

**Before the  
Federal Communications Commission**

In re Application of	)	
	)	
MB Capital Management, LLC	)	Facility ID No. 141545
for Minor Change of Station W295CG	)	File No. 0000198166
Lake Bluff, IL	)	
	)	
In re Application of	)	
Polnet Communications, Ltd.	)	Facility ID No.157668
for Minor Change of W296DA	)	File No. 0000198158
Vernon Hills, IL	)	

To: Office of the Secretary  
Attn: Chief, Audio Division  
Media Bureau

**Informal Objection**

Polnet Communications, Ltd. ("Polnet"), licensee of Station W296DA, Vernon Hills, Illinois, by its counsel, hereby objects to the above referenced application filed by MB Capital Management, LLC ("MBCM"), on August 23, 2022. Polnet filed a conflicting application on the same day ("Polnet application"). This is the third time MBCM has filed nearly identical applications without being able to successfully license the facility. At this point, it is clear that MBCM is warehousing spectrum and engaging in gamesmanship. As a result, the Commission should dismiss the above referenced MBCM application and give Polnet an opportunity to use this spectrum space. In support hereof, Polnet states as follows:

**Background**

1. On August 11, 2016, MBCM filed the first of its three applications for a minor change in facilities (BPFT-20160811AAO) (the "2016 permit"). MBCM did construct and began operating its proposed facilities without filing a license application. Only after Polnet filed an interference complaint did MBCM file its license application (BLFT-

20170414AAC) (the “2017 license application”). Due to MBCM’s failure to resolve the interference complaints, on June 27, 2019, the Media Bureau dismissed the license application and ordered MBCM to discontinue operations. See Exhibit 1.

2. Then on August 1, 2019, MBCM filed a minor change application (BPFT-20190801AAI) (the “2019 permit”) alleging that this application would not interfere with W296DA.<sup>1</sup> This application was granted before Polnet could file additional listener interference complaints. During the 3 year construction period, MBCM tried to operate the proposed facilities without filing a license application. But since it was aware of the complaints, MBCM never filed a license application. See Exhibit 2. The permit expired on August 20, 2022.

3. Nevertheless, on the next business day after its 3 year period expired, MBCM filed a nearly identical application again asking for 3 more years (the “2022 application”) without avoiding the interference area. On the same day, Polnet filed its minor change application for W296DA in order to improve its facilities.

### **Warehousing Spectrum**

4. In *Chester P. Coleman*, 12 FCC 3330, 3331 (1997), the Commission stated:

“[t]he Commission’s rules and policies are intended to encourage the timely construction and prompt initiation of service by new broadcast facilities. See *Construction of Broadcast Stations*, 102 FCC 2d 1054, 1057 (1985). Permittees who do not demonstrate a willingness to construct their authorized facilities are, in effect, ‘warehousing spectrum’ which precludes service by other potential broadcasters and thus disserves the public interest.”

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<sup>1</sup> The only difference between the 2019 permit and the 2022 application is the pattern. However, the interference area has not been resolved.

5. Similarly, in *Brian M. Madden, Esq. and Lewis J. Paper, Esq., DA 10-787* (May 7, 2010), the licensee had 6 years to construct its permit but failed to do so. The

Media Bureau stated:

“Susquehanna’s continuing construction delays are thwarting Liberman’s efforts to implement a major facility improvement in Krum, Texas, while raising serious questions as to whether it is acting in good faith to initiate a first local service at Cooper, Texas. Thus, continued warehousing of this spectrum by Susquehanna in the face of (sic) Liberman’s long standing competing demand is plainly contrary to the public interest.”

6. In the present case, MBCM’s failure to construct the 2019 permit so as to avoid interference to W296DA’s listeners and, prior to that, MBCM’s failure to have its 2017 license application granted for the same reasons indicates that MBCM’s 2022 application, if granted, cannot become licensed either without encountering the same interference problems. Attached as Exhibit 2 are contour maps indicating the area of interference with the proposed 250 Watt facility and another map showing that even at 1 Watt, the facility will cause interference to W296DA’s listeners.

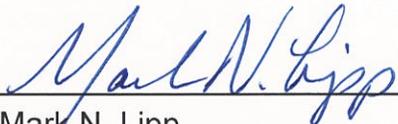
### **Gamesmanship**

7. In the case of *WIOO Radio Inc., 23 FCC Rcd 9362 (MB 2008) at n. 19*, the conflicting applicant was accused of engaging in gamesmanship by the Commission for trying to protect a licensed facility that had been abandoned and could not be reinstated. Similarly, here MBCM is engaging in gamesmanship by trying to protect a facility that it knows cannot be licensed due to unresolved interference.

8. Accordingly, in view of the fact that MBCM has had two previous opportunities to construct, it should not be given a third chance at the expense of another party’s application since MBCM will not be able to successfully license the 2022

application facility. Accordingly, MBCM's 2022 application must be dismissed and Polnet's application granted.

Respectfully submitted,  
Polnet Communications, Ltd.

