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June 20, 2005

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Mr. James Burtle
Office of Engineering and Technology
Policy and Rules Division
Federal Communications Commission
445 Twelfth Street, SW -- Room 7-A267
Washington, DC 20554

**Re: Clarity Broadcasting Systems, LLC
Application for Experimental Authorization
File No. 0046-EX-PL-2005
Response to Informal Objection**

Dear Mr. Burtle:

We represent Clarity Broadcasting Systems, Inc. ("Clarity"), the applicant for experimental authorization in the above-referenced application. We have recently learned that, on May 18, 2005, the Society of Broadcast Engineers ("SBE") submitted via email an informal objection to Clarity's application. SBE did not serve Clarity with its objection. Having learned of it, Clarity hereby respectfully responds.

Clarity's application seeks experimental authority under Part 5 of the Commission's Rules to assess and evaluate equipment for a new ultra-low power, short-range multichannel video distribution system. As the application states, "the objective is to provide service to a number of very small areas (approximately 1.5 square kilometers each) located at travel plazas and similar facilities frequented by long-haul truckers and recreational vehicle operators."

The need for the service that Clarity has developed is immense. Currently over 2.5 million Class 8, full-load, over-the-road professional long haul truck drivers and RV operators



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are unable to receive television broadcasts, including news, public service, and entertainment programming in their vehicles at rest stops that serve as their places of residence for most days of every month.

Clarity has designed a solution for those unserved citizens that will not interfere with any other service. It seeks authority to test that solution at three truck plazas that Clarity's parent company, Flying J Inc. ("Flying J"), owns and operates. Clarity understands that, under Part 5 experimental authority, it cannot interfere with other uses, and it will not. Indeed, Clarity proposes that, following and subject to successful testing, it will deploy its permanent service on a secondary basis only, allowing no interference to other users and accepting interference, if any, other users cause to Clarity.

Clarity's experimental application complies fully with Part 5 of the Rules, and the public interest in authorizing the requested testing is overwhelming. Such grant serves the statutory "policy of the United States to encourage the provision of new technologies and services to the public." 47 U.S.C. § 157(a). Such grant also serves the Commission's statutory mandate to make service available, without discrimination, "to all the people of the United States." Providing a first television service to over 2.5 million unserved Americans is no small thing. The public interest wholly and unequivocally supports the requested testing.

In its objection, SBE recognizes that it "has an acknowledged role in the voluntary coordination of shared spectrum allocated for Broadcast Auxiliary Services (BAS) under Part 74 of the FCC Rules." Remarkably, SBE then turns around and says it does not want to fulfill its acknowledged role with respect to Clarity, and argues that Clarity's technology and service should be rejected out-of-hand without even the opportunity for experimental testing. SBE's request to bury Clarity's new technology and service to the public without them ever being tested is unreasonably draconian and should be promptly rejected.

SBE bases its objection on conclusions it has reached, without any observation of or exposure to Clarity's technology, that the technology is fundamentally incompatible with BAS service, a near-impossibility of successful shared-use coordination is present, and Clarity's limited experiment is potentially disruptive to 2GHz relocation. However, notwithstanding SBE's unsupported pessimism regarding Clarity's application, the sky is not falling.

Clarity, like SBE, has excellent engineers. These engineers have worked arduously to design an operation that will provide a compact service limited to the boundaries of the highway



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rest plazas being served and that will cause no adverse consequences beyond those boundaries. They have succeeded in doing so. SBE's summary rejection of the technology before seeing it tested is reflexive and premature, at best.

Clarity respects SBE's concern that news and reports from television pickup facilities not be disrupted. The critical need of over 2.5 million citizens to receive their first television news and program service merits equal respect. Clarity's technology enables both needs to be met, and this experimental application aims to confirm this premise. While SBE's argument is that the BAS and Clarity uses are incompatible, the fact is that they are fully compatible. The Commission's rules for experimental applications, with which Clarity has fully complied, provide Clarity the opportunity to substantiate its claims.

In this regard, SBE's summary declaration of futility regarding Clarity's application does a disservice to its own members' capabilities as well as those of Clarity's engineers. For example, while Clarity expects the experimental operation to establish that television pickup facilities will be immune to interference from Clarity's technology, assuming the experiments show it might be needed in certain instances, smart engineers can readily implement a system by which the BAS users themselves can unilaterally shut down a Clarity transmitter whenever the BAS facilities enter the applicable proximity to need those transmitters to do so. Clarity's application presents nothing that capable engineers having minds for constructive cooperation cannot successfully address.

Clarity is committed to full cooperation and coordination with SBE to produce meaningful experimental testing that will provide the Commission the relevant substantive information it needs regarding Clarity's proposed facilities. The public interest demands nothing less, and Clarity urges SBE to meet Clarity's good faith cooperation halfway.

In this respect, SBE's reference to Clarity's proposal to conduct experimental testing at Flying J's Frazier Park, California, truck plaza as a "mistake" makes a compelling case in point. Clarity is familiar with the surroundings of the Frazier Park experimental site and is confident that, due to the different altitudes of Clarity's site and other communications facilities in the area, and the compact, downward, low power beam of Clarity's transmitter into the truck plaza, Clarity's transmissions will not touch the receive site to which SBE refers. SBE's high level of sensitivity about Clarity's potential transmissions at Frazier Park makes Frazier Park the perfect test location, one at which the existence or non-existence of interference from Clarity's proposal can be definitively determined.



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For the foregoing reasons, Clarity respectfully urges the Commission to let the testing begin. The quality of lives for over 2.5 million citizens, and fulfillment of the Commission's statutory mandates, depend on it.

Sincerely,

Howard A. Topel

Stephen Baruch

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