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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of:

KM LPTV of Milwaukee, L.L.P.

to Convert LPTV Station WMKE-LP,
Milwaukee, Wisconsin to Class A Station

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File No. BLTVA-20001206ADM

To: Chief, Low Power Television Branch
Mass Media Bureau

OPPOSITION TO MOTION FOR LEAVE TO SUPPLEMENT THE RECORD

Milwaukee Area Technical College ("MATC"), by its attorneys, opposes the Motion for Leave to Supplement the Record and the Supplement filed by KM LPTV of Milwaukee ("KM") on July 12, 2001.¹

KM's Supplement serves no purpose at all except to add bulk to the record in this proceeding. As clearly explained by WLS Television, Inc. in its Opposition, filed July 25, 2001, KM's Motion is overly tardy and a blatant attempt to gain another "bite at the apple" for its arguments. Moreover, KM's Supplement does the very thing it purportedly claims to remedy, namely, it interjects a brand new (and irrelevant) argument regarding the power level of MATC's DTV Station WMVS-DT into this proceeding.

KM's "fig leaf" in support of its Motion is that MATC made anecdotal statements in its Reply pleading regarding purported actual interference by WMKE to WMVS-DT.² Yet, KM

¹ This Opposition is timely filed. MATC had previously sought an extension of time until today, August 9, 2001 to file this Opposition. KM indicated its consent to this Extension.

² Moreover, as discussed below, KM's comments regarding MATC's DTV field tests are wholly unsupported by any engineering whatsoever.

itself put the “actual interference” question at issue – KM claimed (rather vehemently) in its Opposition, dated February 12, 2001 (and, repeatedly, in other prior proceedings relating to its LPTV interference waiver)³ that no actual interference to WMVS-DT’s DTV reception would occur. For example, in Paragraph 1 of its Opposition, KM stated: “KM demonstrated in the Application that WMKE does not cause and will not cause interference to the first-adjacent channel [sic] DTV Channel 8 allotment or authorization of WMVS” and “KM’s showing of no interference by WMKE to WMVS has been expressly accepted by the Commission.” In Paragraph 2, KM stated “KM has demonstrated ... that WMKE does not and will not cause interference to WMVS.” In Paragraph 6, KM claimed “no actual interference is expected to occur.” MATC was thus entitled to respond to the very fact that KM put at issue – whether WMKE would cause actual interference to WMVS-DT or not. See 47 C.F.R. Section 1.45(c) (“The reply shall be limited to matters raised in the opposition”). In fact, MATC would have responded with more than just anecdotal evidence, but the lack of DTV “real world” testing and consumer acceptance of DTV receivers makes any full-scale evidence of DTV interference impossible to obtain.

In sum, KM has already had its “say” in this proceeding. It is not entitled to file additional pleadings to buttress its position now. KM’s Motion should be denied and its Supplement stricken from the record. However, in the event that the FCC chooses to accept KM’s Supplement, MATC feels compelled to respond to the substance, as follows:

³ See FCC File No. BPTVL-980601KD and pleading related thereto. See FCC File No. BPTVL-20001206ADM.

First, KM's Supplement wrongly (and without the benefit of any engineering support whatsoever) claims that MATC maximized WMVS-DT beyond that permitted by FCC rules.⁴ Not only is this contention irrelevant to the issue of whether WMKE's application for Class A status should have been granted, it is unsupported and flat out wrong, as the attached Engineering Statement by John F.X. Browne makes clear. Section 73.622(f)(5) of the FCC's rules permits an increase in DTV ERP "up to that needed to provide the same geographic coverage area as the largest station within their market." WMVS-DT's authorized coverage does not exceed WTMJ-DT's coverage – the largest station in the market. End of story.

Second, KM's Supplement takes issue with MATC's DTV field test results (which showed reception difficulties for WMVS-DT near the WMKE transmission site) and makes unsupported allegations about the validity of MATC's testing for interference. Again, there is simply no engineering basis for KM's statements about the DTV field testing – those merely represent the thoughts of KM or its counsel. As indicated in the attached Engineering Statement of John F.X. Browne, the unsupported statements of KM's counsel about MATC's assessment are mere technical generalizations. Those generalizations are without merit and should be stricken from the record – there was no reason whatsoever for KM to feel compelled to "supplement" this proceeding just to share unsupported thoughts with the FCC.

