



Federal Communications Commission
Washington, D.C. 20554

DA 03-2845
Released: September 10, 2003

September 3, 2003

1800E3-JLB

Commonwealth Public Broadcasting Corporation
c/o John M. Burgett, Esq.
Wiley Rein & Fielding, LLP
1776 K Street, N.W.
Washington, D.C. 20006

Re: WNVT-TV, Goldvein, Virginia
Facility ID No. 10019

Dear Licensee:

On April 24, 2003, Commonwealth Public Broadcasting Corporation (CPBC), the licensee of analog noncommercial educational television station WNVT-TV, NTSC Channel *53, and permittee of digital television station WNVT-DT, DTV Channel *30, Goldvein, Virginia, filed a letter requesting Commission authority to: (i) cease analog broadcasting on NTSC Channel 53 and surrender its license for the channel prior to the end of the DTV transition period; and (ii) thereafter operate WNVT-DT as a single channel, digital-only television station on DTV Channel *30.¹ CPBC's proposal appeared on public notice on July 16, 2003.

In its *Report and Order* in GN Docket No. 01-74, the Commission adopted the reallocation of the 598-746 MHz Spectrum Band (television channels 52-59) from use by television broadcasters to new use on a flexible basis.² The Commission also stated that it would consider requests by incumbent broadcasters on channels 52-59 to voluntarily vacate their NTSC channels prior to the end of the DTV transition on a case-by-case basis, considering all relevant public interest factors.³

In support of its request to voluntarily vacate NTSC Channel *53, CPBC asserts that the early return of the channel will advance the Commission's overall objectives in the DTV transition period. According to CPBC, station WNVT-TV is in severe financial straits,⁴ and it believes the station will not

¹ CPBC subsequently supplemented its proposal twice, at the request of the staff, to submit additional information.

² *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, 17 FCC Rcd 1022 (2002).

³ *Id.* at 1096. The Commission identified a number of relevant factors, including whether grant of the request would make new or expanded wireless services available to consumers or deploy wireless service to underserved areas, or whether grant would result in the loss of any of the four stations in the DMA with the largest audience share, the loss of sole service licensed to the local community, or the loss of a community's sole noncommercial educational television service. The Commission will also consider whether a grant would have a negative effect on the pace of DTV transition in that market. *Id.* at n.549.

⁴ CPBC, the licensee of five NCETV stations in the State of Virginia, states that unlike other licensees of multiple stations, it receives only one base grant from the Corporation for Public Broadcasting. In addition, its community service grants from the State of Virginia have steadily declined over the years, with a 23% reduction in last year alone. As a consequence, WNVT-TV incurred an operating loss of \$836,174.55 in fiscal year 2001-2002.

be able to sustain the operation of both analog and digital facilities through the transition without sacrificing much of the unique non-commercial and educational service that the station provides, which is targeted primarily to meet the needs of the local African-American community. CPBC estimates that digital-only operations will result in approximately \$500,000 in operational costs over the next four years, and more than \$400,000 in installation costs.

CPBC acknowledges that the early return of its NTSC channel will result in loss of an over-the-air analog service, but contends that the impact on the public will be imperceptible, since in November 2002, only 3,000 television households within WNVT-TV's Grade B contour viewed the station via over-the-air reception (*i.e.*, not via cable or direct broadcast satellite services).⁵ Moreover, out of the 12 school districts in Northern Virginia that will rely upon the instructional programming provided during the day by WNVT-TV at the start of the school year,⁶ all but one receives the station via cable, and CPBC states that it will demand that the cable operators initially carry WNVT-DT's over-the air digital signal in an analog format, and provide the cable operators with the conversion equipment necessary to translate the station's over-the-air signal from digital to analog. Finally with respect to the single school district which does not presently receive the station via cable, CPBC will either supply the district with DTV receivers and over-the-air DTV turners, or provide the school district with digital-to-analog converters.

Based upon the foregoing, we believe the public interest would be served by permitting CPBC to surrender its license for NTSC Channel *53 and commence digital operations on DTV Channel *30. Accordingly, CPBC's request IS GRANTED. Moreover, prior to discontinuing analog service and surrendering its NTSC license, we expect CPBC to supply all cable systems carrying its digital signal with the conversion equipment necessary to translate WNVT-DT's signal to an analog signal, and to take steps necessary to ensure that all of the Northern Virginia school districts it serves will be able to continue to receive a viewable signal.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵ CPBC states that the Washington, D.C. DMA has a cable penetration rate of 73.4% and a direct broadcast satellite (DBS) penetration rate of 13.8%. On August 18, 2003, CPBC filed a supplement to its showing, indicating that 99.4% of the persons residing within the predicted Grade B contour of the station will continue to receive service from five or more analog television stations after WNVT converts to digital. While 3.3% of the population, or almost 150,000 persons, will no longer have access to a Grade B or better analog NCETV service after WNVT converts to digital, CPBC points out that only 3,000 television households within its entire Grade B contour reported viewing an off-the-air signal in November 2002, and that given WNVT's largely urban format, these viewers are more likely to reside in urban areas, rather than the largely rural NCETV loss area in portions of Culpepper, Orange, Spotsylvania, King George and Westmoreland Counties. CPBC further states that it has been off the air pending the completion of digital conversion work at the transmitter site since May 2003, and "has received virtually no viewer complaints about the absence of an off-air signal" during that time.

⁶ According to CPBC, in September 2003, WNVT-TV will resume daytime broadcasting of standards-based instructional programming, which is provided and broadcast pursuant to an agreement with the Virginia Department of Education, which serves 320,000 students in grades K-12, and 25,000 teachers.