

BEFORE THE

Federal Communications Commission

In the Matter of

Amendment of Section 73.622(i))
Final DTV Table of Allotments,)
Television Broadcast Stations)
(Fond du Lac, Wisconsin))

MB Docket No. 09-115)
RM-11543)

FILED/ACCEPTED
NOV - 4 2009
Federal Communications Commission
Office of the Secretary

To: Office of the Secretary
Attention: Chief, Media Bureau

CONSOLIDATED REPLY TO OPPOSITIONS TO PETITION FOR RECONSIDERATION

WDJT-TV Limited Partnership ("WDJT"), by counsel and pursuant to 47 C.F.R. §1.429(g), hereby replies to the October 20, 2009 WWAZ License, LLC ("WWAZ") and WLS Television, Inc. ("WLS") oppositions to WDJT's petition for reconsideration of the *Report and Order* ("R&O")¹ in this proceeding.

As observed in WDJT's petition for reconsideration, two basic factual premises underlie the R&O's decision: (1) that WWAZ cannot construct its DTV allotment facility on its existing tower due to loading issues and must therefore move to a different tower (R&O ¶¶4-5); and (2) that of those who would lose primary service as a result of WWAZ's proposal, only 2,086 would not be served by the digital replacement translator stations WWAZ has proposed to operate (R&O ¶2). The record in this proceeding now clearly reflects that both of these factual premises are false. The Media Bureau must therefore reconsider and reverse the decision reached in the R&O.

¹ DA 09-1794 (M. Bur. rel. Aug. 12, 2009).

OHH

I. WWAZ OFFERS NO EVIDENCE -- AND INDEED NO LONGER EVEN CONTENDS -- THAT IT CANNOT CONSTRUCT ON ITS CURRENT TOWER

In its Opposition, WWAZ offers no evidence of any kind to support its prior, unsupported reply comment claim that "the tower on which the Station's DTV antenna was to be located would not support the additional weight, and thus, a new site and a new DTV channel was necessary."² Instead, WWAZ disputes (Opposition at 4-5) an argument WDJT did not make - that WWAZ's unsupported, last-minute claim about its tower should be rejected because it came "too late." As stated in WDJT's petition, the fact that the claim came so late is significant because it provides one clear indication (among several now of record) that the claim simply *is not true*. A rational litigant obviously would have made such a claim from the very outset if some defect in WWAZ's tower were in fact the necessitating cause of WWAZ's proposal to relocate its station to a Milwaukee tower.

But the lateness of WWAZ's unsupported, last-minute claim is *the least important* of the several proofs now of record that WWAZ's last-minute claim is not true. The most significant proof of course is this: In the face of WDJT's direct challenge, bolstered by expert engineering testimony which demonstrates the improbability of WWAZ's claim, WWAZ has offered in its opposition *nothing whatever* in the way of support for the unsupported claim. WWAZ has offered *no* engineering testimony of its own, *no* statement by anyone with personal knowledge of the tower, and indeed *not even a bare description* of what is allegedly wrong with WWAZ's tower.³

² July 30, 2009 WWAZ Reply Comments (in response to WDJT's Comments) at 2.

³ Instead of supplying specific factual information (which would presumably be within its knowledge) about the condition of its tower, WWAZ instead tries to support its position by pointing to the fact that WDJT's consulting engineer acknowledged that it is

Instead, WWAZ claims only that what it now vaguely calls "difficulties with the tower" (the type and nature of which, WWAZ has plainly decided, are best left entirely unexplained) supposedly are not "the linchpin" of the R&O's decision.⁴ That is incorrect. Those alleged "difficulties" were the *sole stated reason* for the R&O's rejection of WDJT's argument that WWAZ cannot be permitted to justify its affirmative, voluntary creation of primary service loss areas by proposing digital replacement translator service, because to do so would directly contradict the basic purpose and intent of the replacement translator service.⁵

WWAZ also claims (Opposition at 5) that it is "simply incorrect" that the Bureau "made a 'plain legal error' in connection with the tower issue." WWAZ offers no more support for this legal claim than it does for its factual "tower difficulties" claim, and the legal claim is no more true than the factual one. Under the Administrative Procedure Act, findings of fact made in agency proceedings, including but not limited to this quasi-adjudicative channel allocation rule making proceeding, must be supported by substantial evidence.⁶ "Substantial evidence," as has often been said, is "more than a mere scintilla.

