ORIGINAL

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

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

In the Matter of	)	
	)	
Amendment of Section 73.622(i)	)	RM-_____
Table of Allotments	)	
Digital Television Broadcast Stations	)	
(Schenectady, New York)	)	

To: Office of the Secretary
Attn: Chief, Video Services Division

PETITION FOR RULEMAKING

WRGB Licensee, LLC ("WRGB Licensee"), the licensee of WRGB(TV), channel 6, Schenectady, New York,[1] by its counsel, hereby requests that the Commission initiate a rulemaking proceeding to substitute and allot DTV channel 19 for WRGB's assigned DTV channel 6 at Schenectady, New York, by amending the DTV Post Transition Table of Allotments, Section 73.622(i) of the Commission's rules.[2]

WRGB is the ***only*** full-power low-band VHF station in the Albany, New York Designated Market Area ("DMA"), and the station is therefore at a distinct competitive disadvantage with respect to viewer reception vis-à-vis all of the other full-power television stations in the DMA. WRGB Licensee has concluded that WRGB operating on UHF channel 19, instead of low-band VHF channel 6, will allow the station to overcome this disadvantage and will enable WRGB to provide superior service to the viewing public. As discussed further below, the instant proposal to reallot WRGB from low-band VHF channel 6 to UHF channel 19 will not only benefit television viewers in the Albany market, but will also result in increased

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[1] WRGB Licensee was recently granted Commission consent to acquire television station WRGB from Freedom Broadcasting of New York Licensee, L.L.C. *See* FCC File No. BALCDT - 20111108AMW. The transaction was consummated effective April 1, 2012.

[2] *See* 47 C.F.R. §76.622(i).

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public benefits to viewers as far away as the Philadelphia, Pennsylvania market. In fact, should the WRGB Licensee proposal be approved, an estimated more than ***375,000 viewers*** located within WPVI-TV's predicted service area on VHF channel 6 will no longer be predicted to receive interference from WRGB's currently authorized operations on VHF channel 6.[3] This is because implementing the WRGB Licensee proposal will permit ABC, Inc.-owned television station WPVI-TV, Philadelphia, Pennsylvania, to increase power to address reception issues that the station has been experiencing in the Philadelphia DMA since the digital transition. For these reasons, among others, ABC fully supports the WRGB Licensee channel substitution request, and a Statement demonstrating ABC's support of the proposal is attached hereto as Exhibit 2.

WRGB Licensee is aware of the Media Bureau's current freeze on the processing of rulemaking petitions for digital channel substitutions,[4] yet submits that the instant channel change request should nevertheless be granted as a unique situation that presumptively serves the public interest. In the *Freeze Notice*, the Commission notes that adoption of the freeze is appropriate because "stations interested in changing channels have had sufficient time to evaluate engineering options and submit rulemaking petitions."[5] However, it is important to note that WRGB Licensee only consummated its acquisition of WRGB last month so it was not in a position to fully evaluate engineering options for the station until very recently.[6] WRGB Licensee has now determined that the proposed channel change is the best way for the station to serve the station's viewers and the public interest going forward. To the extent the Media Bureau finds it necessary to grant WRGB Licensee a waiver to approve the instant proposal in

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3 *See* Exhibit 1, Engineering Statement of John E. Hidle, P.E. in Support of Petition.

4 *See* Public Notice, "Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately," 26 FCC Rcd 7721 (2011) ("*Freeze Notice*").

5 *Id.*

6 While WRGB Licensee is not sure as to why the former licensee did not undertake to change channels at an earlier date, it does note that the Freedom Broadcasting was operated under a trusteeship resulting from a bankruptcy proceeding involving its parent entity, making major capital expenditures difficult to undertake.

light of the current freeze, WRGB Licensee respectfully requests that the Commission grant a general waiver of the freeze and approve the requested channel change in light of the obvious public interest benefits that will result from of approval of the instant request.

