

COPY SENT TO REF. ROOM  
JCE 6-18-2013  
19

COPY

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

In the Matter of

ABACUS TELEVISION

Application to convert WHIC-LP  
To Class A Status  
Facility ID 68411, Pittsburgh, PA

) BLTTA-  
) 20130118ABN

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

FILED/ACCEPTED

JUN 14 2013

Federal Communications Commi:  
Office of the Secretary

**Petition for Reconsideration**

Pursuant to § 1.106 and § 72.3584 of the Rules and Regulations of the Federal Communications Commission, Abacus Television (hereinafter "Petitioner"), Pro Se, hereby files its Petition for Reconsideration of the May 9, 2013 letter dismissing the above referenced application of Abacus Television for conversion of channel 29 (32 digital pending), Pittsburgh, PA to Class A status. (See Public Notice Broadcast Actions Report No. 47988, May 14, 2013 at page 1.) For the reasons stated below Petitioner believes the dismissal of its application was an incorrect action and furthermore not in the public interest.

The Commission's letter indicated that since Petitioner's 2001 application for Class A status was dismissed, but neither a waiver request to extend the deadline for this station to file a Class A application nor a petition for reconsideration of the Commission's action dismissing the initial license application was filed, Petitioner's instant application was being dismissed for failure to meet the July 12, 2001 deadline for in-core Class A license applications. Given the processing treatment of Petitioner's 2001 Class A application and the reasons given for its dismissal, it is unfair and inconsistent with the Commission's prior statements to refuse

acceptance and subsequent grant of Petitioner's instant application.

First, Petitioner sought and received a certificate of eligibility for Class A status by the July 12, 2001 deadline. Second, Petitioner filed its initial Class A application on July 12, 2001, within the deadline established for such applications. Since Petitioner's initial Class A application was filed by the established deadline there was no need to file a "waiver request ... to extend the deadline for [this] station to file a Class A license application."

The Commission never issued an order or other public notice dismissing that application. BLT1A-20010712ACD. Rather, on August 21, 2002 the Commission changed the status of the application to "dismissed" in the Commission's database. Petitioner received no correspondence explaining the dismissal of its Class A conversion application. Thus, there was no notice or opportunity to file a "petition for reconsideration of the Commission's action dismissing the initial license application ...." The reason stated in CBDS for the dismissal of Petitioner's initial application was "Application to convert displacement application to Class A status upon the grant of a displacement application."

According to Petitioner's records its WTIC-LP channel 29 analog facility in Pittsburgh, PA was receiving interference from and causing interference to a new digital commercial full power facility on channel 29, WWCP-DT, Johnstown, PA. See Exhibit 1. As a result, at the same time Petitioner sought Class A conversion for channel 29 it was seeking displacement to channel 27, BPTT1-20010712ABZ. That displacement application was eventually denied, because of the addition of digital full power stations WQEX-DT Pittsburgh, PA(26), and

---

<sup>1</sup> The grant of Petitioner's Class A application, if reinstated, must await the grant of Petitioner's digital displacement application to channel 32 and the grant of a license on that digital channel.

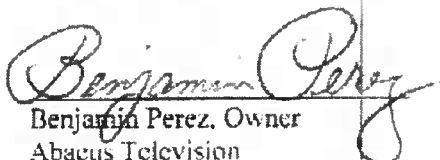
WOUB-DT, Athens, OII (27). Petitioner sought other displacement channels, including flash cutting on channel 29, displacing to channel 32 and displacing to channel 15, its channel 29 flash cut was dismissed and its channel 15 and 32 displacement applications remain pending. When Petitioner spoke to Low Power Television Branch official Robert Singleton about now receiving Class A status for its proposed channel 32 displacement channel, Petitioner was advised by Mr. Singleton that Class A applications could neither be granted or filed at that time because such action constituted a major change in violation of the "freeze" then in effect for all but rural LP TV applications. Petitioner was led to believe by the Commission that re-filing its Class A conversion request for WIIC-LP could and should wait until after the freeze was lifted and it received a grant of a displacement application for channel 29. Accordingly, Petitioner did not file a Petition for Reconsideration or Extension of Time to file a new 302-CA, since its "Application to convert [its] displacement application to Class A status [had to wait until] ... the grant of a displacement application."

Applicant has operated WIIC-LP as a Class A station including transmitting children's programming and locally produced locally originated programming in amounts equal to or greater than required by the Class A rules, operated EAS on the station, filed FEO reports, maintained a Public File, programmed to address the problems and issues of its community of license, and operated the station 24 hours a day seven day a week (except when authorized to be dark pursuant to an STA). The free over-the-air broadcast services provided by Petitioner were, in all respects consistent with the public interest criteria in the legislation creating Class A and the Commission's orders and rules defining Class A performance requirements

It would be manifestly unfair to deny Petitioner its Class A rights and protection when it did everything required of it and handled the delay in the processing of its initial, timely Class A

application according to directions given it by the Commission staff (and consistent with the reasons stated in CBDS for dismissal of BLTTA-20010712ACD). Furthermore, since its initial application was never properly dismissed, it would be wrong to fault the Petitioner for not filing a petition for reconsideration (back in 2002). Lastly, Petitioner is an extremely small business, with extremely small resources, and 100% minority owned (its 100% owner being a Hispanic). The Commission was given the authority to allow LPV licensees to convert to Class A status after the initial deadline if the Commission found that doing so was in the public interest. In the case at bar, given the procedural history, the only fair and appropriate action is to reinstate Petitioner's Class A conversion application. However, the Commission also has the alternative of granting Petitioner Class A status based on BLTTA-20010712ACD, because doing so would be in the public interest under the Class A statute and principles of administrative fairness.