"possible" some problem with the tower might exist. Opposition at 5. Anything, of course, is "possible." As WDJT's technical consultant points out in the attached Technical Exhibit (at 1), the publicly-available information about the tower provides absolutely no basis to conclude that it is anything other than perfectly adequate for the provision of digital service to the area WWAZ is currently authorized to serve.

⁴ WWAZ Opposition at 5-6.

⁵ R&O at ¶¶ 3-5. In rejecting WDJT's argument, the Bureau stated: WWAZ "is unable to construct at its authorized digital site because 'the tower on which the . . . DTV antenna was to be located would not support the additional weight, and thus, a new site and new DTV channel was necessary.' . . . WWAZ is unable to construct its presently authorized digital facility on channel 44 due to technical issues." *Id.* at ¶¶ 4-5.

⁶ 5 U.S.C. §706(2)(A) & (E); *see, e.g., Freeman Engineering Associates, Inc. v. FCC*, 103 F.3d 169, 178 (D.C. Cir. 1997) (an agency decision is arbitrary and capricious if it "runs counter to the evidence before the agency"), quoting *Motor Vehicle Mfg's Ass'n*

It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."⁷ In this proceeding, WWAZ has provided *no evidence* -- not even "a mere scintilla" -- that *any* "difficulty" exists with WWAZ's tower, much less a "difficulty" that would somehow preclude WWAZ from using the tower to provide digital television service to the area WWAZ is authorized to serve. Since there is *no evidence*, substantial or otherwise, to support the *R&O's* finding that WWAZ cannot use its authorized tower due to "technical issues," it was plain legal error for the *R&O* to base its decision (at ¶15) on WWAZ's unsupported "tower difficulties" claim. The decision must therefore be reconsidered and reversed.

II. WWAZ ALSO NO LONGER PURSUES ITS FALSE CLAIM THAT ONLY 2,086 PERSONS IN WWAZ'S PROPOSED PRIMARY SERVICE LOSS AREA WILL NOT BE SERVED BY WWAZ'S PROPOSED DIGITAL REPLACEMENT TRANSLATOR STATIONS

As WDJT demonstrated in its petition for reconsideration, WWAZ's additional factual claim -- accepted by the *R&O* (at ¶12) -- that "all but 2,086" persons in WWAZ's proposed primary service loss area would receive service from WWAZ's proposed replacement translator stations is no more true than WWAZ's "tower difficulties" claim. In fact, as demonstrated in WDJT's petition, WWAZ's proposed translator stations would

v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983); *GTE South, Inc. v. Morrison*, 199 F.3d 733, 745 n.5 (4th Cir. 1999) ("With respect to review of factfindings, there is no meaningful difference between this [arbitrary and capricious] standard and the substantial evidence standard."); *Association of Data Processing Serv. Orgs. v. Board of Governors*, 745 F.2d 677, 683 (D.C. Cir. 1987) (Scalia, J.) ("in their application to the requirement of factual support, the substantial evidence test and the arbitrary and capricious test are one and the same").

⁷ *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938); accord, e.g., *AT&T Corp v. FCC*, 86 F.3d 242, 247 (D.C. Cir. 1996); see, e.g., *Courier Post Pub. Co. v. FCC*, 104 F.2d 213, 217 (D.C. Cir. 1939) (substantial evidence "must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury").

fail to serve *nearly 170,000 people* in WWAZ's proposed digital primary service loss area and *nearly 20,000 people* in WWAZ's proposed analog primary service loss area. In addition, a significant number of those proposed disenfranchised viewers would be left with *fewer than five* (and in some cases even *fewer than four*) available television signals. In its opposition, WWAZ disputes none of this. Instead, it faults WDJT for not calling to the Commission's attention sooner the fact that WWAZ's claims regarding disenfranchised viewers are false.⁸ One might think that if *anyone* were to be faulted for not informing the Commission earlier that WWAZ's claims about unserved viewers are false, the culprit would be *the party who made* the false claims - *WWAZ*. But WWAZ nonetheless asserts that WDJT is to blame and argues that because the innocent messenger did not arrive sooner, no one should pay heed to the message.

