

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Unlicensed Operation in the) **ET Docket No. 04-186**
TV Broadcast Bands)
) **ET Docket No. 02-380**
Additional Spectrum for Unlicensed Devices)
Below 900 MHz and in the 3 GHz Band)

To: The Commission

OPPOSITION TO PETITIONS FOR RECONSIDERATION

1. The Community Broadcasters Association (“CBA”) hereby submits its comments on two petitions for reconsideration of *Report and Order* in the above-captioned proceeding.¹

Public Interest Spectrum Coalition

2. CBA is deeply disappointed in the essentially slavish devotion to virtually unlimited White Spaces technology that has been consistently shown by the Public Interest Spectrum Coalition (“PISC”) in this proceeding. PISC seems to have little interest in the services provided by broadcasters, especially Class A and Low Power Television (“LPTV”) stations, which CBA has recently shown the Commission have a vastly greater representation of minority and female ownership than any other medium of communication in this nation.²

3. PISC asks that the signal of an LPTV station not be protected to the same extent that full power signals will be protected unless the LPTV station can prove that it has enough viewers

¹ *In the Matter of Unlicensed Operation in the TV Broadcast Bands, Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, FCC 08-260, 23 FCC Rcd. 16807 (2008), 74 FR 7314 (Feb. 17, 2009).

² CBA’s *Diversity Defined* survey from December of 2008 showed that 43% of LPTV stations have significant minority ownership, and 60% have significant female ownership. These stations also have greater hands-on operation by their owners than other media services

outside the area where it is protected under the LPTV interference rules. Why does PISC think that minority and female station owners providing ethnic and other niche services are less important than full power broadcasters, particularly when minority and female ownership of full-power television stations falls so far below the Commission's goal?³ Where does PISC think that LPTV stations, almost all of which are very small business enterprises, are going to get the resources to prove where all their viewers reside? And where does PISC think that the Commission will find the resources to evaluate case-by-case requests for protection that are likely to be filed by hundreds of LPTV stations?

4. CBA doubts that PISC would be willing to survey the individual members of all its constituent organizations to find out how many of them watch LPTV stations and would be willing to give up their known service from those stations to get an unknown amount of extra capacity for White Spaces services. The bottom line is that there is no excuse for discriminating against LPTV stations, which so often serve audiences that have limited or no alternatives for the specialized programming they receive.⁴ The "public interest" that PISC carries in its name, and which is the Commission's statutory guiding light, is (at least in CBA's view) broader in scope than is reflected in PISC's position.

³ Acting Chairman Copps recognized the importance and current lack of ownership diversity in his testimony before the House of Representatives Committee on Appropriations, Subcommittee on Financial Services and General Government, on April 29, 2009, stating: "As the United States Supreme Court has observed, a fundamental tenet of our national communications policy has long been that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public. Unfortunately, our broadcast industry...still fails to adequately reflect the rich and varied diversity of this country. Although many broadcasters are trying, until the industry as a whole does a better job of reflecting that diversity, they will not truly reflect America."

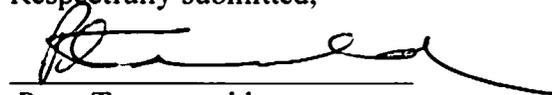
⁴ Since so few Class A and LPTV stations are carried by cable television, the local programming from those stations usually cannot be replaced at all. Some ethnic programming may be available by cable or satellite, but without a local component and often on a costly extra service tier.

FiberTower Corporation et al.

5. FiberTower Corporation *et al.* urge that the Commission should have provided immediately for licensed backhaul channels for carrier services in rural areas. While CBA understands the benefits of backhaul systems, it continues to urge the Commission not to take any steps that would impede the upcoming transition of Class A and LPTV stations to digital operation.⁵ No priority spectrum status should be given to backhaul systems in the TV band until after adequate time has been allowed for the Class A/LPTV digital transition.⁶

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Respectfully submitted,



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May 8, 2009

⁵ See Testimony of Acting Chairman Copps, n. 4, *supra*, recognizing that after June 12, 2009, the Commission must deal with “the ‘next’ DTV transition – the transition of the thousands of low-power and TV translator stations across the country that are still broadcasting in analog.”

⁶ Several months ago, CBA discussed the digital transition issue with FiberTower *et al.* CBA believes that FiberTower *et al.* appreciate the importance of, and would be willing to accommodate, the digital transition, although there may be some differences of opinion with regard to how much time should be allowed for the transition.

CERTIFICATE OF SERVICE

I, Evelyn Thompson, do hereby certify that I have, this 8th day of May, 2009, caused a copy of the foregoing "Opposition to Petitions for Reconsideration" to be sent by first class United States mail, postage prepaid, to the following:

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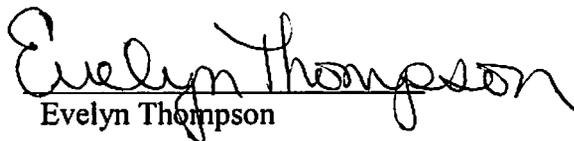
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