Background

The Commission recognized long ago, even prior to the adoption of the original DTV Table of Allotments in 1997, that low-band VHF channels 2 through 6 do not provide favorable characteristics for digital broadcasting.[7] Indeed, as early as 1995, the results of the FCC's original digital television field tests conducted in Charlotte, North Carolina demonstrated to the Commission that significant potential problems associated with the suitability of low-band VHF channels for DTV operations exist.[8] In fact, the Commission considered, and even suggested, that the core spectrum for DTV should consist only of VHF channels 7-13 and UHF channels 14-51, because of the inherent problems associated with low-band VHF reception in the digital domain.[9] Ultimately, in 2008, the Commission chose to include low-band VHF channels 2-6 within the core DTV spectrum, but reserved judgment on the usefulness of those channels in the future.[10]

Since that time, it has been well-documented that in many cases low-band VHF channels fail to offer the best possible DTV service to the public due to well-known interference and reception issues. The Commission itself has specifically recognized that "[L]ower VHF channels 2-6 are not optimal spectrum for digital operations, as they 'are subject to a number of

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7 *See, e.g., Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, Sixth Further Notice of Proposed Rulemaking, 11 FCC Rcd 10968, ¶ 35 (1996); *Television Systems and Their Impact upon the Existing Television Broadcast Service*, Sixth Report and Order, 12 FCC Rcd 14588, ¶ 39 (1997).

8 *See, e.g., Television Systems and Their Impact upon the Existing Television Broadcast Service*, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, 13 FCC Rcd 7418, ¶ 88 (1998) (discussing whether the Charlotte tests showed low-band VHF channels to be unsuitable for DTV operations).

9 *See, e.g., Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279, n.129 (2004); *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 23 FCC Rcd 4220, ¶ 73 (2008).

10 *Id.*

technical penalties, including higher ambient noise levels due to leaky power lines, vehicle ignition systems, and other impulse noise sources and interference to and from FM radio service.'"[11] It is now undisputed that indoor reception is difficult for digital low-band VHF stations such as WRGB due to the longer wavelength signal's inability to readily pass through buildings (windows are often smaller than the wavelength size), the ineffectiveness of many indoor antennas, and high levels of man-made and environmental noise.[12]

Given low-band VHF's inability to provide the best DTV service to the public, it is not surprising that only approximately 2-3% of ***all*** full-power television stations in the United States are operating in the low-VHF band today, representing less than one station per state.[13] This has much to do with the fact that since June 12, 2009, when all full power television stations were required to cease analog operations, a significant number of television stations have requested the substitution of a UHF channel for their assigned post-transition VHF channel, citing reception problems on low-band VHF channels.[14] WRGB Licensee has recently learned that WRGB's experience has not been optimal, and has been similar to other stations using low-band VHF channels in the post-transition period. The operation of WRGB as the only full power low-VHF station in the Albany DMA has simply resulted in less favorable digital service to the viewing public, especially when compared to the digital operations of all other (all being UHF) stations in the market.[15]

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[11] *Sixth Report and Order, In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 12 FCC Rcd 14588, ¶ 82 (1997).

[12] *Id.*

[13] *See* Public Notice, *Broadcast Station Totals as of March 31, 2011* (rel. April 12, 2012); 47 C.F.R. § 73.622 (DTV Table of Allotments).

[14] *See, e.g.*, *WTVF(TV), Nashville, Tennessee*, 26 FCC Rcd 7677 (2011) (channel change from channel 5 to channel 25); *WEDY(TV), New Haven, Connecticut*, 26 FCC Rcd 3877 (2011) (change from channel 6 to channel 41); *KNAZ-TV, Flagstaff, Arizona*, 24 FCC Rcd 11892 (2009) (change from channel 2 to channel 22); *WDKY-TV, Danville, Kentucky*, 24 FCC Rcd 1140 (2009).