WDJT argued in its comments in this proceeding that WWAZ's proposed secondary replacement translator service was *not* an adequate or cognizable replacement for a *voluntarily created* loss of primary service and cannot be treated as such. In the context of that position - which WDJT firmly believes to be legally correct and continues to urge the Bureau to adopt - it matters not how many people the replacement translator stations will or will not serve, because *all* viewers in the loss area are being deprived of what they are entitled to - primary digital television service. To attempt to blunt the force of this WDJT argument, WWAZ made in its reply comments the false "tower difficulties" claim, and it thereby temporarily induced the Bureau to reject WDJT's position, because the Bureau was led to believe that the proposed WWAZ tower move was not voluntary but rather was necessitated by "technical issues" - which was untrue.

⁸ WWAZ Opposition at 3 & n.2.

As a result, the Bureau proceeded to examine and to credit the service to be provided by WWAZ's proposed replacement translator stations, and in so doing also accepted WWAZ's equally false unserved viewer numbers. *R&O* at ¶2. It was only after learning that the Bureau had thus been twice misled by false WWAZ claims -- which is to say, it was only after reviewing the *R&O* -- that WDJT had any opportunity or reason to urge the Bureau to correct the mistakes that WWAZ had induced it to make. This is not the picture of "untimely action" by WDJT or of "parrying with an offer of more evidence." This is merely the correction of WWAZ-induced errors with demonstrations of fact and truth.

One of the central purposes of the petition for reconsideration procedures specified in Section 405 of the Communications Act, 47 U.S.C. §405, is "to afford the Commission the initial opportunity to correct errors in its decision."⁹ That is exactly the purpose of WDJT's petition for reconsideration - to afford the Bureau the opportunity to correct errors (induced by WWAZ's false factual claims) in the *R&O*. Indeed, WDJT is *compelled* by Section 405 to bring such errors to the Bureau's attention by means of a request for reconsideration, because otherwise Commission and ultimate judicial review of the errors (should they remain uncorrected) would not be available.¹⁰

WWAZ's claim that it is now "too late" to correct the mistakes which its own false claims induced the Bureau to make in the *R&O* is thus completely without merit.

⁹ See, e.g., *Qwest Corp. v. FCC*, 482 F.3d 471, 475 (D.C. Cir. 2007), quoting *Time Warner Entertainment Co. v. FCC*, 144 F.3d 75, 80 (D.C. Cir. 1998).

¹⁰ *Id.* at 474-75; see 47 U.S.C. §405(a) (judicial review not available for "questions of fact or law upon which the Commission, or designated authority within the Commission, has been afforded no opportunity to pass"); 47 C.F.R. §1.115(c) ("No application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass.")

WWAZ does not seek to defend in any way the grossly understated nature of its claims regarding the number of viewers in rural Wisconsin who would be disenfranchised under WWAZ's proposal. Because WWAZ's service loss claims are false, and in fact *nearly one hundred and seventy thousand* rural Wisconsin viewers would lose service under WWAZ's proposal - even assuming WWAZ's proposed secondary replacement translator service were an acceptable substitute for the lost primary service, which for reasons already discussed it is not - the Bureau must reconsider its reliance on WWAZ's false service loss claims and reverse the result reached in the *R&O*.

III. THE ALLOCATION OF CHANNEL 44 TO WLS-TV IN CHICAGO CANNOT JUSTIFY APPROVAL OF WWAZ'S PROPOSAL

Apart from its (misplaced) reliance on WWAZ's false "tower difficulties" claim and WWAZ's grossly understated unserved viewers claim, the *R&O* cited only the proposed allocation of Channel 44 to WLS in Chicago as "an additional reason" why a grant of WWAZ's proposal would serve the public interest. *R&O* at ¶10. WDJT agrees that it is desirable to permit WLS to operate on Channel 44 (as the Commission has now done¹¹) and that WWAZ's proposal to operate on Channel 5 removes the interference conflict with WLS Channel 44 operation and is, for that reason alone, of benefit. But what is *not* of benefit - and also *is not necessary* to permit WLS to operate on Channel 44 - is for WWAZ to create a massive loss of service by operating on Channel 5 *from a tower in Milwaukee*, as it has proposed in this proceeding to do.

As reflected in the attached Technical Exhibit (at 2), WWAZ can provide *primary digital service to 100% of its former analog service area* and also to *100% of its*

¹¹ *Report and Order* in MB Docket No. 09-146, DA 09-2052 (M. Bur. rel. Sept. 15, 2009).

authorized digital service area by operating on Channel 5 *from its currently authorized tower* near Fond du Lac, and it can do so without causing any prohibited interference to any station. With such operation, *no loss of primary service would occur* and there would be no occasion to attempt to "patch over" lost primary service with incomplete and inferior secondary low power replacement translator service. *That* is the solution to the loss of service problem WWAZ seeks to create, and *that* is all that WWAZ should be authorized to do in this proceeding.

