



Federal Communications Commission
Washington, D.C. 20554

DA 07-3284

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1800E3-JLB

Hour of Harvest, Inc.
c/o Joseph M. Di Scipio, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 17th Street
11th Floor
Arlington, Virginia 22209

Re: WLJC-TV, Beattyville, Kentucky
Facility ID No. 27696

Dear Licensee:

Hour of Harvest, Inc. (Hour of Harvest), the licensee of analog television station WLJC-TV, (IND), NTSC Channel 65, and digital television station WLJC-DT, DTV Channel 7, Beattyville, Kentucky, filed a letter requesting Commission authority to: (i) cease analog broadcasting on NTSC Channel 65 and surrender its license for the channel prior to the end of the DTV transition period; and (ii) thereafter operate WLJC-DT as a single channel, digital-only television station on DTV Channel 7. Hour of Harvest's proposal appeared on public notice on January 30, 2007.

Hour of Harvest's request was submitted pursuant to the voluntary band-clearing mechanisms adopted by the Commission to facilitate the clearing of channels 59-69. In the *Upper 700 MHz MO&O and FNRPM*,¹ the Commission established a rebuttable presumption that, in certain circumstances, substantial public interest benefits will arise from a voluntary agreement between a 700 MHz licensee and an incumbent broadcast licensee on Channels 59-69 that clears the 700 MHz band of incumbent television licensee(s). In particular, this favorable presumption attaches to any requests that: (1) would make new or expanded wireless service, such as '2.5' or '3G' services, available to consumers; (2) would clear commercial frequencies that enable provision of public safety services; or (3) would result in the provision of wireless service to rural or other underserved communities. The applicant would also need to show that grant of the request would not result in any one of the following: (1) the loss of any of the four stations in the designated market area (DMA) with the largest audience share; (2) the loss of the sole service licensed to the local community; or (3) the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service.² The Commission further indicated that when this presumption is not established, or is rebutted, it would review regulatory requests by weighing the loss of broadcast service and the advent of new wireless service on a case-by-case basis.³

¹ *Upper 700 MHz MO&O and FNRPM*, 15 FCC Rcd 20845 (2000).

² *Id.* at 20870-71.

³ *Id.*

In support of its request to voluntarily vacate NTSC Channel 65, Hour of Harvest states that, channel 65 is adjacent to channel 64, which is used for public safety. In addition, WLJC-TV is not one of the top four stations in the Louisville, Kentucky DMA or a noncommercial educational television station.

Hour of Harvest acknowledges that WLJC-TV is the sole station licensed to Beattyville, and that termination of analog service will result in a loss of service to viewers. It states, however, that the station has been silent since October 2006, due to lightening damage to the analog station, and that the station has taken steps to mitigate the loss of service. For example:

[I]t's management negotiated with local cable and satellite providers to secure a discounted rate for new subscribers who enroll in their service plans specifically for resumed viewing of WLJC. Station staff has personally delivered digital receivers to the homes of long-time viewers who reported that they could not afford subscription services or the purchase of a digital set. Hour of Harvest, Inc. will continue to carry out such measures should it receive a grant of the authority sought herein.

Hour of Harvest also states that it is a non-profit organization that relies on financial support from viewers, and that broadcasting on both an analog and digital basis presents a significant burden. This burden is exacerbated by the fact that, in order to resume analog operations, it will be required to spend tens of thousands of dollars to repair an analog facility that must cease operations at the end of the DTV transition.

At the staff's request, Hour of Harvest supplemented its band-clearing request on January 7, 2007, in order to demonstrate the availability of other over-the-air analog service to the loss area. According to Hour of Harvest, 72% of the viewers in the loss area will receive five or more over-the-air signals.⁴ Our engineering analysis, based on Longley-Rice, shows that the analog signals of most of the 14 other stations studied by Hour of Harvest experience severe terrain blockage into the WLJC(TV) protected contour. Our engineering analysis also shows, however, that WLJC(TV)'s signal is also blocked by terrain and that much of the underserved area could not receive a viewable signal from WLJC(TV) when it was still on the air.

While Hour of Harvest has not met all of the factors necessary to come within the rebuttable presumption, we believe that the public interest would be served by permitting Hour of Harvest to surrender its license for NTSC Channel 65 and operate digital-only operations on DTV Channel 7. First, this station has apparently sustained significant damage from lightening and the station has been off the air since October 2006. At this stage in the DTV transition, to require Hour of Harvest, which relies solely on public donations for operational funds, to expend significant funds on repairing an analog operation on channel 65, which must be terminated in less than 18 months, would result in wasted investment.⁵ In addition, return of channel 65 will allow for the early provision of new services, consistent with Congress's directive that the Commission expeditiously auction this spectrum by January 28, 2008.⁶ Finally, Hour of Harvest has committed to continue the steps it has taken since October 2006

⁴ No area would receive more than seven signals. In addition, Hour of Harvest estimates that cable and satellite penetration in the DMA is 64%.

⁵ According to Hour of Harvest, Beattyville has a population of less than 1,200 persons and a median income of only \$12,336, which is well below the state average.

⁶ See Deficit Reduction Act of 2005, Title III, Pub. L. No. 109-171, 120 Stat. 4 (2006). It will also immediately eliminate adjacent-channel interference issues with public safety systems in the area.

to mitigate the loss of its analog signal, including providing digital receivers to viewers who cannot afford to subscribe to subscription services or buy a digital television set.⁷

Accordingly, Hour of Harvest's request IS GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁷ According to Hour of Harvest, the median income in Beattyville is well below the state average.