[15] As the Media Bureau is aware, the problem with VHF stations not being able to replicate the coverage achieved by their prior analog facilities is not limited to low-band VHF channels as evidenced by numerous high-band

Footnote continued on next page

I. The Proposal to Substitute DTV Channel 19 for DTV Channel 6 at Schenectady, New York, is in The Public Interest.

The proposed WRGB facility on channel 19 will provide significantly better service to viewers in the Albany DMA than the station's currently licensed DTV operations on channel 6. WRGB Licensee has come to realize that operating WRGB as a low-band VHF digital facility in its market is not a viable long-term option for the station. Operating WRGB on channel 19, instead of channel 6, is necessary to provide superior service to the viewing public and would much better serve the public interest. As discussed, the Commission itself has repeatedly recognized that low-band VHF channels do not offer the best possible DTV service to the public.[16] In short, WRGB Licensee has determined that the operations of WRGB on low-band VHF channel 6 has resulted in less favorable digital service to the viewers in the when compared to the digital operations of the other stations in the market.

As set forth in the attached Engineering Statement of John E. Hidle, P.E. of Carl T. Jones Corporation, the instant proposal to allot DTV channel 19 to Schenectady, New York can be accomplished in complete conformity with all Commission allocation requirements.[17] The

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Footnote continued from previous page

VHF to UHF proposals approved by the Media Bureau after the DTV transition. *See, e.g.*, *Colorado Springs, Colorado*, 24 FCC Rcd 11890 (2009) (change from channel 10 to channel 49); *Chicago, Illinois*, 24 FCC Rcd 11880 (2009) (change from channel 7 to channel 44); *Boston, Massachusetts*, 24 FCC Rcd 11790 (2009) (change from channel 7 to channel 42); *New Orleans, Louisiana*, 24 FCC Rcd 12020 (2009) (change from channel 8 to channel 29); *Ft. Myers, Florida*, 24 FCC Rcd 12180 (2009) (change from channel 9 to channel 50).

[16] *See, e.g., Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279, n.129 (2004); *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 23 FCC Rcd 4220, ¶ 73 (2008).

[17] *See* Exhibit 1, Engineering Statement of John E. Hidle, P.E. in Support of Petition. As noted in the Engineering Statement, WSYT, channel 19, Syracuse, New York is predicted to receive a total of new interference to 3.9748% of its baseline population. However, WSYT is commonly-owned with WRGB and the stations will be entering into an interference acceptance agreement with the stations accepting the interference that is predicted to be caused to each other by the instant proposal. The study also showed that WRGB's site is located within the protected contour of Class A station WNYA-CA, channel 15, Albany, New York, and is predicted to cause 3.6695% new interference to WNYA-CA's analog signal on channel 15. However, WNYA-CA has a valid "flash-cut" construction permit, BMPDTA-20081017AHE, that, when implemented, will cease to be affected by WRGB's proposal. In any event, the parties have agreed in principle to an interference acceptance agreement until such time as WNYA-CA's digital flash-cut application is granted by the Commission.

Engineering Statement demonstrates that the proposed arrangement of allotments will permit WRGB to dramatically improve broadcast service to its potential viewers. Specifically, the Engineering Statement concludes that a grant of the instant rulemaking Petition will "assist [WRGB's] efforts to overcome serious reception problems that its viewers have suffered, and continue even to this day to suffer, since June 12, 2009, the DTV transition date."[18] The Engineering Statement also shows that the proposed channel change is conclusively in the public interest.

Not only will WRGB's operations on channel 19 result in significant public interest benefits to viewers in the Albany market, it will also provide for improved service to ***hundreds of thousands of viewers*** of WPVI-TV in and around the Philadelphia DMA. Shortly after the DTV transition, both WRGB and WPVI-TV filed applications for new DTV construction permits seeking power increases in an effort to ameliorate the low-band VHF reception deficiencies that viewers of the stations were suffering in Albany and Philadelphia, respectively, in an effort to improve the ability of viewers to receive usable signals from the stations. WPVI-TV's application, BPCDT-20090617ADQ, and WRGB's application, BPCDT-20090622ABV, were both granted on March 16, 2011, with each construction permit authorizing equal ERPs of 30.2 kW.[19] However, during the time since the authorized WRGB and WPVI-TV power increases were implemented, significant reception problems continue to exist for WRGB and WPVI-TV, many of which appear to result from a lack of sufficient signal level at viewer's locations for both stations. WRGB Licensee and ABC believe that most of these remaining reception problems could be resolved by the instant request to substitute channel 19 for channel 6 for WRGB in Schenectady.