By:   
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October 31, 2022

Its Counsel

## EXHIBIT 1



**Federal Communications Commission  
Washington, D.C. 20554**

June 27, 2019

*In Reply Refer to: 1800B3-KV*

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**In re: W296DF, Lake Bluff, IL**  
File Nos. BPFT-20160811AAO, and  
BLFT-20170414AAC  
Facility ID No. 141545

**Interference Complaint and  
Petition to Deny**

Dear Counsel:

We have before us the following: (1) a "Complaint of Interference and Operating without a License" (First Complaint) filed on March 27, 2017, by Polnet Communications, Ltd. (Polnet), licensee of FM Translator Station W296DA(FM), Vernon Hills, Illinois, Channel 296, alleging interference from FM Translator Station W296DF (W296DF or Station) licensed to MB Capital Management, LLC (MBCM or

Licensee);<sup>1</sup> (2) a license application (License Application) filed on April 14, 2017, by MBCM<sup>2</sup> covering a construction permit to operate on Channel 296, at Lake Bluff (Permit);<sup>3</sup> and (3) a “Petition to Deny” (Petition) the License Application, filed on April 26, 2017, by Polnet.<sup>4</sup> For the reasons set forth below, we grant the Complaint; grant the Petition to the extent indicated herein and otherwise deny it; dismiss the License Application and require MBCM to immediately cease operation of FM Translator Station W296DF.

**Background.** On August 30, 2016, Commission staff granted the Permit to operate the Station on Channel 296 at Lake Bluff with an expiration date of August 30, 2019.

On March 27, 2017, Polnet filed the First Complaint, arguing that the Station should be ordered to cease operations and the Media Bureau (Bureau) should investigate whether the Permit and underlying license should be forfeited. Polnet alleges that “[t]he unauthorized operation of W296DF is causing actual interference to the signal of W296DA.”<sup>5</sup> Polnet states that although the Permit prohibits operation under program test authority prior to filing a covering license, “[o]n March 10, 2017, Polnet began to receive reports of interference by [its] listeners . . . .”<sup>6</sup> Polnet reports that an investigation revealed the interference originated from “a station operating on 107.1 from the tower specified in the W295CG license and construction permit . . . [the station identifies as] ‘the Hound at 106.3 is W272DJ, Lake Bluff, Chicago WOJO HD2 Evanston.’ W272DJ at 106.3 is the previous station identification for W295CG.”<sup>7</sup> In support, Polnet attaches six listener complaints, each dated March 22, 2017, and reporting interference to their W296DA reception.<sup>8</sup>

On April 14, 2017, MBCM filed the License Application to implement the move to channel 296 authorized under the Permit.

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<sup>1</sup> The Station is licensed to operate as W295CG, Lake Bluff, Illinois, Channel 295 (File No. BLFT-20160808AAN). Under review herein, however, is Polnet’s allegation that the Station’s operation as a permittee on Channel 296, Lake Bluff, Illinois is causing interference to its station. Therefore, we will refer to the Station as W296DF.

<sup>2</sup> File No. BLFT-20170414AAC.

<sup>3</sup> File No. BPFT-20160811AAO.

<sup>4</sup> Also before us are the following associated filings: (1) an “Opposition to Interference Complaint” (Complaint Opposition) filed on April 21, 2017, by MBCM; (2) a “Second Interference Complaint and Reply to Opposition” filed on April 25, 2017, by Polnet (Second Complaint); (3) an unopposed “Request for Additional Time” (First Request) filed on May 11, 2017, by MBCM; (4) an unopposed “Request for Additional Time” (Second Request) filed on May 22, 2017, by MBCM; (5) a “Letter to James Bradshaw” filed on May 22, 2017, by MBCM (MBCM Letter); (6) an “Opposition to Petition to Deny” (Petition Opposition) filed on June 22, 2017, by MBCM; and (7) a “Third Interference Complaint” (Third Complaint) filed on October 31, 2018, by Polnet.

<sup>5</sup> First Complaint at 1. Polnet observes that the Permit contains a condition prohibiting program test operations prior to the filing of a covering license application, on FCC Form 350, but although no application had been filed, the Station was operating on Channel 296 and causing actual interference to W296DA. *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* See also “Declaration of Kent Gustafson,” (dated Mar. 27, 2017) (Gustafson Declaration), Exh. 1. *Id.*

<sup>8</sup> Specifically, listeners: Izabela Foster experienced interference at home (Lake Villa, IL) and driving on “59/132 [and] Fox Lane”; Tadeusz Cymerman experienced interference at home (Lake Villa, IL) and driving on “132/S. Milwaukee Avenue, Lake Villa”; Andy Wesniewski experienced interference at home (Lake Villa, IL) and driving on “Grand Avenue & 94 Gurnee”; Jelanta Mil experienced interference at home (Lake Villa, IL) and driving on “E. Rollins Rd./83 Round Lake Park”; Bronislaw Strich experienced interference at home (Lake Villa, IL) and driving on “E. Main St./120 Mainesville”; and Wojcedr Bazaus experienced interference at home (Lake Villa, IL) and driving on “Grand Ave. /45 Lake Villa.” Exhibit 2. , *Id.* Collectively, these listener complainants will be referred to as the “First Complainants.”

On April 20, 2017, the Bureau sent MBCM a letter directing it to resolve the complaints of interference within 30 days or suspend the Station's operations.<sup>9</sup> The *Bureau Letter* required MBCM to submit a detailed report for each complainant which included: "(1) the name and address of each complainant; (2) specific devices receiving the interference (*i.e.* type of device, manufacturer's name, model number, and serial number); and (3) any assistance provided by MBCM for each device allegedly receiving the interference and whether such interference persists."<sup>10</sup>

On April 21, 2017, MBCM responded that grant of Polnet's then-pending application<sup>11</sup> to move W296DA to channel 284 would render the interference complaints moot. It also stated that if the "staff desires for MB Capital to address the complaints of interference, please let [it] . . . know."<sup>12</sup>

On April 25, 2017, Polnet filed a Second Complaint attaching 14 new listener complaints, dated April 19 – 22, 2017, each reporting interference to their W296DA reception.<sup>13</sup> Polnet also asserted that its then-pending modification application did not relieve MBCM of its obligation to resolve the interference complaints.

