is respectfully shown:

¹ Order, "Waiver of Digital Testing Pursuant To the Satellite Home Viewer Extension and Reauthorization Act of 2004," 22 FCC Red 12918 (Chief, Media Bureau, released July 13, 2007).

² Order, 23 FCC Red 396 (Chief, Media Bureau, released January 16, 2008) ("January 2008 Order").

³ Letter to Ellen Mandell Edmundson, DA 08-1276, 23 FCC Red 8602 (Chief, Video Division, released July 6, 2008) ("June 2008 Extension").

⁴ The instant request is filed more than 60 days prior to the current expiration date, and therefore is timely filed.

Section 339(a)(2)(D), as amended, permits certain satellite subscribers to attempt to demonstrate eligibility for satellite reception of the digital signals of distant network stations based on signal strength testing of the over-the-air digital signal of the local station affiliated with that network. Section 339(a)(2)(D)(viii) of the Act authorizes the Commission, under certain enumerated circumstances, to grant waivers of Section 339(a)(2)(D) to local network-affiliated stations, thereby prohibiting satellite subscribers from receiving or conducting such digital signal strength tests. In pertinent part, Section 339(a)(2)(D)(viii) authorizes the Commission to grant a waiver to a station shown to experience a substantial decrease in its digital signal coverage area due to the necessity of using a side-mounted antenna for its pre-transition digital operation. WBOY-DT was granted a digital signal testing waiver on the basis of "credible evidence of a substantial loss of service due to use of a side-mounted antenna."⁵ The waiver was extended by the *January 2008 Order* upon finding that "the conditions requiring a side mounted antenna persist."⁶ It was noted in the *June 2008 Extension* that the station "is prevented from installing a top mounted digital antenna because its analog antenna is currently installed in that position."

The circumstance that warranted grant of the SHVERA waiver to WBOY-DT is still in effect. WBOY-DT continues to operate from a side-mounted position on the WBOY-TV tower because the WBOY-TV analog antenna occupies the position on top of the tower from which WBOY-DT will operate digitally post-transition. It was previously demonstrated in this matter that switching the positions of the station's analog and digital antennas during the digital transition would cause analog service losses to viewers that currently receive the station's over-the-air analog signal, contrary to the public interest in continued analog service during the digital transition.⁷ WBOY-DT has been granted a waiver to complete the DTV build-out until February 17, 2009,⁸ and side-mounted operation of WBOY-DT is expected to continue until that date.

Under the foregoing circumstances, and in accordance with Section 339(a)(2)(D)(viii), it is respectfully submitted that an extension of the waiver exempting WBOY-DT from digital signal testing is justified. Extension of the waiver is respectfully requested.

Sincerely,



Ellen Mandell Edmundson
Counsel to West Virginia Media Holdings, LLC

Cc: Nazifa Savez (by e-mail)

⁵ *July 2007 Order* at para. 20.

⁶ *January 2008 Order* at para. 12.

⁷ *WBOY-DT Waiver Request*, MB Docket No. 05-317, filed February 15, 2007, at Exhibit E.

⁸ *DTV Build-Out Use or Lose Deadlines*, 22 FCC Red 9750 (released May 18, 2007), at Appendix C.