

1055 Powderhorn Drive  
Glen Mills, PA 19342-9504

PH (610) 399-1826  
E-Mail lhwill@verizon.net

**W25AQ-D, Towanda, PA (Fac Id. 49431)  
Displacement Application**

**Request for Waiver of 47 CFR 73.3517, if needed**

Northeastern Pennsylvania TV Association (NEPTV) hereby requests a waiver of 47 CFR §73.3517, the Commission's rule prohibiting the filing of contingent applications, if needed. For the reasons below, NEPTV respectfully submits that grant of the waiver is in the public interest.

In order to ensure that as many potential channels as possible are available for operating LPTV/translator stations that are subject to displacement, the FCC announced in the LPTV Special Displacement Filing Window Public Notice that it would permit stations to file displacement applications proposing pre-auction channels in the repacked television band (channels 2-36) that full power and Class A stations will relinquish as a result of the incentive auction and repacking process.<sup>1</sup> The FCC required that applicants proposing such channels must include a request to waive the contingent application rule.<sup>2</sup> The FCC also announced that it expected to favorably view requests to waive the contingent application rule filed by operating LPTV/translator stations that are subject to displacement if the station demonstrates that the requested channel is necessary to allow the station to continue to serve its current viewers.<sup>3</sup>

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<sup>1</sup> See Public Notice, *Post-Incentive Auction Special Displacement Window*, DA 18-124, released February 9, 2018,

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<sup>2</sup> *Id*

<sup>3</sup> *Id*

NEPTV has determined that W25AQ-D will be displaced from channel 25 post-auction as a result of full power station WSKA's<sup>4</sup> move from channel 30 to channel 25 at the end of phase 4 of the post-auction transition. To avoid interference to NEPTV's channel 25 operation and continue to serve its viewers, W25AQ-D proposes a change to channel 20, as set forth in this displacement application. Channel 20 is currently occupied by co-owned W20CP-D, Mansfield, PA, Fac Id 49435 and other facilities as well.

First, W20BL, Fac. Id 43452, is currently operating on CH 20 resulting in 2.38% interference from W25AQ-D if operating on CH 25. W20BL has a pending application to change to CH 19, LMS application # 53061. Upon switching to CH 19, W20BL receives 0.00% interference from W25AQ-D operating on CH 20. In addition, WNYI, CH 20 Fac. Id 34329 is proposing in LMS application #26367, to change to CH 13 eliminating all overlap with W20BL.

In light of WSKA, WNYI, and W20BL's changes, NEPTV requests that the Commission waive 47 CFR 73.3517, the contingent application rule and issue W25AQ-D a displacement construction permit for channel 20 subject to:

W20BL's displacement to CH 19; and

WNYI's displacement to CH 13; and

WSKA's displacement from CH 30 to CH 25.

In order to comply with §73.3700(g)(2), W25AQ-D agrees to a permit condition that it will not begin operations on channel 20 as directed by the Commission until both WSKA has completed its transition to channel 25 in Phase 4 of the post-auction transition, W20BL has completed its transition to CH 19, and WNYI has completed its transition to CH 13, also in Phase 4.

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<sup>4</sup> WSKA, Corning, NY, (Fac. Id.78908).

The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>5</sup> Waiver of the Commission's rules is appropriate if (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.<sup>6</sup> NEPTV submits that its proposed change to channel 20, timed with both WNYI's and WSKA's transitions from channel 23 to 25, and from 20 to 13, respectively, will enable it to continue to serve its viewers, and respectfully requests that its request for waiver of §73.3517 be granted.

**W25AQ-D REQUESTS OPERATION ON CH 20 AND ACCEPTS RECEIVED INTERFERENCE IN EXCESS OF 2% TO CO-OWNED W20CP-D. See attached consent letter.**

Interference to W20CP was evaluated with TV Study and the resulting tvix output file showed the following:

Utilizing TVStudy with 1 km grids and 0.5 km radial point spacing, stations receiving prohibited interference from W25AQ-D moving to CH 20 include W20BL, Fac. Id 43452 from CH 20 to CH 19 resulting in the calculated caused IX from W25AQ-D, CH 20 to be 2.38%. However, W20BL has a pending application in LMS File # 53061 for digital operation on CH 19. Using TVStudy with grid size of 0.5 km and point spacing of 0.1 km, W20BL, CH 19 will receive 0.00 % caused interference from displaced W25AQ-D operating on CH 20<sup>7</sup>. In addition WNYI, CH 20 Fac. Id 34329 is proposing in LMS application #26367, to change to CH 13 eliminating all overlap with W20BL. For the "after" IX studies mentioned herein, Tvixstudy was completed with a grid size of 0.5 km<sup>2</sup> and radial point interval of 0.1 km.

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<sup>5</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>6</sup> See *Id.*

<sup>7</sup> As shown in tvixstudy file dated 05-31-2018 and uploaded to the instant application, utilizing 0.5 km grids and 0.1 point spacing, W25AQ-D is subject to between 2.83 and 3.81% received interference. As stated above, NEPTV understands there is some interference but agrees to accept these amounts. Nearly all received interference to W25AQ-D operating on CH 20 at Towanda, PA is from co-owned W20CP-D, CH 20 in Mansfield, PA.

Therefore the only issues that would determine the date when W25AQ-D relocates to CH 20 are the completion of the WSKA move to CH 25; the relocation of W20BL to CH 19; and the transition of WNYI from CH 20 to CH 13. NEPTV submits that its proposed change to CH 20, timed with WNTI's and WSKA's transitions in Phase 4, will enable it to continue to serve its viewers, and respectfully requests that its request for waiver of 73.3517 be granted.