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[18] *Id.*

[19] WRGB's license application, BMLCDT-20110816AAF, was granted on January 12, 2012. WPVI-TV's license application, BLCDT-20111019ACJ, was granted on February 17, 2012.

As discussed above, should WRGB be able to operate on UHF channel 19 instead of low-band VHF channel 6, WPVI-TV and the public would reap an ***immediate*** benefit because an estimated more than ***375,000 viewers*** located within WPVI-TV's predicted service area will no longer be predicted to receive interference from WRGB's currently authorized operations on channel 6.[20] In addition, WPVI-TV would have a considerable amount of flexibility to further improve its service going forward. As demonstrated by the attached ABC Statement in Support of WRGB's channel substitution request found at Exhibit 2 hereto, ABC wholly supports WRGB Licensee's instant channel change request and, like WRGB Licensee, strongly urges the Commission to grant the request in order to substantially benefit viewers of both WRGB and WPVI-TV.

II. Should the Media Bureau Consider it Necessary, the Facts of This Case Also Support a General Waiver of the Freeze to Permit the Proposed Channel Change Request.

WRGB Licensee submits that, to the extent the Media Bureau finds it necessary to grant a waiver to approve the instant channel change proposal in light of the current freeze, WRGB Licensee respectfully requests that the Commission grant a waiver of the freeze with respect to WRGB and approve the requested channel change in light of the overwhelming public interest benefits that will result from of approval of the proposal.[21] A waiver of the *Freeze Notice* is warranted because, as has been shown, the WRGB Licensee channel change proposal will greatly improve the quality of service to viewers throughout the Northeastern Corridor of United

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[20] *See* Exhibit 1, at 2.

[21] *See WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) ("*WAIT Radio*") ("That an agency may discharge its responsibilities by promulgating rules of general application which, in the overall perspective, establish the "public interest" for a broad range of situations, does not relieve it of an obligation to seek out the "public interest" in particular, individualized cases.")

States.[22] In other words, the instant Petition is a unique situation where the circumstances dictate that the public interest benefits would be significantly greater from a grant of a waiver than from strict adherence to the Commission's stated policy in *Freeze Notice*.[23]

To evaluate a proposed waiver, the FCC's longstanding policy is to consider whether "the [public interest] benefits outweigh any detriment which may occur from a grant of the waiver."[24] The D.C. Circuit has stated that waivers should be granted where a proposal is made that does not undermine the public interest.[25] When the Commission receives a request for waiver that is "stated with clarity and accompanied by supporting data," such requests "are not subject to perfunctory treatment, but must be given a 'hard look.'"[26] The Court has also noted that regardless of a policy in place, the Commission nevertheless has "an obligation to seek out the 'public interest' in individualized cases."[27] Rigid application of the freeze in this case would be inappropriate because the requested waiver to permit WRGB to move from channel 6 to channel 19 would greatly serve – not undermine – the FCC's longstanding and historical policy to promote improved television service in the public interest. Given the unique circumstances of this case, the relief requested would not undermine the policy objectives of the *Freeze Notice* and would otherwise serve the public interest.

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22 *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (a waiver is appropriate where special circumstances warrant deviation from the general rule and deviation serves the public interest); *see also WAIT Radio*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

23 *Id.*

24 *See, e.g., Iowa State University*, 9 FCC Rcd 481, 487-88 (1993); *see also NWCG Holdings Corp.*, 11 FCC Rcd 16318, 16322 (1966).

25 *WAIT Radio,* 418 F.2d at 1157.

