

**ORIGINAL**

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

**FILED/ACCEPTED**

**JUN 16 2011**

Federal Communications Commission  
Office of the Secretary

In re )  
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Experimental Radio Station Construction )  
Permit and License of )  
National Public Radio, Inc. )  
Experimental: WF2XQD )  
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 )

FCC File No. 0538-EX-PL-2010

To: Secretary, Federal Communications Commission  
Attn: Office of Engineering and Technology, Experimental Licensing Branch

**REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION**

ABC, Inc. (“ABC”), licensee of full-power commercial television station WPVI-TV, operating on channel 6 in Philadelphia, Pennsylvania (“WPVI”), by its attorneys, hereby replies to the Opposition to Petition for Reconsideration filed by National Public Radio, Inc. (“NPR”) (“Opposition”). ABC filed the Petition for Reconsideration (“Petition”) seeking rescission or cancellation of the above-granted experimental license, which authorizes NPR to conduct experimental operations (“Facilities”)<sup>1</sup> within WPVI’s protected signal contour. For the reasons set forth herein and in the Petition, ABC urges the Office of Engineering and Technology (“OET”) to rescind or cancel the Experimental License.

In the Opposition, NPR wrongly attempts to explain away the importance of the Part 15 rules in OET’s determination of whether to permit experimental operation of unlicensed devices

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<sup>1</sup> See FCC File No. 0538-EX-PL-2010.

within WPVI's channel 6 protected contour. While it is true that Part 5 of the FCC's rules governs experimental authorizations, Part 15 of the FCC's rules governs the use of unlicensed devices within the restricted television channel 6 band. In Part 15, the FCC created a regulatory framework for the operation of unlicensed devices on frequencies in the TV bands in areas not used by licensed services ("TV white spaces").<sup>2</sup> In permitting the operation of unlicensed devices within the television band, the FCC created strict interference protection requirements to prevent harmful interference to incumbent communications services.<sup>3</sup> In particular, Section 15.712(a)(2) of the FCC's rules prohibits unlicensed devices from operating within the protected contour of co-channel television stations.<sup>4</sup>

As demonstrated in its Petition, not only does NPR propose experimenting with devices which operate within the protected contour of co-channel television station WPVI but NPR intends to operate mobile devices in the same location as WPVI's authorized digital transmitter site.<sup>5</sup> Such use is contrary to the safeguards that the FCC established in its Part 15 rules to prevent interference to TV broadcasting when it authorized the use of unlicensed devices in the television band. Importantly, upon completion of experimentation with devices in the 87.7 MHz band, NPR appears to be interested in the marketing and/or use of the proposed 87.7 MHz devices in the Philadelphia area. Since the purpose of the experiment is to facilitate the future operation of such devices under Part 15, Subpart H, as a television band device, their compliance

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<sup>2</sup> 47 C.F.R. Part 15.

<sup>3</sup> See *Unlicensed Operation in the TV Broadcast Bands Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, Second Memorandum Opinion and Order, 25 FCC Rcd 18661, ¶ 5 (rel. Sept. 23, 2010) ("The rules adopted in the *Second Report and Order* permit unlicensed devices to operate on TV channels that are not in use in their vicinity, subject to specific technical requirements that are intended to prevent interference to TV broadcasting and other authorized users of the TV bands.) See also *id.* at ¶16 (the FCC "intend[s] to closely oversee the introduction of these devices to the market and will take whatever actions may be necessary to avoid, and if necessary correct, any harmful interference that may occur.").

<sup>4</sup> 47 C.F.R. § 15.712(a)(2).