Despite WWAZ's repeated claims (Opposition at 4, 5 & 6), the *R&O* did not find that WWAZ's proposed transmitter site move should be approved because it would permit WWAZ to serve "1,000,000 more" or "200,000 Hispanic" already more-than-well-served Milwaukee market viewers. Nor could such a finding possibly be justified. As the Bureau recognized in the *R&O* (at ¶2), "proposals that would result in a loss of existing television service are considered *prima facie* inconsistent with the public interest." And as the record now reflects, WWAZ's proposed Channel 5 service from Milwaukee would result in a loss of television service to nearly *two hundred thousand* rural Wisconsin viewers -- 87% percent of whom would not even receive the unacceptable substitute of digital replacement translator service under WWAZ's proposal. This massive proposed loss of service cannot be justified by phantom "tower difficulties" as to which there is no record evidence, other than evidence that no such "difficulties" exist. And it certainly cannot be justified by WWAZ's claim that the number of already more than well-served persons who would gain service is larger than the number of not nearly so well-served persons who would lose it.

As the Court of Appeals has admonished, it is not consonant with the Commission's duties under the Communications Act to take service from those who have little simply to provide more service to those who already have much, even if the viewers who would gain clearly outnumber the viewers who would lose:

It is apparent that the Commission has started with the premise that more service to more people -- even to a group already well served -- is prima facie desirable, and that it must then consider whether this advantage is offset by the negative factor of loss of service by others. Our Hall opinion expressed the opposite approach -- that deprivation of service to any group was undesirable, and to be justified only by offsetting factors. See 99 U.S. App. D.C. 86, at page 91, 237 F.2d 567, at page 572. The difference is not merely one of words. It is basic to the Commission's approach to its task. Section 1 of the Communications Act of 1934, 47 U.S.C.A. § 151, directs the Commission to make radio facilities (and presumably television also) available as far as possible to 'all the people of the United States.' Section 307(b) of the Act, 47 U.S.C.A. § 307(b), repeats this mandate, stressing that the Commission shall provide a 'fair, efficient, and equitable distribution' of service 'among the several States and communities.' The general intention of Congress is clear.¹²

Equally clear is that depriving nearly two hundred thousand rural Wisconsin viewers of *their only local primary television service* in order to provide yet another signal to Milwaukee market viewers - viewers who already have access to roughly *ten times as many* primary local television signals -- would *not* be an "efficient" allocation of television service and also would *not*, even remotely, be a "fair" or an "equitable" one.

In its opposition, WWAZ states approximately five times (Opposition at 2, 3, 4, 5 & n.3) that it sought more power for its proposed digital replacement translator stations, but that the Bureau indicated (quite properly) that such power could not be approved, because it would result in more than a *de minimis* expansion of WWAZ's authorized digital service area. WWAZ contends (*id.* at 4) that "if . . . the FCC . . . [is] truly

¹² *Television Corp. of Michigan, Inc. v. FCC*, 294 F.2d 730, 732 (D.C. Cir. 1961).

concerned about the potential loss areas, the appropriate action would be to authorize an increase in the power of the replacement digital fill-in TV Translators." That is incorrect. The replacement translator rules expressly provide - for good reason - that only a *de minimis* expansion of service area will be permitted.¹³ Instead, the "appropriate action" on WWAZ's proposal to serve its private economic interests by creating a massive and completely unnecessary loss of primary local television service in areas that already receive far too little service is simply to deny the proposal. That is what the Commission must do here. WWAZ should be permitted to operate on Channel 5, but if *and only if* it operates in a manner that would occasion no loss of primary service to WWAZ's analog and authorized digital service areas.

IV. CONCLUSION

For the foregoing reasons, as well as those stated in WDJT's comments and petition for reconsideration, the Bureau should reconsider the *R&O* and should reject WWAZ's completely unjustified proposal to operate from a tower in Milwaukee and thereby cause a massive and completely unnecessary loss of primary television service.

Respectfully submitted



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Dated: November 4, 2009

¹³ *Report and Order* in MB Docket No. 08-253, *Replacement Digital Low Power Television Translator Stations*, 24 F.C.C. Rcd. 5931, 5935 & 5939-41 (2009) (¶¶7 & 17-22); see 47 C.F.R. §74.787(a)(5)(i).