Lastly, MATC would like to draw KM's attention (and the Commission's) again to the invitation it issued to KM in its Reply pleading, dated February 23, 2001. MATC invited KM to "put its money where its mouth is" and accept a condition on its Class A license to comply with


⁴ In lieu of engineering support, KM bases its claim, in part, on private internal FCC processing documentation that is not accessible to the public (KM refers to this as the "Checklist"). MATC's counsel wonders how KM was able to access such information without violating the ex
continued...

Section 74.703(b) and (f) of the FCC's rules and remedy actual interference to WMVS-DT reception or cease operations if such interference occurs.

For all these reasons, MATC respectfully requests that the Commission reject KM's Motion to Supplement and strike the Supplement from the record, or, alternatively, if the Commission should accept the Supplement, consider MATC's response as set forth herein.

Respectfully Submitted,

MILWAUKEE AREA TECHNICAL
COLLEGE

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parte rules, but given the lack of merit in KM's argument regarding WMVS-DT's ERP, it is a moot question.



ENGINEERING STATEMENT
OF
JOHN F.X. BROWNE, P.E.
REPLY TO SUPPLEMENT TO OPPOSITIONS
TO PETITIONS FOR RECONSIDERATION

KM LPTV of Milwaukee, LLC (KM) has submitted to the Commission an untimely filed "Supplement to Oppositions to Petitions for Reconsideration (Supplement)". Part of this filing addresses matters related to the operation of WMVS-DT licensed to Milwaukee Area Technical College (MATC). The instant statement addresses the technical issues cited in the KM filing.

WMVS-DT Effective Radiated Power

KM contends ^{1/} that MATC should not have been granted 25.1 kW ERP and implies that the Commission erred in granting the MATC request for "supermaximized" ERP for WMVS-DT (Supplement Pg. 12-13, Par. 20-22). The Commission's Rules regarding DTV implementation and maximization are very complex; they have been known to confuse even highly qualified engineers no less those unschooled in the radio sciences.

MATC has previously addressed this issue in connection with its reply to KM's Opposition to Petition for Reconsideration (February 23, 2001, the "MATC Reply"). I quote from Page 2 of my Engineering Statement which was part of that earlier filing:

"KM takes issue with whether MATC can raise the power of WMVS-DT to the maximum of 30 kW as specified in Part 73 of the Rules. As stated on Page 3 of my Engineering Statement accompanying the Petition, MATC intended to take full advantage of the provisions of Section 73.622(f)(5) to increase its power to 30 kW in an attempt to match the coverage area of the station with the maximum coverage area in the market (DMA).

^{1/} There is no statement from a qualified engineer supporting KM's discussion on maximum power.

The station having the largest allotted DTV coverage area appears to be WTMJ-DT. Its allotment of 1,000 kW @ 305 meters on Channel 28 will produce a predicted coverage area 31,259 sq. km. The present predicted coverage area of WMVS-DT is 30,165 sq. km; increasing its power to 30 kW^{3/} would increase the coverage area to a calculated 30,643 sq. km, not quite the same area as WTMJ-DT is allotted but certainly a permissible increase under the rules.

Thus, it is clear that, under current rules, WMVS-DT could increase its power to at least 30 kW at the end of the transition period were it not for the presence of WMKE-LP.

MATC did not apply for more than 25 kW in its now granted request for maximization because of concerns regarding interference to existing NTSC stations; since these stations (and, therefore, the associated restrictions) would disappear at the end of the transition period, MATC could have requested the further maximization at that time. MATC will be prevented from doing so if the unconditional grant of the Class A status of WMKE-LP remains in-place."

^{3/} Any power increase would be subject to interference constraints which were considered in establishing the present power level but, in the case of WMVS-DT, these constraints relate to analog stations whose operation would terminate at the end of the transition period.

