

ORIGINAL

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

FILED/ACCEPTED
OCT 30 2009
Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Section 73.622(i),) MB Docket No. 09-178
Final DTV Table of Allotments) RM-11571
Television Broadcast Stations)
(Cincinnati, Ohio))
)

To: Office of the Secretary
Attn: Chief, Video Division, Media Bureau

COMMENTS OF UPPER CUMBERLAND BROADCAST COUNCIL

Upper Cumberland Broadcast Council ("Upper Cumberland"), by its counsel, comments on the FCC's above-captioned October 7, 2009 Notice of Proposed Rulemaking, DA 09-2180, which proposes to substitute DTV channel 22 for DTV channel 10 for station WCPO-TV at Cincinnati, Ohio.

Upper Cumberland takes no position on the WCPO-TV channel substitution proposal, as amended to specify operation of WCPO-TV on channel 22 with ERP of 850 kW. Upper Cumberland files here to confirm its intention to construct and license its valid and unexpired construction permit in FCC File No. BMPEDT-20090430AAC, which provides for certain modifications to WCTE(TV), including an increase in ERP to 200 kW.

The initial Petition for Rulemaking ("Petition") in this proceeding, as filed on September 15, 2009 by Scripps Howard Broadcasting Company ("Scripps Howard"), acknowledged that "studies show that the proposed facility would cause new interference above 0.5% to two facilities on record in the Commission's database" for WCTE, including the permit in File No. BMPEDT-20090430AAC. However, the Petition concluded that the authorizations did not have

No. of Copies rec'd
List ABCDE 0+4

to be considered because they “are in fact construction permits that pre-date Station WCTE’s current authorization.” In a September 30, 2009 amendment to its Petition, however, Scripps Howard reduced the proposed ERP for WCPO-TV’s use of DTV Channel 22 from 1000 kW to 850 kW to protect WCTE’s existing authorization in File No. BMPEDT-20090430AAC after Commission staff “advised that [the] authorization should be protected.”

Upper Cumberland therefore submits these comments to confirm its intention to construct, operate and license the WCTE(TV) facility authorized in File No. BMPEDT-20090430AAC, which remains valid and unexpired, and must be protected by subsequent applications and allotments.

Respectfully submitted,

UPPER CUMBERLAND
BROADCAST COUNCIL

By: Barry Persh
Todd D. Gray
Barry S. Persh
Its Attorneys

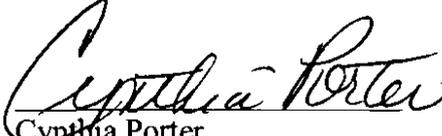
Dow Lohnes pllc
1200 New Hampshire Ave., N.W.
Suite 800
Washington, DC 20036
(202) 776-2000

October 30, 2009

CERTIFICATE OF SERVICE

I, Cynthia Porter, hereby certify that a copy of the foregoing Comments in Support of Rulemaking was served this 30th day of October, 2009 by first class United States mail, postage prepaid, upon the following:

Kenneth C. Howard, Jr., Esq.
Baker & Hostetler LLP
1050 Connecticut Ave., NW
Suite 1100
Washington, DC 20036


Cynthia Porter