TECHNICAL EXHIBIT
REPLY TO OPPOSITIONS OF
PETITION FOR RECONSIDERATION OF
WDJT-TV LIMITED PARTNERSHIP
CONCERNING THE
REPORT AND ORDER TO
MODIFY THE DTV TABLE OF ALLOTMENTS
STATION WWAZ-DT
FOND DU LAC, WISCONSIN

This Technical Exhibit was prepared on behalf of WDJT-TV Limited Partnership and supports its Reply to the Oppositions filed against the Petition for Reconsideration of the Report and Order (R&O) in MM Docket No. 09-115 (RM-11543). The R&O changed the post transition DTV allotment for station WWAZ at Fond du Lac, Wisconsin from channel 44 to channel 5.

I have reviewed the October 20, 2009 Opposition filed by WWAZ License, LLC ("WWAZ") in MB Docket No. 09-115. On page 5 of the Opposition, WWAZ states:

WDJT's own engineer provided a Technical Exhibit which specifically stated that it was possible that "there are structural issues that would prevent the installation of the WWAZ-DT antenna as it is now specified on the existing WWAZ tower." Thus . . . the technical professionals retained by WDJT specifically acknowledge the possibility of structural problems with the existing WWAZ tower.

As the technical consultant who prepared the technical exhibit to which WWAZ refers, I have the following comments on this WWAZ statement: (1) As is frequently observed, anything is "possible"; and (2) based on public information about the WWAZ tower that is available to me, I can find no reason to conclude that the tower would not be adequate to permit WWAZ to provide service either with the antenna as now specified or with a different antenna configuration designed to provide equivalent service. All public information available to me points to the conclusion that the tower would be perfectly

adequate for such purposes. I also note that WWAZ presumably has knowledge of the specific condition of the tower and that WWAZ has not supplied any information from which one might conclude that the tower is for some reason inadequate for such purposes.

It can also be reasonably assumed that a 2-bay superturnstile antenna, such as a common Dielectric model TF-2MT antenna, could be mounted on the top of the existing WWAZ tower. Such an arrangement would allow for a maximum Channel 5 facility to operate with an effective radiated power of 10 kW and an antenna height of 491 meters above mean sea level. And such a facility would provide service to 100% of the WWAZ analog service area and 100% of the WWAZ digital service area of its construction permit facility on Channel 44 (FCC File No. BMPCDT-20040209ABG). Such a facility would provide 100% service to its city of license of Fond du Lac; and such a facility would not require the use of any digital replacement translator stations. See Figure 1

