

DELAWDER COMMUNICATIONS, INC.

P.O. Box 1095
Ashburn, Virginia 20146-1095
(703) 299-9222

ENGINEERING REPORT

Asiavision, Inc.

WIAV-LD: Digital Channel Displacement, Washington, DC (ch 43D)

EXHIBIT 11

**LPTV DIGITAL CHANNEL DISPLACEMENT:
INTERFERENCE STUDIES AND WAIVER REQUEST**

1. Asiavision, Inc. ("Applicant") is the licensee of digital companion channel station WIAV-LD, Washington, DC, digital channel 44. By this digital channel displacement application, Applicant proposes to operate WIAV-LD on channel 43. WIAV-LD is located only 116 kilometers from the authorized post-transition digital facility of WWPB, Hagerstown, MD, 44D and, therefore, qualifies for channel displacement relief pursuant to 47 CFR Section 73.3572(a)(4)(iv).

2. Attached as Figure 1 is a map showing that the licensed and proposed digital 51 dBu F50,90 noise-limited service contours of WIAV-LD.

3. Attached as Figures 2 and 3 are the OET-69 study results for the proposed facility (as the referenced station) for the current TV database (the current TV environment) and for the post-transition TV database, respectively. These studies were determined on a Sun Computer using a Solaris (Unix-based) operating system and using the same OET-69 software as developed for use by the FCC. (According to the software developer, the program used herein provides identical results as the FCC's OET-69 processing program.) As demonstrated by Figure 2, a worst-case increase in population interference above the allowed 0.5% de minimus standard is predicted to: (a) the proposed facility of WPXW, Manassas, VA (channel 43 analog; BPCT-20011214AAQ); (b) the pre-transition digital facility of WPXW-DT, Manassas, VA (channel 43 digital; BLCDT-20010425ABG); and (c) the licensed analog facility of WPMT, York, PA (channel 43 analog; BMLCT-20041025ABJ). *Since the proposed WPXW analog channel 43 facility is not likely to be constructed now that the transition to digital is imminent and the WPXW-DT digital channel 43 service will not exist post-transition (WPXW-DT will operate on channel 32 digital, post-transition), the predicted interference to WPXW on channels 43 analog and 43 digital will not exist post-transition. Furthermore, the minor amount of predicted interference to WPMT analog channel 43 as shown by Figure 2 (a 0.96% increase) will also not exist post-transition.* Applicant hereby respectfully requests a temporary waiver, to and including June 12, 2009 (the effective post-transition date) (and any "additional "night light" period, if necessary) of 47 CFR Sections 74.705, 74.706 and 74.793 regarding the increase in predicted interference by this proposal to WPXW's proposed channel 43 analog; WPXW-DT's pre-transition channel 43 digital; and WPMT's licensed channel 43

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analog facilities above the 0.5% de minimus standard. See the additional engineering waiver support statement at the end of this document. (Additionally, a separate statement in support of the waiver request may be included from the attorney and/or Applicant.)

4. Except for those stations also licensed, authorized or proposed by the applicant, or those stations that have consented to predicted interference from this proposal, the proposed facility adequately protects all other US broadcast stations (other than the pre-transition operations mentioned in paragraph 3, above) as required by the FCC Rules. All studies are conducted in accordance with current FCC Rules and Regulations.

5. The applicant accepts any interference that is predicted to exist to the proposed facility by any licensed, authorized or previously proposed primary TV station. The applicant also accepts any interference that is predicted to exist to the proposed facility by any licensed or authorized secondary TV station, or by any secondary TV facility that is given preferential status by the FCC over the Applicant's herein proposed facility.

Additional Engineering Waiver Support

6. As mentioned in paragraph 3, above, a *temporary* waiver of 47 CFR Sections 74.705, 74.706 and 74.793 are respectfully requested regarding the increase in predicted interference by this proposal to: (a) the proposed facility of WPXW, Manassas, VA (channel 43 analog; BPCT-20011214AAQ); (b) the pre-transition digital facility of WPXW-DT, Manassas, VA (channel 43 digital; BLCDDT-20010425ABG); and (c) the licensed analog facility of WPMT, York, PA (channel 43 analog; BMLCT-20041025ABJ). (As demonstrated by Figure 3, the post-transition database OET-69 results no longer include predicted interference to these three facilities.) Since the predicted interference will not exist to these facilities post-transition, Applicant will be frustrated by strict adherence to the current protection rules and policies regarding

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protection to these pre-transition services. Furthermore, the Applicant will not be able to construct the herein proposed facility until after August 1, 2009, since the needed equipment will not be available before then.

7. The Commission assesses waiver requests according to the standards set forth in *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969). See also, *2002 Biennial Regulatory Review*, 18 FCC Rcd 13620 at para. 85 n. 130 (2002) (citing *WAIT Radio* as “setting out criteria for waivers of Commission Rules”). In that case, as here, the applicant sought to operate in contravention of the rules while explaining how it would nonetheless accomplish the purpose of the rules. In this case, however, unlike *WAIT*, the waiver is for an exceptionally short term, given the timetable for grant of the instant application, and given the imminent nature of the June 12, 2009 DTV transition deadline, which will render the waiver moot. Waiver is appropriate under *WAIT* where the applicant furthers the public interest. This channel displacement application within the core channels (2 through 51—those designated for continued TV use post-transition) would accomplish the purposes of the Commission’s rules by permitting WIAV-LD to continue operations in digital emission mode post-DTV transition without causing or receiving interference from the post-transition facility of WWPB. It will, furthermore, permit a vastly improved broadcast service to a large number of persons not now served by WIAV-LD, as explained below. Accordingly, the temporary waiver sought herein is amply justified under the *WAIT Radio* standard.

8. The increased service that’s being proposed for WIAV-LD is evident from the Figure 1 map. WIAV-LD has a predicted year-2000 Census population within its 51 dBu F50,90 noise-limited service contour of 286,066 persons. The herein-proposed digital channel 43 facility has a predicted year-2000 Census population within the 51 dBu F50,90 noise-limited service contour of 3,229,762 persons. This represents an increase in population of 2,943,696 persons—*an increase of 1,029 percent!*

FIGURE 1: WIAV-LD, WASHINGTON, DC—CONTOUR MAP