This cannot be stated in any less technical terms but can perhaps be summarized as follows:

- The Commission's rules permit stations to maximize coverage using power and antenna height up to that set forth in Section 73.622(f)(7) **OR** "up to that needed to provide the same geographic coverage area as the largest station within their market" [See 73.622(f)(5)].
- By my calculations, as set forth above and in the earlier filings, the coverage of MATC's authorized facility does not exceed the geographic coverage area of the largest station in the market.
- As noted above, MATC would have requested an even higher power were it not for other (NTSC) interference constraints.

DTV Field Measurements

MATC engineering personnel sought to evaluate actual interference to the reception of its DTV signal (as opposed to theoretical interference) from the operation of WMKE-LP. Clearly, the WMKE analog signal on the adjacent channel would have to be very strong to interfere with the digital TV signal of WMVS-DT and MATC engineers demonstrated that this, in fact, is the case.

KM again provides unsupported engineering opinions as to subjects such as multipath and measurement methodology. Opining that "unless such testing is conducted with the LPTV station both on and off the air there is no way to determine that the LPTV station is the source of any claimed interference" (Supplement at 18) is but one example. While turning-off a suspected interferer is certainly one way to identify a source of interference (although not an absolutely foolproof method, as anyone who has sought-out sources of intermodulation interference will attest), it is not the only method and, in fact, is generally not the most practical method for all kinds of reasons obvious to those schooled in the art. KM further opines (supra) that it is very likely "that the reception problems encountered by WMVS-DT are the result of multipath problems with the WMVS-DT signal, as conceded by MATC, but its reception difficulties could also be the result of its testing methods, interference from other stations or any other of a number of factors." KM provides no engineering support for such statements.

Any engineer familiar with DTV field measurements, particularly in areas of "high multipath", knows that signal margin is critical to receiver performance. What KM apparently does not understand is that interference has the effect of raising the DTV receiver noise floor and that, in correcting for propagation path anomalies (e.g., multipath), the receiver equalizer must have sufficient signal above the noise floor (margin) to meet the minimum C/N requirement for error-free decoding. In areas where signal level is reduced by local obstructions (such as in the testing areas used by MATC), a strong interfering adjacent-channel signal (e.g., WMKE) will significantly reduce the available margin and, hence, the ability of the receiver to decode the DTV signal.

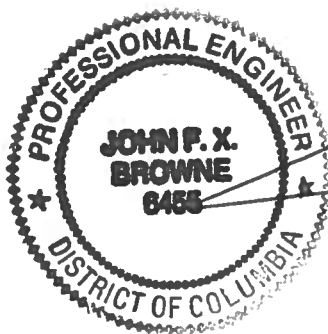
If KM, through counsel or otherwise, wished to comment on MATC's attempts to assess the effects of the significantly stronger WMKE signal in areas of the WMVS-DT principal city, it should have engaged the services of a qualified engineer to prepare its response. Since it did not, its unsupported technical generalizations should be treated as such by the Commission.

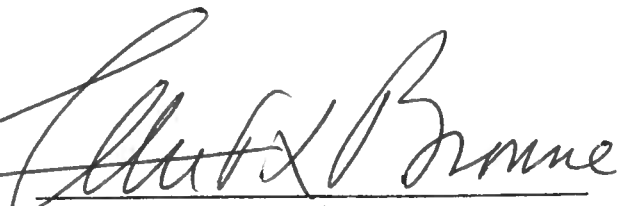
Conclusions

In focusing on Section 73.622(f)(7)(ii), counsel for KM apparently overlooked these provisions of Section 73.622(f)(5). The grant of 25.1 kW ERP for WMVS-DT was completely permissible under the Commission's rules and, contrary to the assertions of KM, it was not necessary for MATC to request a waiver.

Certification

This statement was prepared by me or under my direction. All assertions contained in the statement are true of my own personal knowledge except where otherwise indicated and these latter assertions are based on information from sources known to be reliable and are believed to be true.




John F.X. Browne, P.E.
July 25, 2001

CERTIFICATE OF SERVICE

I, Sandra E. Brown, a secretary at Dow, Lohnes & Albertson, hereby certify that a copy of the foregoing Opposition was mailed this 9th day of August 2001 to the following:

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