On April 26, 2017, Polnet filed a Petition arguing that the License Application should be denied and Permit rescinded because the Station: (1) is causing interference to certain W296DA listeners; (2) engaged in unauthorized operations by operating for "over a month" prior to filing the License Application; and (3) continues to misidentify itself.<sup>14</sup>

On May 8, 2017, the Bureau dismissed the Polnet Modification Application.<sup>15</sup>

On May 18, 2017, MBCM reported that the Station went silent on April 29, 2017, due to "technical difficulties" and requested Special Temporary Authority (STA) to remain silent.<sup>16</sup> On May 22, 2017, MBCM declared that its STA request to remain silent rendered the interference complaints moot. It further opined that it "is looking into the interference and when the station goes back on the air, it will

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<sup>9</sup> See Letter from James D. Bradshaw, Deputy Chief, Audio Division, Media Bureau, to MB Capital Management, LLC (Apr. 20, 2017) (*Bureau Letter*).

<sup>10</sup> *Id.* at 1.

<sup>11</sup> See File No. BPFT-20170410AFV (Polnet Modification Application).

<sup>12</sup> Complaint Opposition at 1.

<sup>13</sup> Specifically, listeners: Sylvia Kuzdzal experienced interference at home (Algonquin, IL) and driving on "176/60 Mundelein"; Anna Claude experienced interference at home (Algonquin, IL) and driving on "Dundee Rd./14 Barrington"; Jan Marcinkowski experienced interference at home (Lake Villa, IL) and driving on "Gurnee I-94"; Jack Krupka experienced interference at home (Lake Villa, IL) and driving on "Gurnee I-94"; Anna Krupka experienced interference at home (Lake Villa, IL) and driving on "Gurnee I-94"; Ela Lielonke experienced interference at home (Edgewood, IL) and driving on "Libertyville I-94"; Teresa Nauvecka experienced interference at home (Round Lake Hts, IL) and driving on "Round Lake Rd/45"; Pawel Nauvecka experienced interference at home (Round Lake Hts, IL) and driving on "Round Lake Rd/45"; Moueh Naurvecka experienced interference at home (Round Lake Hts, IL) and driving on "Round Lake Rd/45"; Paulina Nowak experienced interference at home (Schaumburg, IL) and driving on "12/134 McHenry"; Piotr Balaweider experienced interference at home (McHenry, IL) and driving on "Big Hollow Rd./12 McHenry"; Anna Krukowska experienced interference at home (McHenry, IL) and driving on "Wilson Rd./13<sup>th</sup> Long Lake"; Ewa Zarakowski experienced interference at home (Lake Villa, IL) and driving on "Grand Ave./45"; and Tomasz Zarakowski experienced interference at home (Lake Villa, IL) and driving on "132/Grand Ave." Exhibit 1. *Id.* Collectively, these listener complainants will be referred to as the "Second Complainants."

<sup>14</sup> Polnet reports that "today, [the Station] identified itself as '[t]he Hound at 107.1 is W292DJ Lake Bluff, Chicago.'" Petition at 3.

<sup>15</sup> See "Broadcast Actions," Rep. No. 48983 (dated May 11, 2017).

<sup>16</sup> See File No BLSTA-20170518AAB.

address the complaints, if upon returning to the air, the complaints are still material.”<sup>17</sup> On June 20, 2017, the Bureau granted the STA.<sup>18</sup>

Also, on June 20, 2017, MBCM responded that the Petition should be dismissed pursuant to Section 319(c) of the Communications Act of 1934, as amended, (Act)<sup>19</sup> because it “has a protected interest in the grant of its License Application.”<sup>20</sup> MBCM also reported analyzing the Station’s “technical operation in the hopes of addressing the complaints [and]. . . that it will be able to eliminate, with a modification, all interference concerns.”<sup>21</sup>

On April 14, 2018, MBCM notified the Commission that on March 1, 2018, the Station “returned to the air with its licensed facilities.”<sup>22</sup>

On October 31, 2018, Polnet filed a Third Complaint declaring that the Station apparently resumed operations on “its permitted facilities, for which its license application remains pending.”<sup>23</sup> Polnet reports that “[i]n early March . . . [it] again began to receive reports of interference by listeners . . . [It] attempted to contact MBCM multiple times . . . but received no response.” In support, Polnet attaches 13 new listener complaints, dated June 21 – August 13, 2018, each reporting interference to their W296DA reception.<sup>24</sup> Polnet also alleges that the Station is “operating outside of its permitted operating parameters . . . [because it] does not serve as a fill-in translator for WPPN, which operates on Channel 294 [as it proposed in the Permit] . . . and instead simulcasts WLEY 107.9, which operates on Channel 300.”<sup>25</sup>

**Discussion. Procedural.** As an initial matter, neither the Act, nor the Rules provides for the filing of a petition to deny a license application.<sup>26</sup> Therefore, we will treat the Petition as an informal objection under Section 73.3587 of the Rules.<sup>27</sup> Informal objections, like petitions to deny, must allege

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<sup>17</sup> MBCM Letter at 1.

<sup>18</sup> See Letter from Lisa Scanlan, Assistant Chief, Audio Division, Media Bureau to MB Capital Management (dated Jun. 20, 2017). The STA was granted for 180 days and extended, per File No. BLESTA-20171211ABJ, on January 10, 2018.

<sup>19</sup> 47 U.S.C. § 319(c).

<sup>20</sup> Petition Opposition at 2.

<sup>21</sup> *Id.* at 2.

<sup>22</sup> See Exhibit 3, “Resumption of Operations” (dated Apr. 14, 2018). (Resumption Notice)

<sup>23</sup> Third Complaint at note 2.