26 *Id.*

27 *Id.*

CONCLUSION

The substantial body of serious reception problems suffered by digital television stations broadcasting on the VHF channels is well documented, both before and, especially, after the digital transition. More than fifteen years ago the Commission itself recognized that the most serious of the documented reception problems are suffered by digital television stations like WRGB that are broadcasting on any one of the low-band VHF channels. WRGB Licensee, as the new licensee of the station, only recently discovered that operation of WRGB on channel 19 will permit WRGB to dramatically improve its broadcast service to its potential viewers in the Albany DMA. The instant proposal, if granted, will simultaneously allow WPVI-TV to do the same for hundreds of thousands of its viewers in and around the Philadelphia DMA. Therefore, for the stated reasons, WRGB Licensee herein proposes to amend Section 73.622(i) of the Rules to substitute channel 19 for channel 6 for Schenectady, New York.

For the foregoing reasons, WRGB Licensee respectfully requests the following change in the DTV Table of Allotments:

	Current	Proposed
Schenectady, New York	6, *34, 43	19, *34, 43

If the proposal set forth herein is adopted, WRGB Licensee will promptly file the appropriate application to specify operation of WRGB on DTV Channel 19 at Schenectady, New York with facilities consistent with those specified in the attached Engineering Statement and, if authorized, will construct the facilities contemplated therein and place the station into operation.

Respectfully submitted,

WRGB Licensee, LLC

By: _____
Clifford M. Harrington
Paul A. Cicelski

Its Attorneys

PILLSBURY WINTHROP SHAW PITTMAN LLP
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(202) 663-8000

Dated: May 3, 2012

EXHIBIT 1

ENGINEERING STATEMENT OF JOHN E. HIDLE, P.E.

Consulting Engineers
CTJC
CARL T. JONES CORPORATION

STATEMENT OF JOHN E. HIDLE, P.E.
IN SUPPORT OF A PETITION TO AMEND
THE POST-TRANSITION DTV TABLE OF ALLOTMENTS
WRGB - SCHENECTADY, NEW YORK
DTV - CH. 19 - 630 kW - 426 m HAAT

Prepared for: WRGB Licensee, LLC

I am a Consulting Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission. I am a Professional Engineer in the Commonwealth of Virginia, License No. 7418, and in the State of New York, License No. 63418.

GENERAL

This office has been authorized by WRGB Licensee, LLC, licensee of WRGB, channel 6, Schenectady, New York, to prepare this statement in support of a Petition to Amend the Digital Television (DTV) Post Transition Table of Allotments, §73.622(i) of the FCC Rules. The petitioner requests that §73.622(i) of the Commission's Rules be modified in the following manner:

	Present	Proposed
Schenectady, New York	6, *34, 43	19, *34, 43

DTV channel 6 is the channel currently specified in the Post-Transition DTV Table of Allotments for WRGB. The petitioner requests herein to substitute DTV channel 19 for DTV channel 6. The proposed arrangement of allotments will permit WRGB to dramatically improve its broadcast service to its potential viewers. WRGB seeks to amend the Table of Allotments in order to assist in its efforts to overcome serious reception problems that its

viewers have suffered, and continue even to this day to suffer, since June 12, 2009, the DTV transition date. A very substantial body of serious reception problems suffered by digital television stations broadcasting on the VHF channels is well documented, both before and, especially after June 12, 2009. The most serious of the documented reception problems appear to be suffered by the digital television stations that are broadcasting on any one of the low-VHF channels.

Shortly after the DTV transition on June 12, 2009, both WRGB, and another digital television station broadcasting on channel 6, WPVI-TV in Philadelphia, Pennsylvania, filed applications for new DTV construction permits seeking increases in ERP, in a mutual attempt to ameliorate the very serious reception deficiencies that the viewers of both stations were suffering, and to try to improve their likelihood of the potential viewers being able to receive usable signals from the stations. Even though such a mutual increase in ERP, to 30.2 kW each, would be predicted to cause new interference in excess of the Commission's 0.5% limit to both stations, the stations nevertheless agreed to accept the resulting predicted interference to each other. The predicted interference from WPVI-TV to WRGB is 1.7983% new interference, or 39,112 additional persons. The predicted interference from WRGB to WPVI-TV is 2.9069% new interference, or 376,289 persons. Should WRGB leave channel 6, WPVI-TV is predicted to regain those lost viewers.

