

**Request for STA to Operate Post-Transition DTV Facilities**

Consistent with the Commission's *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, FCC 07-228, rel. Dec. 31, 2007, ("*Third Period Review*"), Gormally Broadcasting Licenses, LLC hereby respectfully requests special temporary authority ("STA") to allow WGGB-DT to commence operation with its full, post-transition DTV facilities on Channel 40. As set forth below, the operation of these facilities prior to the new June 12, 2009 DTV transition date will not cause any impermissible interference to any authorized analog or pre-transition digital station.

*Background*

On October 31, 2008, WGGB-TV provided the FCC with 30-days notice of the station's intention to terminate its analog service. The station subsequently terminated analog service on December 1, 2008, consistent with the Commission's *Third Periodic Review*. As detailed in the earlier notice to the Commission, the early termination of WGGB-TV's analog service was necessary in order to facilitate the completion of the station's full, final post-transition DTV facilities, which will operate on the station's former analog channel, Channel 40. In order to effectuate the transition to digital operations on Channel 40, the station has utilized its former Channel 40 transmitting antenna, as well as the existing transmitter.

Currently, WGGB-DT is continuing to operate with its licensed pre-transition DTV facilities on Channel 55. *See* FCC File No. BLCDDT-20061204AHT. Consistent with its planning for the February 17, 2009 transition date, WGGB-DT has completed the construction of its full, post-transition facilities and intends to commence operation of its post-transition DTV facilities on Channel 40. Given that the transition date has now been extended until June 12, 2009, WGGB-DT now faces the prospect of operating its post-transition Channel 40 facilities in a pre-transition landscape. Therefore, by this STA, the station seeks permission for its early operation on Channel 40.

*Discussion*

WGGB-DT proposes to commence operation with its full, post-transition facilities consistent with its underlying construction permit (FCC File No. BMPCDDT-20081124ACP). As demonstrated in the attached engineering exhibit prepared by consulting engineers Carl T. Jones Corp., the operation of WGGB-DT's post-transition DTV facilities on Channel 40 will not cause any new, impermissible interference to any authorized analog or pre-transition digital station. Although WGGB-DT's operation of its post-transition DTV facilities on Channel 40 is predicted to potentially affect WYDN(TV), analog Channel 48, Worcester, Massachusetts, located in the adjacent Boston, Massachusetts DMA based on a UHF taboo channel relationships, such interference is not new, nor impermissible. In fact, WGGB-DT's digital operations on Channel 40 will drastically reduce the previously predicted interference that resulted from WGGB-TV's analog operations on Channel 40.

Further, although there is a slight difference in coverage between the station's pre-transition DTV facilities on Channel 55 and its post-transition DTV facilities on Channel 40, this difference is a result of the allocated facilities, and not because WGGB-DT seeks to operate its post-transition facilities at reduced power. Currently, a greater number of people receive service

from WGGB-DT's pre-transition DTV operations on Channel 55 than will receive service from the station's final, post-transition DTV operations on Channel 40. Any resulting change in service, however, is simply a function of the authorized post-transition operations on Channel 40. Thus, the resulting change in DTV service between channel 40 and Channel 55 is inevitable, unavoidable, and ultimately consistent with the FCC's allocations. Accordingly, allowing WGGB-DT to operate with its full, post-transition facilities on DTV Channel 40 prior to June 13<sup>th</sup> is in the public interest.

As a small, local operator, Gormally Broadcasting Licenses, LLC has planned strategically in order to use its limited resources and to make the transition to digital as efficiently and expeditiously as possible. Consistent with the Commission's Rules, WGGB-DT had been moving inexorably towards the February 17, 2009, statutory deadline previously set by Congress, and despite the fact that the deadline has been extended, WGGB-DT has completed construction of its full, final facilities on DTV Channel 40 and intends to commence operation with its final facilities. As set forth above, no impermissible interference will be caused to any other station, and any reduction in digital service resulting from the switch to WGGB-DT's post-transition channel is inevitable and unavoidable, as such change in service will result in any case, be it now or on June 13<sup>th</sup>.

To the extent necessary, WGGB-DT requests a waiver of the requirement that operation of the station's full, post-transition DTV facilities not result in a reduction of service. As detailed herein, such a reduction is inevitable and not the result of WGGB-DT seeking to operate with reduced facilities. Pursuant to Section 1.3 of the Commission's Rules, the FCC has the authority to waive any provision of its rules if it determines that good cause has been shown to justify such a waiver. 47 C.F.R. § 1.3 (2007). WGGB-DT respectfully submits that grant of a waiver in this instance to allow the station to commence operations with its post-transition DTV facilities on Channel 40 is in the public interest. Operation with the station's post-transition DTV facilities will allow viewers and cable operators to make their final adjustments in order to continue receiving WGGB-DT's over-the-air signal. Transitioning to the station's final facilities on Channel 40 now will allow the station to coordinate with its viewers and to address any issues well in advance of the June 12<sup>th</sup> deadline.

In addition, allowing WGGB-DT to complete the digital transition and vacate Channel 55 (716 – 722 MHz) will clear the way for the use of that spectrum by QUALCOMM, Inc., which has previously purchased the spectrum at auction from the FCC. QUALCOMM, Inc. holds authorization for this frequency throughout the Northeast, as well as an authorization for operation on the adjacent channel in the Boston, Massachusetts market. WGGB-DT understands that this wireless provider is moving aggressively to implement service on this spectrum, and allowing WGGB-DT to terminate its interim operations on Channel 55 and migrate to its permanent DTV channel will facilitate the introduction of new service by the wireless provider, further serving the public interest.

Accordingly, for the reasons stated above, WGGB-DT believes that good cause exists to allow WGGB-DT to commence operation with its post-transition facilities on Channel 40, and respectfully requests authority to do so.