<sup>24</sup> Specifically, listeners: Konrad Janda experienced interference at home (Lincolnshire, IL) and unspecified driving locations; Evelyn Birdeli experienced interference at home (Round Lake, IL); Monike Moriveli experienced interference at home (Hawthornwoods, IL); Iwone Molinairie experienced interference at home (Round Lake, IL); Agnes Drag experienced interference “near my house”(Round Lake, IL); Anassia Wvadysvaw experienced interference at home (Gurnee, IL); Mavoorrata Swidrak experienced interference at home (Wauconda, IL); Chatqoneta Nomywr experienced interference at home (Libertyville, IL); Merte Kulerr experienced interference at home (Greenville, IL) and unspecified driving locations; Marzena Jonak experienced interference at unspecified work and driving locations; Beata Penar experienced interference at home (Riverwoods, IL); Danuta Grochowska experienced interference at home (Mettawa, IL); and Stanislaw Grochowski experienced interference “near my house” (Mettawa, IL). Exhibit 2. *Id.* Collectively, these listener complainants will be referred to as the “Third Complainants.”

<sup>25</sup> *Id.* at 2.

<sup>26</sup> See 47 U.S.C. § 309(c); 47 C.F.R. §§ 73.3580(a)(3), 73.3584(a). See also, e.g., *Clear Channel Broadcasting Licenses, Inc.*, Letter, 21 FCC Rcd 8677 n 1 (MB 2006).

<sup>27</sup> *Id.* § 73.3587.

properly supported facts that, if true, would establish a substantial and material question of fact that grant of the application would be inconsistent with the public interest.<sup>28</sup>

*Substantive.* Section 319(c) of the Act<sup>29</sup> imposes a stringent standard on challenges to license applications. So long as “all the terms, conditions, and obligations set forth in the application and permit have been fully met,” MBCM is entitled, as an applicant for a license to cover a construction permit, to a high degree of protection and a presumption that the public interest determination made during the underlying construction permit proceedings continues in effect unless circumstances have arisen that would make operation of the Station against the public interest.<sup>30</sup>

Section 74.1203(a)(3)<sup>31</sup> of the Rules states that an FM translator station will not be permitted to continue to operate if it causes any actual radio signal interference to the direct reception by the public of the off-the-air signals of any authorized broadcast station.<sup>32</sup> The rule places no geographic or temporal limitation on complaints, and we have long held that mobile receivers, such as automobile radios, should not be subject to interference resulting from the operation of an FM translator or booster station.<sup>33</sup> The FM translator rules strictly prohibit interference by these secondary service stations, and an interfering FM translator station must remedy the interference or suspend operation.<sup>34</sup>

The Commission has interpreted “direct reception by the public” to limit actionable complaints to those that are made by *bona fide* listeners.<sup>35</sup> Thus, it has declined to credit claims of interference<sup>36</sup> or lack of interference<sup>37</sup> from station personnel involved in an interference dispute. More generally, the Commission requires that a complainant “be ‘disinterested,’ e.g., a person or entity without a legal stake in the outcome of the translator station licensing proceeding.”<sup>38</sup> The staff has routinely required a complainant to provide his or her name, address, location(s) at which FM translator interference occurs, and a statement that the complainant is, in fact, a listener of the affected station. Moreover, as is the case with other types of interference complaints,<sup>39</sup> the staff has considered only those complaints of FM translator interference where the complainant cooperates in efforts to identify the source of interference

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<sup>28</sup> See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990).

<sup>29</sup> 47 U.S.C. § 319(c).

<sup>30</sup> See 47 U.S.C. § 319(c) (requiring the Commission to issue a license where a construction permit has been granted and it appears that the terms of such permit have been met, and “that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest . . .”); *Focus Cable of Oakland, Inc.*, Memorandum Opinion and Order, 65 FCC 2d 35, 39-40, para. 11 (1977).

<sup>31</sup> 47 CFR § 74.1203(a)(3).

<sup>32</sup> An FM translator station creating actual radio signal interference to any authorized broadcast station is obligated to eliminate the interference, regardless of the location where the impaired signal reception occurs.

<sup>33</sup> See, e.g., *Forus FM Broad. of New York, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 7880, 7882, para. 16 (MB 1992) (because of the secondary nature of FM booster stations, and the resulting requirement that they provide interference-free service, such stations will not be permitted to cause interference to mobile receivers).

<sup>34</sup> 47 CFR § 74.1203(b).

<sup>35</sup> See *Ass’n for Cmty. Educ., Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682, 12688, para. 16 (2004) (*Ass’n for Cmty. Educ.*).

<sup>36</sup> See *id.*

<sup>37</sup> See *Living Way Ministries, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 15070, 15077, n.46 (2008).

<sup>38</sup> *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688 n.37.

<sup>39</sup> See, e.g., *Jay Ayer and Dan J. Alpert*, Letter Order, 23 FCC Rcd 1879, 1883 (MB 2008) (requiring complainants to cooperate fully with the station’s efforts to resolve interference and cautioning that the failure to do so could lead to a finding that the station has fulfilled its interference remediation obligations).

and accepts reasonable corrective measures.<sup>40</sup> Accordingly, when the Commission concludes that a *bona fide* listener has made an actionable complaint<sup>41</sup> of uncorrected interference from an FM translator, it will notify the station that “interference is being caused” and direct the station to discontinue operations.<sup>42</sup>

The issue before us is whether MBCM has eliminated the actual interference caused by the Station to the 33 listeners (First, Second and Third Complainants) who filed complaints in this proceeding. After the Station went silent, on April 29, 2017, MBCM twice pledged to address listener complaints upon resuming Station operations.<sup>43</sup> On March 1, 2018, the Station returned to the air. To date, however, MBCM has failed to address the listener complaints as directed by the *Bureau Letter*.