WPVI-TV's application, BPCDT-20090617ADQ, and WRGB's application, BPCDT-20090622ABV, were both granted on March 16, 2011, each construction permit authorizing equal ERPs of 30.2 kW. Subsequently, WPVI-TV obtained authorization to relocate to a different tower 249 meters away, with a lower HAAT, and corresponding slight increase in

ERP to 34.0 kW. WRGB's license application, BMLCDT-20110816AAF, was granted on January 12, 2012. WPVI-TV's license application, BLCDT-20111019ACJ, was granted on February 17, 2012.

Since WRGB's authorized ERP increase was implemented there remain many reception problems, many of which appear to result from lack of sufficient signal level at the viewer's location. The petitioner believes that most of these remaining reception problems could be solved by the proposed amendment of the Table to substitute channel 19 for channel 6. Therefore, for the stated reasons, WRGB proposes to amend Section 73.622(i) of the Rules to substitute channel 19 for channel 6 for Schenectady, New York.

TECHNICAL STUDY

An engineering study of all pertinent allotments, assignments, applications, construction permits and DTV licenses reveals that DTV channel 19 can be allotted to Schenectady, New York as the post-transition DTV facility for petitioner's existing channel 6 digital television broadcast station, WRGB, which is currently operating according to BLCDT-20111019ACJ.

The allotment reference coordinates for DTV channel 19 at Schenectady, New York are: 42 37' 31" N.L. and 74 00' 38" W.L. [1] The Schenectady allotment reference site meets the allotment standards in §73.616(b) with respect to the DTV to DTV geographic spacing requirements set forth in §73.623(d) with the exception of one full-service DTV station, WSYT, channel 19, Syracuse, New York, the principal community coverage

[1] The channel 19 DTV allotment reference coordinates are the same as the DTV channel 6 allotment reference coordinates (as defined in Section 73.622(i) of the FCC Rules) of the petitioner's authorized WRGB, Schenectady, New York tower site. (See FCC tower registration number 1231728).

requirements set forth in §73.625(a), the Class A TV and digital Class A TV protection requirements set forth in §73.616(f), the land mobile requirements set forth in §73.623(e) and the FM radio protection requirement set forth in §73.623(f).

The petitioner proposes to utilize a non-directional antenna at a centerline height above mean sea level (AMSL) of 681.8 meters and above average terrain (HAAT) of 426 meters. The proposed effective radiated power (ERP) is 630 kW.

ALLOCATION CONSIDERATIONS

Post-Transition DTV Considerations

A study was performed to determine if the instant petition to amend the post-transition Table of Allotments is predicted to cause any level of new prohibited interference to DTV stations, expansion construction permits or DTV allotments. Results of the study utilizing the FCC's application processing software, as shown in Appendix B, indicate that the instant petition is predicted, with one exception, to cause no unacceptable level (less than 0.5%) of new interference to the populations served by any DTV station, expansion construction permit or allotment. WSYT, channel 19, Syracuse, New York is predicted to receive a total of new interference to 3.9748% of its baseline population. However, WRGB has entered into an interference acceptance agreement with WSYT to accept any interference that is predicted to be caused to each other by the instant proposal.

The study also identified one other DTV station that is predicted to be affected slightly by the proposed facility. WGBH-TV, Boston, Massachusetts, channel 19 is predicted to receive additional new interference of 0.4729% to its licensed facility, BLEDT-20021219AAM. This prediction complies with the 0.5% limit for any increase in post-

transition interference set forth in §73.616(e) of the Commission's Rules.

