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May 10, 2012

0600

Honorable Julius Genachowski  
Federal Communications Commission  
455 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Cranesville Block Company  
Station DWKAJ  
St. Johnsville, New York  
Facility ID No. 160470

Dear Chairman:

We write to bring your attention to a case currently under consideration by the Federal Communications Commission (FCC) involving Cranesville Block Company (CBC), a business that serves our communities. CBC has encountered extraordinary challenges over the past year in its effort to establish much-needed radio service in an underserved area in rural upstate New York. This region received two major disaster declarations last year after experiencing two tropical storms with devastating flooding, an earthquake and a tornado – all within days of one another. As our communities continue to recover and work to ensure we are better prepared for disasters of this magnitude in the future, we cannot emphasize enough the need for solid access to local radio coverage across the region.

With that in mind, we ask that you give full consideration to the Petition for Waiver and Reinstatement of Construction Permit *Nunc Pro Tunc*, filed by CBC on April 23, 2012. The Petition seeks reversal of the ruling in the Audio Division's letter to CBC, dated February 23, 2012. That ruling refused a waiver to allow CBC additional time to complete what minimal requirements remain and to file a license application. A reversal of that decision is warranted for the following reasons.

First, while we fully recognize the importance of deadlines to ensuring the orderly conduct of the Commission's business, we urge you to weigh carefully the needs of this community and the public interest that would be served by the initiation of the first local service to St. Johnsville. We must agree that the interests of this community should be a first order consideration and find a way forward that serves their needs. As described in CBC's pleading, the station's proposed programming would include frequent local news casts, talk shows, children's programming and broadcasts aimed at the needs of schools and community organizations to publicize their activities and conduct outreach. Critically, a station at St. Johnsville would enable local first responders and residents to communicate during future floods and storms, as well as in other emergencies.

Second, the Commission thoughtfully gave a two-month extension to CBC last fall in light of the natural disasters that devastated this part of upstate New York. Unfortunately, the extent of the damage delayed construction on this and many other projects by a considerably longer period. Wind, rain and flooding tore down buildings, closed roads and businesses and had ripple effects on the lives of local residents, including local contractors. In those first weeks, we witnessed constituents shoveling and moving debris with their bare hands just to get contractors and government personnel access to damaged property. We are still feeling these effects today. These circumstances prevented CBC from completing construction of a four-tower radio station as the company struggled to rebuild its own facilities while also participating in the voluntary community assistance efforts that have proven to be the centerpiece of our ongoing recovery.

Finally, our understanding is that the Commission places a high premium on localism and community service and that the FCC evaluates waiver requests with the equities involved and any hardship to the petitioner given careful consideration. In this case, CBC fought through tremendous, unforeseeable obstacles outside its control. These include not only the storms, but also the last minute abandonment of the project by an independent contractor. The latter may be viewed as one among the many "ordinary risks for which businesses must prudently plan,"<sup>1</sup> but we can assure you that in December 2011 – just months after the floods when many upstate residents were living in FEMA-provided housing – there was nothing ordinary about doing business in these devastated areas. We urge you to take a comprehensive view of our communities' circumstances in the past year. There is no question that our region would be stronger – and safer – with increased local radio service in the future.

It is our understanding that construction on this facility is complete except for on-air testing and that all the equipment needed to operate the station was on site by December 15, 2011 – the FCC deadline for CBC's construction permit. CBC has invested \$300,000 on this project which is not recoverable if the previous denial is upheld. It has been our experience that CBC is an exceptional corporate citizen, heavily involved in local communities and the owner of another station, WCSS, which provides quality service to upstate New Yorkers.

We urge you to reconsider the Commission's February ruling and allow CBC to put WKAJ on the air.

Thank you for your consideration.

Sincerely,



Paul D. Tonko  
Member of Congress



Richard L. Hanna  
Member of Congress

<sup>1</sup> See FCC Audio Division letter dated February 23, 2012 DA 12-262, p.3.