Therefore, based on the record, we find that MBCM failed to resolve any of the 33 listener complaints and the Station must suspend operations. We further find that circumstances have arisen that would make operation of the Station against the public interest and will dismiss the License Application.<sup>44</sup>

**Conclusion.** Based on the above, IT IS ORDERED, that the Interference Complaints, filed on March 27, 2017, April 25, 2017, and October 31, 2018, by Polnet Communication, Ltd. ARE GRANTED.

IT IS FURTHER ORDERED that the Petition Deny, filed on April 26, 2017, by Polnet Communication, Ltd. IS GRANTED TO THE EXTENT INDICATED AND OTHERWISE DENIED.

IT IS FURTHER ORDERED pursuant to Sections 74.1203 and 0.283 of the Rules,<sup>45</sup> based on the above, MB Capital Management, LLC, IS HEREBY ORDERED TO CEASE OPERATION OF STATION W296DF IMMEDIATELY.

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<sup>40</sup> See *Radio Power, Inc.*, Letter Order, 26 FCC Rcd 14385, 14385-86 (MB 2011) (listing grounds that translator licensee claimed are sufficient to conclude that complainant has failed to reasonably cooperate and finding that a listener may reasonably reject a non-broadcast technology to resolve interference claim).

<sup>41</sup> Because only a complaint from a *bona fide* listener of the desired station can force a translator station to suspend operation, Polnet’s engineering statements in the Gustafon Declaration, submitted in the First Complaint do not meet that criterion. See, e.g., *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 16 (station’s engineer locating the points on a map where the translator had interfered with the stations’ signal as he drove around the full-service station’s coverage area listening to the car radio did not meet that criterion) and *Valley Broad., Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 4317, 4319, para. 26 (MB 1992) (tests for booster interference were conducted under Special Field Test Authority by a neutral party, using a mobile receiver and a stationary receiver. The application was granted with the *caveat* that if the booster station resulted in listener interference complaints, the permittee would be required to discontinue its operation until all complaints had been resolved). Likewise, the referenced statements presented by Polnet are not probative because Section 74.1203(b) does not allow us to rely on such showings.

<sup>42</sup> See 47 CFR § 74.1203(e); see also *Amendment of Part 74 of the Commission’s Rules Concerning FM Translator Stations*, Report and Order, 5 FCC Rcd 7212, 7230, para. 131 (1990), *modified*, 6 FCC Rcd 2334 (1991), *recon. denied*, 8 FCC Rcd 5093 (1993); *Ass’n for Cmty. Educ.*, 19 FCC Rcd at 12688, para. 15.

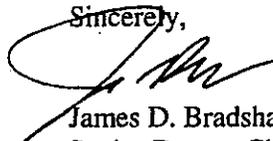
<sup>43</sup> See *supra* notes 17 and 21.

<sup>44</sup> Because we are directing the Station to cease operations and dismissing the License Application, we do not need address Polnet’s other allegations concerning Station operations. See *supra* notes 5, 7, and 25.

<sup>45</sup> 47 CFR §§ 74.1203 and 0.283.

IT IS FURTHER ORDERED, pursuant to Section 73.3566(a)<sup>46</sup> of the Rules that the pending License Application (BLFT-20170414AAC) filed by MB Capital Management, LLC, on April 14, 2017, for Station W296DF, Lake Bluff, Illinois IS DISMISSED.

Sincerely,



James D. Bradshaw  
Senior Deputy Chief  
Audio Division  
Media Bureau

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<sup>46</sup> 47 CFR § 73.3566(a).

## EXHIBIT 2

 **Fletcher, Heald & Hildreth**

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September 30, 2021

**Via Email**

Scott Woodworth, Esq.  
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Suite 300  
Washington, DC 20006

Re: W295CG, Lake Bluff, IL and W296DA, Vernon Hills, IL

Dear Scott:

The purpose of this letter is to memorialize our telephone conversation in which I, on behalf of Polnet Communications, Ltd. ("Polnet"), licensee of translator Station W296DA, Vernon Hills, Illinois, reported to you that MB Capital Management, LLC, ("MB"), licensee of translator Station W295CG, Lake Bluff, Illinois, has been operating translator Station W295CG on 107.1 MHz without first filing its license application and, as a result, has caused destructive interference to numerous listeners of Station W296DA. Polnet learned that MB's translator has been operational on four different occasions. Polnet became aware of these on air attempts due to listener complaints.

Based on a visual inspection by a representative of Polnet, it does not appear that MB installed a directional antenna as required by its construction permit (BPFT-20190801AAI). Polnet is providing the attached maps to depict the contour overlap between the two translators and to demonstrate where the interference has occurred and will occur. As you will see there is no power level which will allow this translator to operate without causing Polnet's translator interference. Therefore, Polnet urges MB to consider other alternatives in order to allow both translators to operate successfully.