Class A Television Allocation Considerations

As required in Section 73.616(f) of the FCC's Rules, a study was performed, using the FCC's application processing software. The study showed that WRGB's site is located within the protected contour of Class A station WNYA-CA, channel 15, Albany, New York, BLTTA-20030903ABN, and is predicted to cause 3.6695% new interference to WNYA-CA's analog signal on channel 15. However, WNYA-CA has a valid "flash-cut" construction permit, BMPDTA-20081017AHE, that when implemented will cease to be affected by WRGB's proposal. The petitioner has an interference acceptance agreement in principle with the licensee of WNYA-CA, in which the parties agree that should WRGB secure authorization to broadcast on channel 19, and commence operation, prior to WNYA-CA's implementation of its "flash-cut" construction permit, WNYA-CA will accept the predicted new interference to its channel 15 analog operation until it transitions to digital operation.

Although the study shows no contour overlap with Class A LPTV station WRDM-CA, channel 50, licensed to Hartford, Connecticut, it does predict a permissible level of new interference to 0.4538% of the population that is predicted to be served by WRDM-CA's displacement construction permit, BDISDTA-20080804ABN, for digital operation on channel 19. This prediction therefore complies with the 0.5% limit for any increase in post-transition interference set forth in §73.616(f) of the Commission's Rules.

International Television Allocation Considerations

The chosen site for WRGB's proposed DTV operation on channel 19 is located within the Canadian coordination zone, however the distance to the nearest point on the

United States-Canadian border is 247.6 kilometers. The nearest allotted Canadian facility on channel 19 is a vacant allotment for Kingston, Ontario, located 269 kilometers from WRGB, which specifies a digital ERP of 6 kW and an antenna HAAT of 150 meters. The next nearest Canadian allotted facility is located more than 320 kilometers away from WRGB. Given the extreme separation distances, no interference to Canadian facilities is expected, therefore WRGB's proposal should be acceptable to Industry Canada.

SUMMARY

It is submitted that the instant Petition to Amend the Post-Transition DTV Table of Allotments to substitute DTV channel 19 for DTV channel 6 in Schenectady, New York, as described herein complies with the Rules, Regulations and relevant Policies of the Federal Communications Commission, except for two instances of predicted interference in which the petitioner has secured interference acceptance agreements with the two potentially affected stations. In this regard, the petitioner request waiver(s) of Section 73.616 to the extent that might be deemed necessary. This statement was prepared by me or under my direct supervision and its contents are believed to be true and correct to the best of my knowledge and belief.

DATED: April 10, 2012

John E. Hidle, P.E.

COMMONWEALTH OF VIRGINIA
J E HIDLE
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EXHIBIT 2

ABC, INC. STATEMENT IN SUPPORT OF WRGB CHANNEL SUBSTITUTION

STATEMENT OF SUPPORT

ABC, Inc. ("ABC"), licensee of WPVI-TV, Philadelphia, Pennsylvania ("WPVI"), by its attorneys, hereby supports the grant by the Federal Communications Commission ("FCC" or "Commission") of the request by WRGB Licensee, LLC ("WRGB Licensee"), licensee of WRGB(TV), Schenectady, New York ("WRGB"), to specify operation for WRGB on UHF channel 19 in lieu of VHF channel 6. As explained herein, WPVI supports the grant of instant request because it will allow WPVI to effectuate a power increase to address most of the remaining reception problems that have plagued WPVI and its viewers since the digital transition, without causing any additional interference to WRGB.

WPVI has served the Philadelphia, Pennsylvania designated market area ("Philadelphia DMA") on channel 6 for over sixty years, commencing operations in September 1947. WPVI was an early adopter of digital television ("DTV") technology and began operations of a full-power DTV facility on channel 64, its pre-transition channel, in 1998.[1] Because channel 64 is an out-of-core channel, WPVI could not continue to operate on this channel following the DTV transition. Consequently, after significant deliberation, WPVI elected to operate its post-transition DTV facilities on channel 6, its current analog channel.[2] The FCC allotted to WPVI a DTV facility on channel 6 and, on June 12, 2009, WPVI commenced operations of the digital facilities at the highest ERP it could operate without a waiver of certain of the FCC's technical rules ("WPVI DTV Facility").[3]

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[1] *See* FCC File No. BLCDT-19981112KE.

