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JCF 6-19-2013

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Received & Inspected

JUN 14 2013

FCC Mail Room

In the Matter of

ABACUS TELEVISION

Application to convert WWBP-LP  
To Class A Status  
Facility ID 268, Freedom, PA

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BLDTA -2013 0118 AIO

To: Office of the Secretary  
Attention: Deputy Chief, Video Division, Media Bureau

Petition for Reconsideration

Pursuant to §1.106 and §72.3584 of the Rules and Regulations of the Federal Communications Commission, Abacus Television (hereinafter "Petitioner"), Pro Se, hereby files its Petition for Reconsideration of the May 9, 2013 letter dismissing the above referenced application of Abacus Television for conversion of digital channel 31, Freedom, PA to Class A status. (See Public Notice Broadcast Actions Report No. 47988, May 14, 2013 at page 1.) For the reasons stated below Petitioner believes the dismissal of its application was an incorrect action and furthermore not in the public interest.

The Commission's letter indicated that since Petitioner's 2001 application for Class A status was dismissed, but neither a waiver request to extend the deadline for this station to file a Class A application nor a petition for reconsideration of the Commission's action dismissing the initial license application was filed, Petitioner's instant application was being dismissed for failure to meet the July 12, 2001 deadline for in-core Class A license applications. Given the processing treatment of Petitioner's 2001 Class A application and the reasons given for its dismissal, it is unfair and inconsistent with the Commission's prior

statements to refuse acceptance and grant of Petitioner's instant application.

First, Petitioner sought and received a certificate of eligibility for Class A status by the July 12, 2001 deadline. Second, Petitioner filed its initial Class A application on July 12, 2001, within the deadline established for such applications. Since Petitioner's initial Class A application was filed by the established deadline there was no need to file a "waiver request ... to extend the deadline for [this] station to file a Class A license application."

The Commission never issued an order or other public notice dismissing that application, BLTTA-20010712ADT. Rather, the Commission waited until March 15, 2007 and then changed the status of the application to "dismissed" in the Commission's database. Again, Petitioner received no correspondence explaining the dismissal of its Class A conversion application. Thus, there was no notice or opportunity to file a "petition for reconsideration of the Commission's action dismissing the initial license application ... ." The reason stated in CBDS for the dismissal of Petitioner's initial application was "Application to convert displacement application to Class A status upon grant of a displacement application."

According to Petitioner's records its WWBP-LP channel 25 analog facility in Freedom, PA was receiving interference from and causing interference to a new non-commercial full power facility on channel 24. As a result, at the same time Petitioner sought Class A conversion for channel 25 it was seeking displacement. That displacement application was eventually granted, but by that time the Commission had imposed a "freeze" on all low power new and major change applications within 75 miles of the major television markets, including Pittsburgh, PA, which Freedom, PA is a part. When Petitioner spoke to Low Power Television Branch official Robert Singleton about now receiving Class A status for its new, channel 31 displacement channel, Petitioner was advised by Mr. Singleton that

Class A applications could neither be granted or filed at that time because such action constituted a major change in violation of the “freeze.”

Applicant has operated WWBP-LP as a Class A station including transmitting children’s programming and locally produced locally originated programming in amounts equal to or greater than required by the Class A rules, operated EAS on the station, filed EEO reports, maintained a Public File, programmed to address the problems and issues of its community of license, and operated the station 24 hours a day seven day a week (except when authorized to be dark pursuant to an STA). The free over-the-air broadcast services provided by Petitioner were, in all respects consistent with the public interest criteria in the legislation creating Class A and the Commission’s orders and rules defining Class A performance requirements.

It would be manifestly unfair to deny Petitioner its Class A rights and protection when it did everything required of it and handled the delay in the processing of its initial, timely Class A application according to directions given it by the Commission staff. Furthermore, since its initial application was never properly dismissed, it would be wrong to fault the Petitioner for not filing a petition for reconsideration (back in 2007). Lastly, Petitioner is an extremely small business, with extremely small resources, and 100% minority owned (its 100% owner being a Hispanic). The Commission was given the authority to allow LPTV licensees to convert to Class A status after the initial deadline if the Commission found that doing so was in the public interest. In the case a bar, given the procedural history, the only fair and appropriate action is to reinstate Petitioner’s Class A conversion application. However, the Commission also has the alternative of granting Petitioner Class A status based on BLTTA-20010712ADT, because doing so would be in the public interest under the Class

A statute and principles of administrative fairness.

WHEREFORE, for the forgoing reasons, Abacus Television respectfully asks that its application, BLDTA-20130118AIO, be reinstated and granted. In the alternative Abacus Television requests that the Commission, on its own accord, reinstate the Petitioner's original Class A application, BLTTA-20010712ADT, and in the public interest grant that application effective March 15, 2007 (the date it was improperly changed to dismissed status).

Respectfully submitted,

**/S/ Benjamin Perez**

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June 13, 2013

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