Respectfully submitted,

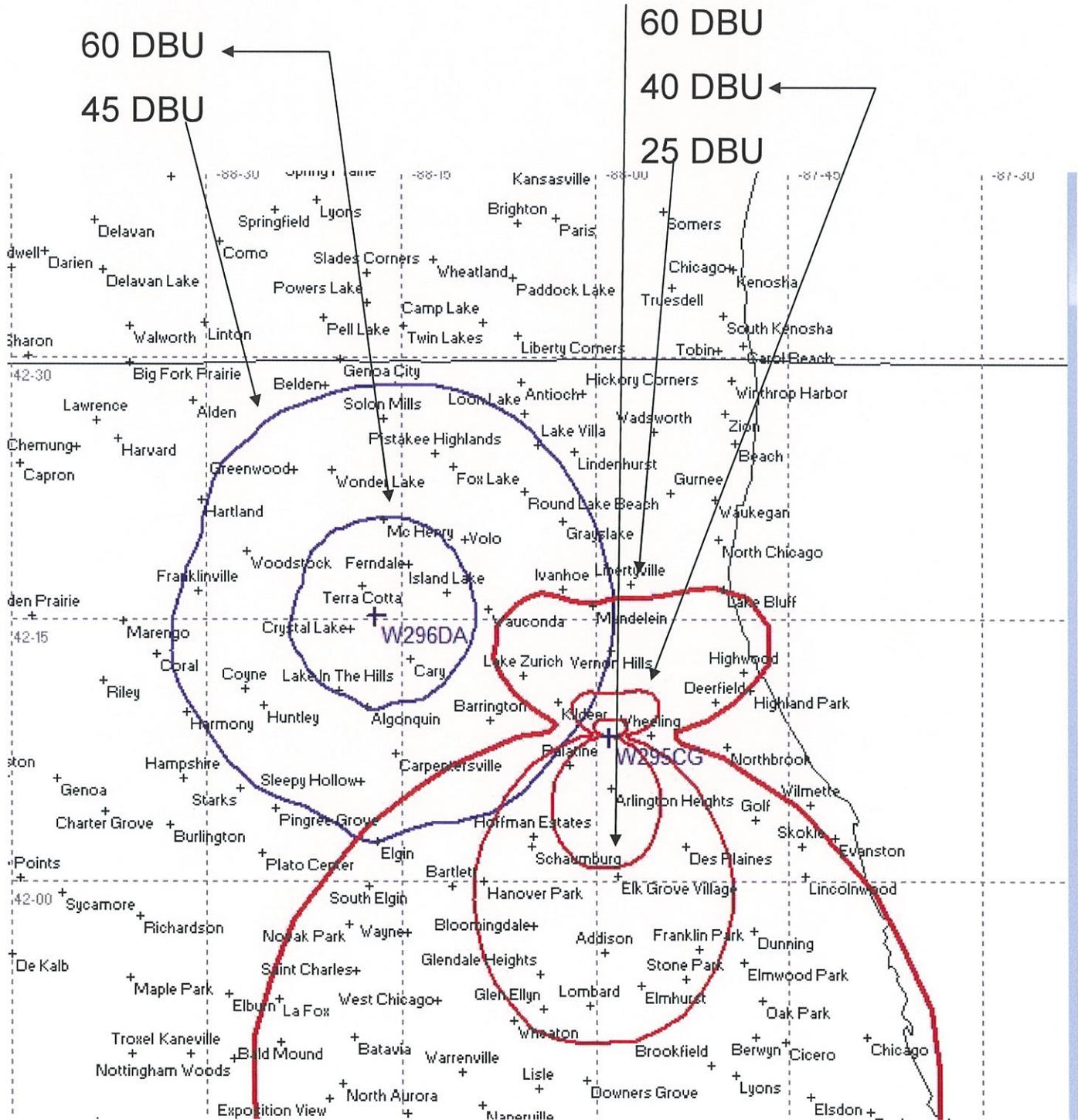
  
Mark N. Lipp

Attachments

# W295CG CP 20190801AAI Overlap With W296DA

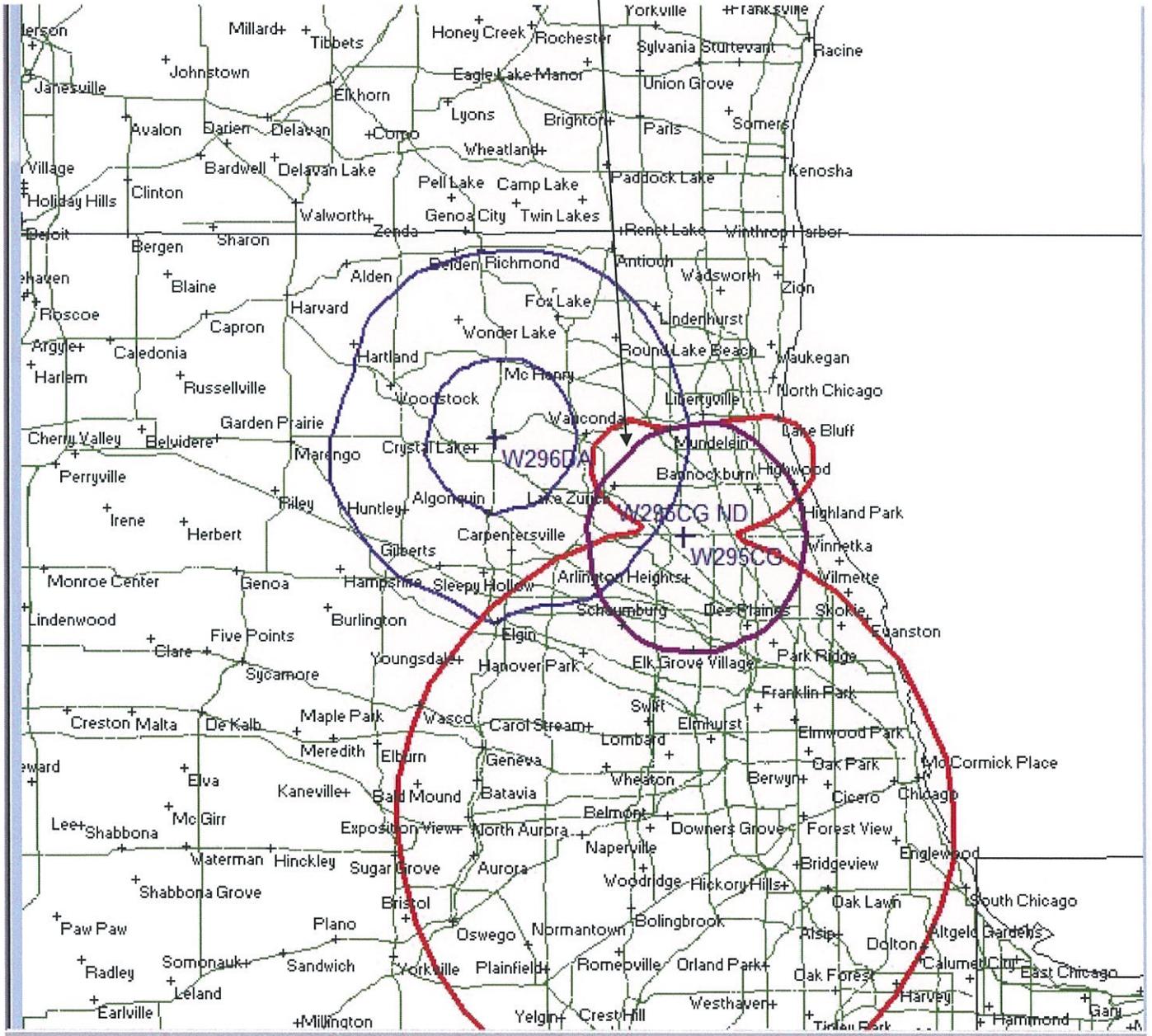
W296DA  
Licensed