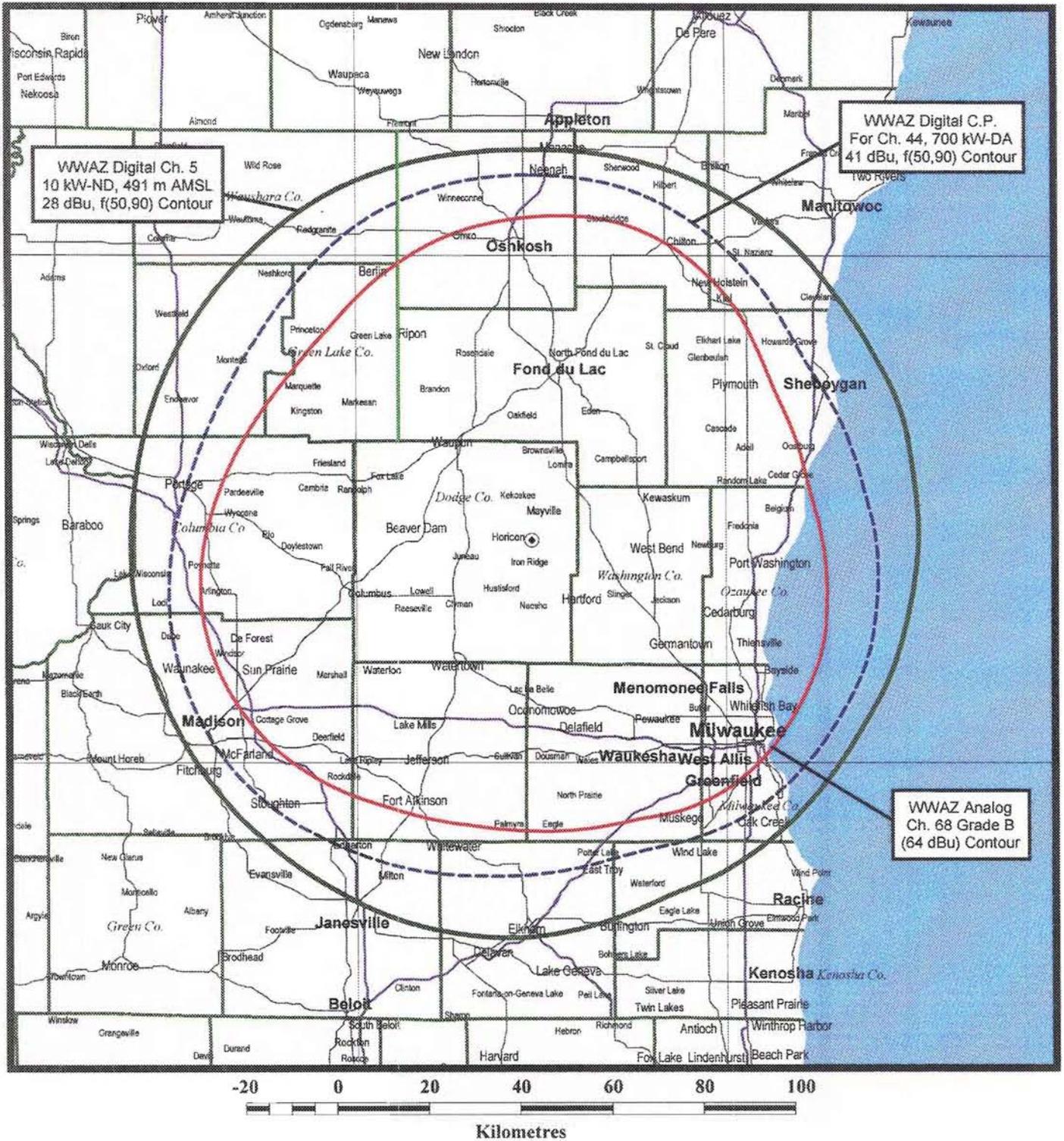
A interference analysis conducted according to the Longley-Rice interference analysis procedures outlined in Section 73.616 of the FCC Rules indicates that a maximum 10 kW Channel 5 facility could be located at the WWAZ tower site in full compliance with the 0.5% de minimis interference protection requirements. See Figure 2.

If there are questions concerning this statement, please communicate with the office of the undersigned.

Louis R. du Treil Jr.

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October 28, 2009



PREDICTED COVERAGE COMPARISON

duTreil, Lundin & Rackley, Inc. Sarasota, Florida

WWAZ-DT, Fond du Lac, WI, Channel 5, OET-69 Interference Analysis

Percent allowed new interference: 0.500
 Percent allowed new interference to Class A: 0.500
 TW Census data selected 2000
 Post Transition Data Base Selected /export/home/cdbs/pt_tvdb.sff

TV INTERFERENCE and SPACING ANALYSIS PROGRAM

Date: 10-28-2009

Record Selected for Analysis

WWAZDT5 USERRECORD-01 FOND DU LAC WI US
 Channel 05 ERP 10. kW HAAT 195. m RCAMSL 00491 m
 Latitude 043-26-20 Longitude 0088-31-29
 Status APP Zone 1 Border
 Last update Cutoff date Docket
 Comments
 Applicant

Cell Size for Service Analysis 2.0 km/side

Distance Increments for Longley-Rice Analysis 1.00 km

Facility meets maximum height/power limits

Azimuth (Deg)	ERP (kW)	HAAT (m)	28.0 dBu F(50,90) (km)
0.0	10.000	183.7	96.3
45.0	10.000	188.6	96.7
90.0	10.000	170.2	94.9
135.0	10.000	160.4	93.7
180.0	10.000	206.2	98.4
225.0	10.000	220.3	99.8
270.0	10.000	217.8	99.6
315.0	10.000	215.7	99.3

Evaluation toward Class A Stations

No Spacing violations or contour overlap to Class A stations

Class A Evaluation Complete

Proposed facility OK to FCC Monitoring Stations

Proposed facility OK toward West Virginia quiet zone

Proposed facility OK toward Table Mountain

Proposed facility is beyond the Canadian coordination distance

Proposed facility is beyond the Mexican coordination distance

Proposed station is OK toward AM broadcast stations

Start of Interference Analysis

Channel	Proposed Station Call	City/State	ARN
05	WWAZDT5	FOND DU LAC WI	USERRECORD01

