

ORIGINAL

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

In re Application of)
)
KM LPTV of Milwaukee, L.L.C.) File No. BLTVA-20001206ADM
)
To Convert Low Power) Facility ID No. 35091
Television Station WMKE-LP,)
Milwaukee, Wisconsin)
To Class A Station Status)

To: Chief, Mass Media Bureau

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REPLY TO OPPOSITION TO
MOTION FOR LEAVE TO SUPPLEMENT THE RECORD

KMLPTV of Milwaukee, L.L.C. ("KM"), licensee of Class A television station WMKE-CA, Milwaukee, Wisconsin ("WMKE"), by its counsel, and pursuant to Section 1.45(c) of the Commission's rules, 47 C.F.R. § 1.45(c), respectfully submits this Reply to the Opposition to Motion for Leave to Supplement the Record (the "Opposition") filed by WLS Television, Inc. ("WLS") in the above-captioned proceeding.^{1/} In support of this Reply, KM submits the following:

1. The Motion for Leave to Supplement the Record filed by KM on July 12, 2001 (the "Motion") requested that the Commission accept and consider a Supplement to Oppositions to Petitions for Reconsideration (the "Supplement") that KM also filed on July 12, 2001, the same date

^{1/} Pursuant to Section 1.45(c), this Reply may be filed within 5 days (excluding weekend and holiday days) after the July 25, 2001 filing date of the Opposition, plus an additional 3 days (excluding weekend and holiday days) since the Opposition was served by mail, see 47 C.F.R. §§ 1.4(g)-(i) and 1.45(c); therefore this Reply is timely-filed by Monday, August 6, 2001. KM also notes that in a Motion of Extension of Time filed on July 25, 2001, Milwaukee Area Technical College ("MATC") requested an extension of time in which to respond to the Motion. KM has advised MATC that it has no objections to whatever reasonable period of time that MATC may need to prepare and file its response to the Motion.

as the Motion. The Supplement submitted by KM addresses two issues with respect to WLS, regarding the interference protection that may be required from KM's Class A television station WMKE-CA, analog Channel 7, Milwaukee, Wisconsin ("WMKE-CA") to WLS's full power television station WLS-TV, analog Channel 7 ("WLS-TV") and the prospective future operation of WLS's digital television ("DTV") Channel 52 ("WLS-DT"), Chicago, Illinois on Channel 7. The Commission's rules on both issues were clarified in the Commission's order on reconsideration in the Class A proceeding,^{2/} and in the Supplement KM addresses how the Commission's rules, as clarified in the Class A Reconsideration Order, apply to the facts of this proceeding.

2. WLS believes that the not-quite three months between the April 13, 2001 release of the text of the Class A Reconsideration Order and the July 12, 2001 filing of the Motion and Supplement is an unusually long period of time, such that the Commission should not consider the Supplement or the showing made of how the Commission's clarification of the Class A interference protection rules may apply in this case. See Opposition at 1-2. KM obviously disagrees, and believes that in light of the fact that a separate pleading (the Motion) for leave of the Commission was required to file the Supplement in the first instance, and that the timing of filing the Motion and Supplement was not subject to a specific procedural requirement as far as timing, that the acceptability of the Supplement should be based on its relevance to the proceeding. KM believes that the information provided in the Supplement is material and relevant, and hopes that the Commission agrees, and accepts and considers the Supplement.

^{2/} See Establishment of a Class A Television Service, MM Docket No. 00-10, Memorandum Opinion and Order on Reconsideration, FCC 01-123 (released April 13, 2001)(the "Class A Reconsideration Order"), which addressed issues raised in petitions for reconsideration of the Report and Order, FCC 00-115, 15 FCC Rcd 6355, 20 CR 154 (2000)(the "Class A Order").

3. KM does appreciate the fact that WLS concedes that “WLS did not contend that protecting WLS’ [sic] DTV allotment was an independent basis to deny WMKE’s application.” Id. at 2. Although WLS-DT’s DTV allotment is for Channel 52,^{3/} the context of that paragraph suggests that what WLS intended to state is that it has not raised any argument that WMKE-CA is required to protect some prospective future digital operation of WLS-DT on Channel 7, at least not beyond the extent of the WLS(TV) analog Channel 7 Grade B contour. Id.

4. If WLS has not raised the argument of interference protection by WMKE-CA to WLS-DT’s digital operations in this reconsideration proceeding, then KM agrees that Section III and Exhibit 1 to the Supplement are not necessary, and do not need to be considered. To the extent that WLS continues to suggest that WMKE-CA could not protect some prospective future DTV operation of WLS-DT on Channel 7, at least as far as the extent of the WLS(TV) analog Channel 7 Grade B contour as would be required by the Commission’s rules, then its fears should be allayed by the engineering showing submitted by KM as Exhibit 1 to the Supplement, and there is no reason for the Commission not to consider that engineering showing.

5. Last, WLS submits that the Commission is “duty-bound” to take notice of its own rules and guidelines, as clarified in the Class A Reconsideration Order, and therefore the Supplement is not necessary. Id. at 3-4. KM does not see how any harm can arise from assisting the Commission by summarizing how the facts of a specific case are in compliance with the Commission’s rules; that is usually the purpose of pleadings, and pleadings such as the Supplement serve the public interest by assisting the Commission in performing its adjudicatory functions, and

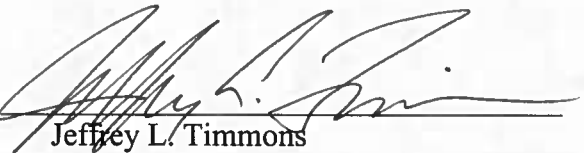
^{3/} There should be no issue of interference protection from an analog Channel 7 Class A television station, such as WMKE-CA, to a DTV Channel 52 allotment due to the 45 channel separation involved.

by allowing the Commission to conserve its resources in performing such functions. KM is confident that once the Commission evaluates the facts of this case in light of its Class A rules, including as clarified in the Class A Reconsideration Order, the Commission will reach the same conclusions as KM, and dismiss or deny WLS's pleadings. KM trusts that the Commission will consider all information it deems relevant and helpful, including the Supplement if the Commission finds that information to be of use.

6. Wherefore, the above-premises being considered, KM respectfully requests that the Commission dismiss or deny the Opposition, grant KM's Motion, and accept and consider the Supplement.

Respectfully submitted,

KM LPTV of Milwaukee, L.L.C.

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CERTIFICATE OF SERVICE

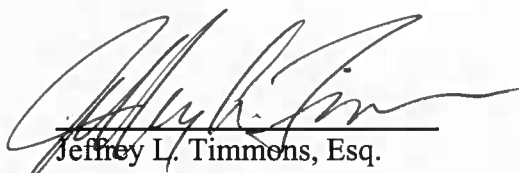
I, Jeffrey L. Timmons, hereby certify that on this 3rd day of August, 2001, copies of the foregoing "Reply to Opposition to Motion for Leave to Supplement the Record" have been served by overnight courier then hand delivery or by U.S. Priority Mail, postage prepaid, upon the following:

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