W295CG 116 Meters  
250 Watts



# W295CG 25DBU at .1 Watt(100Mw) At Elevation

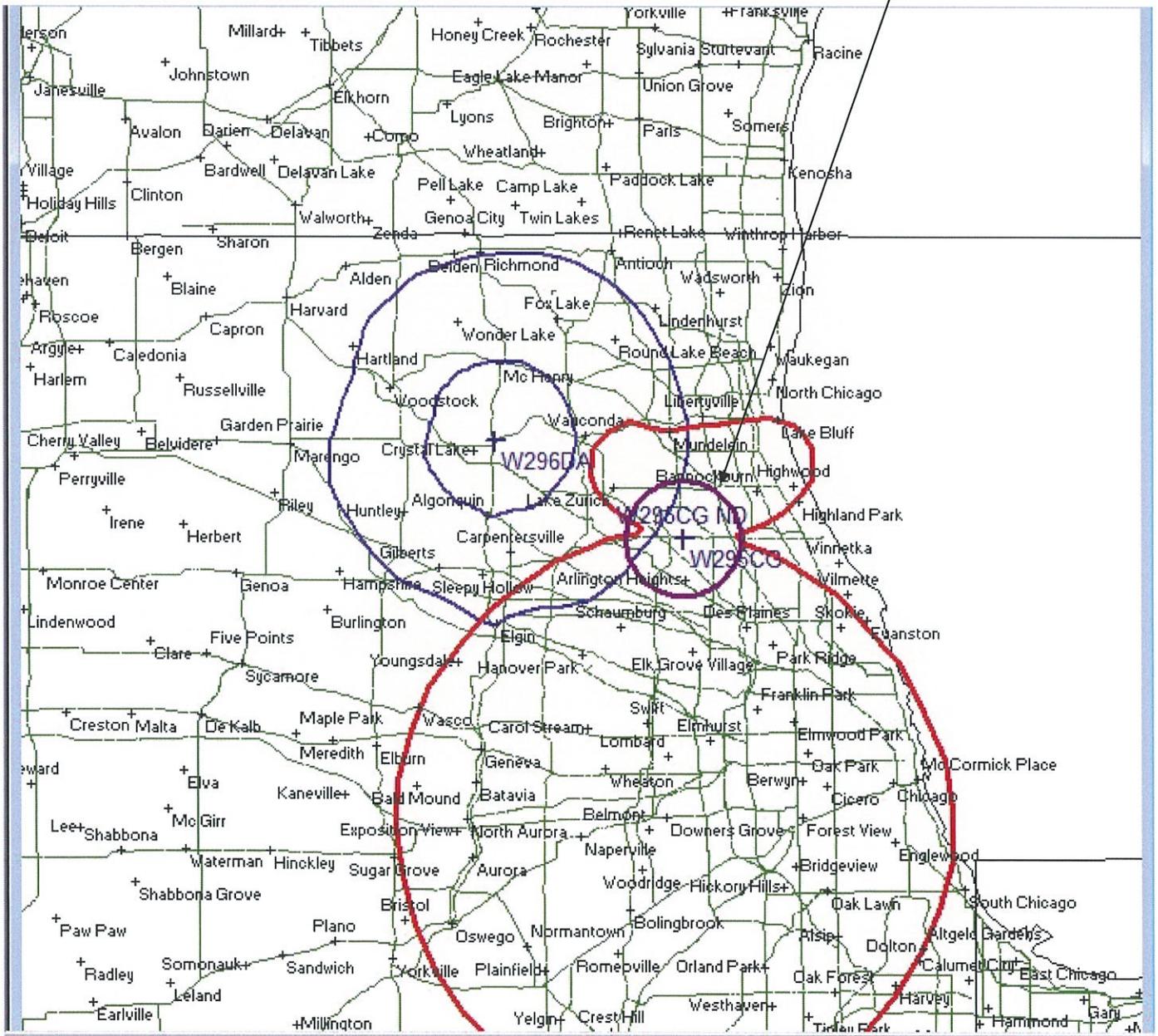
W295CG Cannot even operate at .1 watt without busting the 25 DBU/45 DBU Contour overlap