Stations Potentially Affected by Proposed Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WBKP	CALUMET MI	400.1	CP	BPCDT	-20080402ABK
05	WBKP	CALUMET MI	400.1	PLN	DTVPLN	-DTVP0019
05	WGVK	KALAMAZOO MI	265.3	PLN	DTVPLN	-DTVP0020
05	WGVK	KALAMAZOO MI	265.3	LIC	BLEDT	-20060703ABQ
05	WLMB	TOLEDO OH	414.0	LIC	BLCDT	-20050201AAF
05	WLMB	TOLEDO OH	414.0	PLN	DTVPLN	-DTVP0024

WWAZ-DT, Fond du Lac, WI, Channel 5, OET-69 Interference Analysis

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Analysis of Interference to Affected Station 1

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
05	WBKP	CALUMET MI	BPCDT	-20080402ABK

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WWAZDT5	FOND DU LAC WI	400.1	APP	USERRECORD-01	

Proposed station is beyond the site to nearest cell evaluation distance

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Analysis of Interference to Affected Station 2

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
05	WBKP	CALUMET MI	DTVPLN	-DTVP0019

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WWAZDT5	FOND DU LAC WI	400.1	APP	USERRECORD-01	

Proposed station is beyond the site to nearest cell evaluation distance

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Analysis of Interference to Affected Station 3

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
05	WGVK	KALAMAZOO MI	DTVPLN	-DTVP0020

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WLMB	TOLEDO OH	149.0	LIC	BLCDT	-20050201AAF
05	WLMB	TOLEDO OH	149.0	PLN	DTVPLN	-DTVP0024
05	WWAZ-DR	FOND DU LAC WI	203.5	APP	BPRM	-20080619ALY
05	WWAZDT5	FOND DU LAC WI	265.3	APP	USERRECORD-01	

Total scenarios = 6

Result key:

Scenario 1 Affected station 3
Before Analysis

Results for: 5A MI KALAMAZOO DTVPLN DTVP0020 PLN

HAAT 174.0 m, ATV ERP 10.0 kW	POPULATION	AREA (sq km)
within Noise Limited Contour	2367912	28565.6
not affected by terrain losses	2362110	28497.0
lost to NTSC IX	0	0.0
lost to additional IX by ATV	116050	2209.4
lost to ATV IX only	116050	2209.4
lost to all IX	116050	2209.4

Potential Interfering Stations Included in above Scenario 1

5A OH TOLEDO BLCDT 20050201AAF LIC

After Analysis

Results for: 5A MI KALAMAZOO DTVPLN DTVP0020 PLN

HAAT 174.0 m, ATV ERP 10.0 kW	POPULATION	AREA (sq km)
within Noise Limited Contour	2367912	28565.6
not affected by terrain losses	2362110	28497.0
lost to NTSC IX	0	0.0

WWAZ-DT, Fond du Lac, WI, Channel 5, OET-69 Interference Analysis

lost to additional IX by ATV 125041 2314.3
 lost to ATV IX only 125041 2314.3
 lost to all IX 125041 2314.3

Potential Interfering Stations Included in above Scenario 1

5A OH TOLEDO BLCDT 20050201AAF LIC
 5A WI FOND DU LAC USERRECORD01 APP

Percent new IX = 0.4003%

Worst case new IX 0.4003% Scenario 1

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Analysis of Interference to Affected Station 4

Analysis of current record

Channel Call City/State Application Ref. No.
 05 WGK KALAMAZOO MI BLEDT -20060703ABQ

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WLMB	TOLEDO OH	149.0	LIC	BLCDT	-20050201AAF
05	WLMB	TOLEDO OH	149.0	PLN	DTVPLN	-DTVP0024
05	WWAZ-DR	FOND DU LAC WI	203.5	APP	BPRM	-20080619ALY
05	WWAZDT5	FOND DU LAC WI	265.3	APP	USERRECORD-01	

Total scenarios = 6

Result key: 7
 Scenario 1 Affected station 4
 Before Analysis

Results for: 5A MI KALAMAZOO BLEDT 20060703ABQ LIC

HAAT 169.0 m, ATV ERP 10.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	2354156	28250.8
not affected by terrain losses	2348304	28186.3
lost to NTSC IX	0	0.0
lost to additional IX by ATV	114276	2169.1
lost to ATV IX only	114276	2169.1
lost to all IX	114276	2169.1