<sup>5</sup> See Petition at 4-6.

with Part 15 of the FCC's rules is certainly relevant to OET's consideration of whether to cancel the Experimental License or modify the Experimental License to authorize the use of spectrum other than 87.7 MHz so as to prevent interference to WPVI (and other television stations throughout the United States licensed to operate on channel 6).<sup>6</sup>

Second, contrary to NPR's assertion, ABC rightly established that the Facilities are predicted to interfere with WPVI's authorized operations on channel 6 in violation of one of the Experimental License's conditions.<sup>7</sup> In the Opposition, NPR challenges the technical method that ABC used to determine that the Facilities are predicted to cause prohibited interference in WPVI's predicted interference-free service area. Contrary to NPR's claim, ABC's technical analysis is based on the relevant technical requirements and uses the technical parameters set forth in the FCC's rules for interference prediction. Specifically, ABC used the Longley-Rice signal propagation model, which is the standard method of analysis for calculating interference and has long been accepted by the FCC.<sup>8</sup> NPR also challenges ABC's use of the maximum effective radiated power ("ERP") to calculate predicted interference, claiming it will operate with less than the maximum ERP. Again, ABC used the FCC's standard interference prediction method, which necessitates the use of the maximum ERP when calculating predicted interference.<sup>9</sup> As a result, NPR's challenge to ABC's technical analysis is without merit. The

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<sup>6</sup> NPR defends its failure to coordinate its operation with WPVI as required by the experimental authorization because NPR has not completed laboratory tests of the cognitive modulator. Opposition at 4-5. WPVI urges NPR to initiate the coordination process immediately by conferring with WPVI if it intends to migrate its testing and operations into the field. Accordingly, WPVV respectfully requests the FCC to direct NPR to initiate the coordination process with WPVI promptly.

<sup>7</sup> See Petition at 5-6; *see also* Engineering Statement at p. 4-5 and Exhibits 1-4.

<sup>8</sup> See OET Bulletin No. 69: Longley-Rice Methodology For Evaluating TV Coverage and Interference (rel. Feb. 06, 2004), *available at* [http://transition.fcc.gov/Bureaus/Engineering\\_Technology/Documents/bulletins/oet69/oet69.pdf](http://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet69/oet69.pdf).

<sup>9</sup> *Id.*

fact remains that the Facilities are predicted to interfere with WPVI's authorized operations on channel 6 in violation of second condition placed on the Experimental License.

Third, to avoid interference, NPR claims that it will use a cognitive modulator, which senses the transmitter power necessary to provide an acceptable signal for reception. As a result, NPR asserts its experimental transmitter will radiate substantially less power over most of the area within WPVI-TV's protected contour and not interfere with WPVI.<sup>10</sup> ABC is not aware of any device capable of effectuating this function, and the FCC should not authorize NPR to use such a device without further substantiation. In its rules governing television band devices, sensing devices must be certificated before being used in the field to ensure that the devices will not cause harmful interference to incumbent broadcasters. WPVI is not aware of any sensing equipment that has been certificated. Until the equipment is certificated, there can be no assurance that it will operate as claimed by NPR and not interfere with WPVI.

Finally, to be clear, ABC does not oppose NPR's efforts to experiment with low power devices. ABC opposes, however, NPR's efforts to operate such devices in the same frequency band as WPVI and within WPVI's protected contour.<sup>11</sup> As demonstrated in the Petition, WPVI is especially concerned about NPR's unlicensed experimental operation because it is predicted to interfere with the licensed broadcasting operations of station WPVI.

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<sup>10</sup> See Opposition at 5-6.


<sup>11</sup> See Petition at 5-6; see also Engineering Statement at p. 4-5 and Exhibits 1-4.

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For the reasons set forth herein and in the Petition, ABC respectfully requests that OET rescind or cancel the Experimental License.

Respectfully submitted,

**ABC, Inc.**

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June 16, 2011

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**CERTIFICATE OF SERVICE**


I, Dayle Jones, of Akin Gump Strauss Hauer & Feld, LLP, certify that a copy of the foregoing Petition for Reconsideration, filed on behalf of ABC, Inc., was served via first-class mail on this 16th day of June 2011, upon the following:

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