W295CG . 1 Watt(100Mw) 25 Dbu @ 10'

Even if W295CG would lower power to .1 Watt(100Mw) and lower the antenna to 10 feet off the ground it would still break the plane of the 25/45 Dbu contours of FCC Policy/Rules

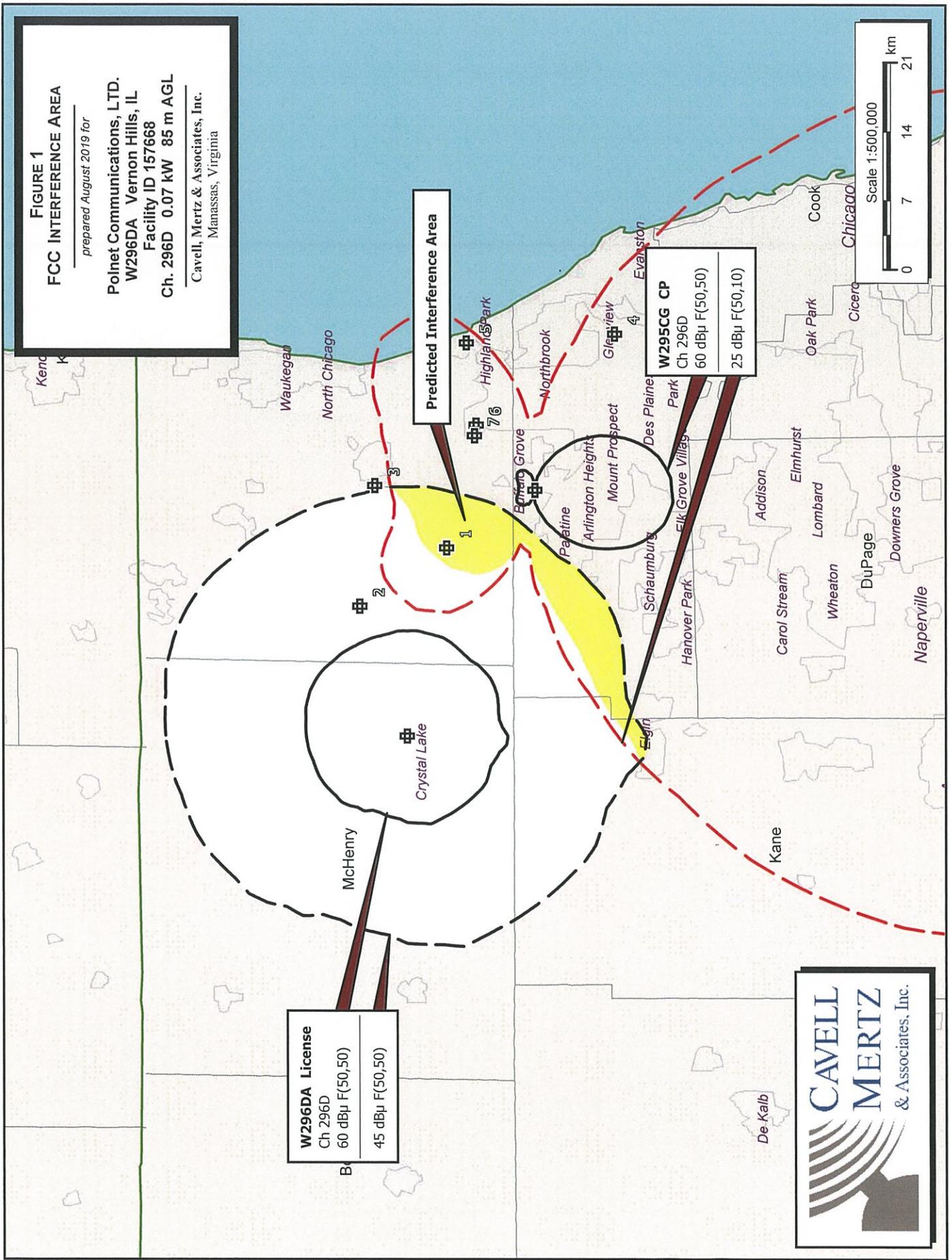


**FIGURE 1**  
**FCC INTERFERENCE AREA**

*prepared August 2019 for*

**Polnet Communications, L.TD.**  
**W296DA Vernon Hills, IL**  
**Facility ID 157668**  
**Ch. 296D 0.07 kW 85 m AGL**

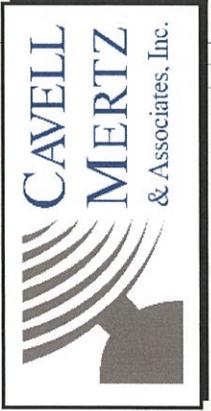
**Cavell, Mertz & Associates, Inc.**  
Manassas, Virginia



**W296DA License**  
Ch 296D  
60 dBµ F(50,50)  
45 dBµ F(50,50)

**Predicted Interference Area**

**W295CG CP**  
Ch 296D  
60 dBµ F(50,50)  
25 dBµ F(50,10)



**Certificate of Service**

I, Alaina Brangman, secretary with Fletcher Heald & Hildreth, PLC, on this 31st day of October, 2022, hereby certify that the Informal Objection has been served by email and by first class mail, to:

Scott Woodworth, Esq.  
1875 I Street NW  
Suite 500  
Washington, DC 20006  
[swoodworth@edingerlaw.net](mailto:swoodworth@edingerlaw.net)  
(Counsel to MB Capital Management, LLC)

  
Alaina Brangman