Potential Interfering Stations Included in above Scenario 1

5A OH TOLEDO BLCDT 20050201AAF LIC

After Analysis

Results for: 5A MI KALAMAZOO BLEDT 20060703ABQ LIC

HAAT 169.0 m, ATV ERP 10.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	2354156	28250.8
not affected by terrain losses	2348304	28186.3
lost to NTSC IX	0	0.0
lost to additional IX by ATV	123184	2261.8
lost to ATV IX only	123184	2261.8
lost to all IX	123184	2261.8

Potential Interfering Stations Included in above Scenario 1

5A OH TOLEDO BLCDT 20050201AAF LIC
 5A WI FOND DU LAC USERRECORD01 APP

Percent new IX = 0.3987%

Worst case new IX 0.3987% Scenario 1

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Analysis of Interference to Affected Station 5

Analysis of current record

Channel Call City/State Application Ref. No.
 05 WLMB TOLEDO OH BLCDT -20050201AAF

WWAZ-DT, Fond du Lac, WI, Channel 5, OET-69 Interference Analysis

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WGVK	KALAMAZOO MI	149.0	PLN	DTVPLN	-DTVP0020
05	WGVK	KALAMAZOO MI	149.0	LIC	BLEDT	-20060703ABQ
05	WWAZ-DR	FOND DU LAC WI	352.4	APP	BPRM	-20080619ALY
05	WDTV	WESTON WV	424.9	PLN	DTVPLN	-DTVP0032
05	WDTV	WESTON WV	412.5	CP MOD	BMPCDT	-20080618ACH
05	WWAZDT5	FOND DU LAC WI	414.0	APP	USERRECORD-01	

Proposal causes no interference

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Analysis of Interference to Affected Station 6

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
05	WLMB	TOLEDO OH	DTVPLN	-DTVP0024

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WGVK	KALAMAZOO MI	149.0	PLN	DTVPLN	-DTVP0020
05	WGVK	KALAMAZOO MI	149.0	LIC	BLEDT	-20060703ABQ
05	WWAZ-DR	FOND DU LAC WI	352.4	APP	BPRM	-20080619ALY
05	WDTV	WESTON WV	424.9	PLN	DTVPLN	-DTVP0032
05	WDTV	WESTON WV	412.5	CP MOD	BMPCDT	-20080618ACH
05	WWAZDT5	FOND DU LAC WI	414.0	APP	USERRECORD-01	

Proposal causes no interference

Analysis of Interference to Affected Station 7

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
05	WWAZDT5	FOND DU LAC WI	USERRECORD-01	

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
05	WBKP	CALUMET MI	400.1	CP	BPCDT	-20080402ABK
05	WBKP	CALUMET MI	400.1	PLN	DTVPLN	-DTVP0019
05	WGVK	KALAMAZOO MI	265.3	PLN	DTVPLN	-DTVP0020
05	WGVK	KALAMAZOO MI	265.3	LIC	BLEDT	-20060703ABQ
05	WLMB	TOLEDO OH	414.0	LIC	BLCDT	-20050201AAF
05	WLMB	TOLEDO OH	414.0	PLN	DTVPLN	-DTVP0024

Total scenarios = 2

Result key: 13
 Scenario 1 Affected station 7
 Before Analysis

Result key: 14
 Scenario 2 Affected station 7
 Before Analysis

Results for: 5A WI FOND DU LAC USERRECORD01 APP
 HAAT 195.0 m, ATV ERP 10.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	2987512	29744.1
not affected by terrain losses	2969692	29539.9
lost to NTSC IX	0	0.0
lost to additional IX by ATV	69034	652.8
lost to ATV IX only	69034	652.8
lost to all IX	69034	652.8

Potential Interfering Stations Included in above Scenario 2

5A MI KALAMAZOO BLEDT 20060703ABQ LIC

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FINISHED FINISHED FINISHED FINISHED FINISHED FINISHED

CERTIFICATE OF SERVICE

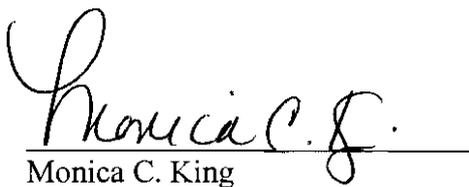
I, Monica C. King, hereby certify that on this 4th day of November, 2009, I caused a copy of the foregoing "Consolidated Reply to Oppositions to Petition for Reconsideration" to be sent by first-class mail, postage prepaid, or by hand delivery, to the following:

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Monica C. King

*By hand delivery

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