WHEREFORE, for the forgoing reasons, Abacus Television respectfully asks that its application, BLTTA-20130118ABN, be reinstated and granted. In the alternative Abacus Television requests that the Commission, on its own accord, reinstate the Petitioner's original Class A application, BLTTA-20010712ACD, nunc pro tunc, and in the public interest grant that application effective August 21, 2002 (the date it was improperly changed to dismissed status).  
Respectfully submitted,

  
Benjamin Perez, Owner  
Abacus Television  
514 Chautauqua Street  
Pittsburgh, PA 15214

June 14, 2013

abacuscommco@verizon.net

Exhibit 1

W29AY  
Pittsburgh, PA

2355 Ranch Drive  
Westminster, CO 80234  
Phone (303) 465-5742 Fax (303) 465 4067  
e-mail: STCL@aol.com

**B. W. St. Clair**

**Engineering Statement**

**IN RE: Application for Class A television broadcast station license**

**TO APPLICANT: Do not file with application; retain in records.**

Facility ID: 68411 (W29AY)

Channel 29, Pittsburgh, PA

Abacus Communication Company, Applicant

***Interference study***

An analysis of potential interference was conducted which includes a review of changes, if any, with respect to engineering studies for the original application for this facility. With regard to representations of noninterference of this proposal, the following information was developed with respect to the appropriate rulepart. One occurrence of unacceptable interference was found and is identified among the following:

***Full Service Analog TV stations and construction permits (74.705):***

Co- and adjacent channel Analog TV Stations located within potential contour overlap distances of the applicant's site:  
NONE.

***Digital TV stations, construction permits and applications (74.706):***

Co- and adjacent channel DTV stations located within potential contour overlap distances of the applicant's site:

WWCP-DT, Channel 29, cochannel, Johnstown, PA.

This facility was subjected to a Longley-Rice analysis of potential interference with regard to the proposal. WWCP-DT viewers within its noise-limited contour suffering interference uniquely caused by W29AY are predicted to be 300990 persons for a total of 10.546% of its population which exceeds the 0.5% population loss limitation established in OFT Bulletin 69.

***Low power analog TV stations and construction permits (74.707):***

Low power facilities identified as possible constraints are:

WBP1-LP, Channel 29, Pittsburgh, PA.

This facility has a pending application to move to channel 30 and, when constructed, will not receive interference from the proposal.

W28.1H, Channel 28, Greensburg, PA.

This facility was subjected to a Longley-Rice analysis of potential interference with regard to the proposal; no interference or loss of population was revealed in the study.

***Land Mobile station protection (74.709):***

Not applicable to this channel in this region.

For your convenience, certain supporting information such as printouts, listings, maps and similar materials related to the above summaries are retained in our files regarding this application.

Jim McDonald

June 4, 2001



Federal Communications Commission  
Washington, D.C. 20554

May 9, 2013

Benjamin Perez  
Abacus Television  
514 Chautauqui Street  
Pittsburgh, Pennsylvania 15211

Re: WHCT-LP Facility ID: 68411  
Pittsburgh, Pennsylvania  
BLTTA-20130118ABN  
WSSS-LP Facility ID: 270  
Steubenville, OH  
BLDTA-20130118AIV  
WWBP-LP Facility ID: 268  
BLDTA-20130118AIO

Dear Licensee:

This is with reference to the above-captioned applications. You have filed these applications in an effort to convert LPTV stations to Class A status.

The Community Broadcaster Protection Act (CBPA) provided for a two-step process for obtaining a Class A license. First, by January 28, 2000, an LPTV licensee seeking Class A status was required to file a certificate of eligibility. See 47 U.S.C. § 336(f)(1)(B). If the Commission granted the certification, the licensee became a "Class A-eligible LPTV licensee." Second, an in-core Class A-eligible LPTV licensee was required to file an application for a Class A license by July 12, 2001.<sup>1</sup>

Our records indicate that although the above-referenced LPTV stations filed Class A conversion applications, all of these applications were dismissed. Further, our records indicate that no waiver requests were filed to extend the deadline for these stations to file Class A license applications. In addition, no petitions for reconsideration of the Commission's actions dismissing the initial license applications were filed. Therefore, based on foregoing, the above applications are dismissed.

Sincerely,

Hossein Hashemzadeh  
Deputy Chief, Video Division  
Media Bureau

<sup>1</sup> The CBPA provides that an in-core Class A-eligible LPTV licensee "may submit an application for class A designation... within 30 days after final regulations are adopted" by the Commission. 47 U.S.C. § 336(f)(1)(C). The Commission established a filing deadline of July 12, 2001. See *id.*; Public Notice, 15 FCC Red 23997 (2000).