[2] ABC struggled to find a channel for WPVI that would permit it to reach its current analog viewers and, reluctantly, chose channel 6, despite well-documented technical concerns about the channel's post-transition feasibility. Because of the well-known issues surrounding the suitability of channel 6 and other low-VHF channels for DTV operations, ABC was compelled to forego making a channel election for WPVI in round one of the Commission's channel election process and instead elected to participate in the second round of DTV channel elections (in lieu of selecting channel 6). ABC also protected its rights to select another channel in the second round by objecting to a negotiated channel election agreement ("NCA") between two other Philadelphia-area stations.

ABC conducted multiple technical studies over an extended period of time in an attempt to locate another suitable channel for its post-transition DTV operations. The engineering studies demonstrated that special problems did, in fact, exist for low-VHF channels but that channel 6 was the only viable option from which WPVI could possibly replicate its analog service. In addition to the results of the engineering studies, ABC also balanced several other interests in reaching its decision to amend its channel election to channel 6, including (i) congested spectrum in the northeast corridor, (ii) the interests of WPVI's viewers (and their interest in continuity of service), (iii) ABC's interest in certainty and a speedy resolution, (iv) the interests of other stations and the absence of available post-transition DTV channel options in the nation's fourth largest television market, (v) the NCA that effectively removed the only suitable replacement channel from the pool of available channels (which ABC initially opposed), and (vi) the general public interest. Indeed, ABC's decision to elect channel 6 despite questions regarding the channel's post-transition feasibility resolved a long-standing dispute in a manner that enabled the most television stations to serve the most people, and thus benefited other television stations as well as viewers in the Philadelphia DMA. However, the DTV transition has confirmed ABC's concerns that the WPVI DTV Facility is not sufficient to enable WPVI to serve all of its former analog viewers on channel 6, despite the fact that channel 6 was the best possible option, given the circumstances, that WPVI could choose for post-transition operations without protracting the channel selection process.

[3] *See* FCC File No. BLCDT-200906012ACL.

Following its transition to all-digital broadcasts on June 12, 2009, ABC promptly learned that the WPVI DTV Facility could not provide service to many of WPVI's former over-the-air analog viewers. Thus, at the time of the transition, such viewers could not receive WPVI's DTV signal on channel 6 and no longer had access to the same ABC network and locally-produced programming received prior to the DTV transition (including news, emergency information, and other public affairs programming). Accordingly, WPVI worked with the Commission and other affected stations to find a solution to the unique signal reception issues faced by stations such as WPVI. To this end, WPVI applied for and obtained construction permits for incremental power increases, and ultimately received authority to construct facilities at 34.0 kW ERP (the "Current Facilities"), which facilities WPVI currently is operating. The Current Facilities have enabled WPVI to resolve many of the reception problems faced by its viewers, but many of WPVI's viewers continue to experience difficulties with reception even since WPVI commenced broadcast with the Current Facilities. Many of these reception difficulties appear to result from the lack of sufficient signal level at the viewer's location.

WPVI believes that it can resolve most of these remaining reception problems by increasing its power by 2.67 dB, to 62.9 kW. However, such a power increase would cause additional interference to WRGB's population in excess of the 0.5 percent threshold set by the FCC's rules.[4] The proposed channel substitution by WRGB Licensee in the instant request would obviate any additional interference to WRGB from such a power increase by WPVI, thereby enabling WPVI to increase its power and restore over-the-air DTV service to many of its former analog viewers without causing additional interference to WRGB. For this reason, ABC supports the grant of the instant request.

Respectfully Submitted,

ABC, INC.

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April 25, 2012

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[4] *See* 47 C.F.R. § 73.616(e) (2010).

CERTIFICATE OF SERVICE

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that a copy of the foregoing "**Petition for Rulemaking**" was served via hand delivery on this 3rd day of May 2012, to the following:

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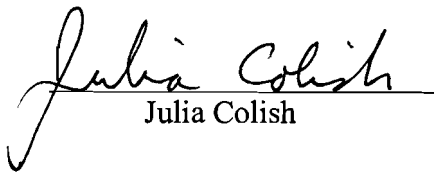

Julia Colish