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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In Re:  
DUPAGE RADIO, LLC  
WCKG (AM), Elmhurst, Illinois

File No. BP-20190604AAV  
Facility ID No. 32227

To: Secretary Marlene H. Dortch  
Federal Communications Commission

*Received & Inspected*

*JUL 22 2019*

ATTN: Chief, Audio Division, Media Bureau

*FCC Mailroom*

**REPLY COMMENTS**

Comes now, Mark Heller, as President of Metro North Communications, Incorporated, (hereinafter 'Metro') licensee of WLAK (AM), New Holstein, Wisconsin with Reply Comments.

That, on March 21, 2016, Mark Heller personally took his Potomac Instruments, Inc. Field Intensity Meter, Model FIM-21 and Serial Number 254, at the time, properly calibrated, and made measurements on the signal, pattern and ground conductivity of WCKG (AM), Evanston, IL. These measurements included several radials, including 315 degrees, 0 degrees and 45 degrees, and every indication at a distance of 2 to 5 miles away, was WCKG was operating to produce a signal equivalent to running 400 watts

during daylight hours. Skies were cloudy at noon, and cleared out in the afternoon. Temperature was 40 degrees. By 3pm that afternoon, the signal was being overwhelmed by the signal from WCKY (AM) Cincinnati, OH.

The WCKG programming during the measurements included an infomercial for a Real Estate 'Flipper' who was seeking other 'Flippers' to meet for a seminar in a nearby hotel banquet hall. Either the station was intentionally under powered, or it's ground conductivity or ground system had significantly changed. I recorded my results, and there was no answer at the radio station.

**NO GOOD FAITH EFFORT UNDERTAKEN. TOLLING IS EVIDENT.**

When is Tolling of a Construction Permit acceptable? The Commission writes in its denial of an extension of Powell Meredith with these words:

*"A permittee must complete construction of its authorized facility no later than three years after grant of the original construction permit, not counting any periods of tolling. Our rules recognize a narrow set of circumstances, beyond a permittee's control, that shall toll the construction period. These include acts of God and administrative and judicial challenges to the permit's grant."*

*Mass Media Applications, Rules and Processes, Report and Order, 13 FCC Rcd 23056, 23087-93 (1998), recon. Granted in part.*  
Memorandum Opinion and Order, 14 FCC Rcd 17525 (1999)

**TOLLING IS TOLLING EVEN WHEN A CHECK IS  
ATTACHED.**

Metro complains, that DUPAGE RADIO made absolutely no attempt to construct during the first three years of the original Construction Permit, and asserts it is somehow able to achieve a toll of the Permit, by simply resubmitting a three year old application, with four year old signatures on Exhibits, using five year old measurements, without acknowledging that there has been significant industrial building / construction within a two mile radius of the existing WCKG (AM) tower site, and that Matthew Dubiel, Managing Member of the licensee electronically signs and certifies on the recent application that he states this is a “True, complete....and made in Good Faith” application. Metro asserts, it is a fraudulent or ‘sham’ application.

**APPLICATION SHOULD BE DISMISSED AS  
PROCEDURALLY DEFECTIVE AND, WHEN  
CONSIDERED AS A ‘WAIVER’ OF THE FCC RULES, THAT  
REQUEST MUST BE DENIED.**

In the 36 months period, to submit the same proposed engineering and predicted contours and ground conductivity, totally ignores the fact, that in the past three years, there has been significant industrial, commercial and even some residential building within a two mile radius of

the WCKG (AM) tower site. While initially, this was difficult to determine, a cursory search of the various building permits in the City of Elmhurst, Addison Township and Proviso Township, shows while WCKG stood still, apparently frozen in time, the area continued to expand and develop.

Franklin Park, Northlake, Berkeley, Stone Park, Hillside, Westchester and Addison, IL all showed metal buildings, metal roofed buildings that would clearly change the measurements that were submitted by DUPAGE RADIO as “true, complete ...and made in good faith”, but using ancient, out-of-date, out-of touch 2014 measurements. This needs to be corrected, or thrown out as wrong.

When I made contact with the various permitting authorities, adjacent to the WCKG facility, they recall the various station call letters, not only WCKG, but WJJG, WKDC and WHJJ. A few of the officials stated, “That’s the station run by the guy who ran for Mayor of Elmhurst, and never once lived there!”

It should be noted, that WCKG (AM) is located on the very most southeastern edge of Elmhurst, IL and that the tower site affects many other units of government, in its immediate coverage area.

Metro is providing enlarged copies of DUPAGE RADIO’s Exhibits

showing massive population and industrial areas, and their 2014 proposed measurements, five years prior to applying for this Construction Permit extension.

### **THIS APPLICATION IS A 'PARLOR TRICK'**

1. The application was filed, purely to Toll an existing permit. There is no indication they won't attempt to Toll again in another three and/or six years.
2. Nowhere in the Reply Comments, is any mention made of two, large communication towers, located at the same Interstate Intersection as the WCKG (AM) array. They are NOT detuned, and no plans have even been stated to do so. Both towers are grounded towers. They are still there!
3. Certification of the engineering submitted (using 2014 data) is signed by Michael D. Rhodes, PE on *November 9, 2015* (emphasis added) nearly four years ago! It is absolutely 100% clear, that DUPAGE RADIO did not engage any engineering firm, for this application.
4. Using a Comprehensive Engineering Exhibit, dated November 9, 2015 and using data collected in 2014, does nothing to bolster DUPAGE RADIO's claim, that this application should be 'expedited'.
5. Had this station, been located in a remote, farm field, away from Interstate Commerce, high voltage electrical lines, new retail mega-stores,

metal industrial buildings with one-piece metal roofs, they might have been successful in convincing the Commission, that 'nothing changed' from 2014 or 2015 until they applied. Reality is often disappointing, but there are no ways to 'cheat' or 'cut costs' or 'cut corners' in an application of this nature.

## **CONCLUSION**

DUPAGE RADIO is attempting to Toll a Construction Permit, where no work has ever been done. DUPAGE RADIO wants to be rewarded for its lack of interest over the past three years. DUPAGE RADIO is clearly guilty of submitting a Fraudulent Application, using non-current engineering measurements, and pretending that there has been no nearby construction, which would be a valid reason, for a current and complete set of measurements to be submitted as timely and accurate.

DUPAGE RADIO's representative, electronically signing an application as "True, Complete...and made in Good Faith", deserves to be admonished, by the Commission.

Metro North Communications, Incorporated, hereby respectfully requests that the application be DISMISSED as procedurally defective, and the grant of any Construction Permit, be DENIED.

Respectfully submitted,

METRO NORTH COMMUNICATIONS, INCORPORATED



Mark Heller, President

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*July 15, 2019*

## CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing  
“Reply Comments” have been served by first-class US Mail,  
Postage pre-paid, on this 15<sup>th</sup> day of July, 2019 upon the following:

DUPAGE RADIO, LLC  
1120 E. Diehl Road  
Naperville, IL 60563

Arthur Dubiel  
3824 School Street  
Downers Grove, IL 60515

Atty. Dennis J. Kelly  
P.O. Box 41177  
Washington, DC 20018

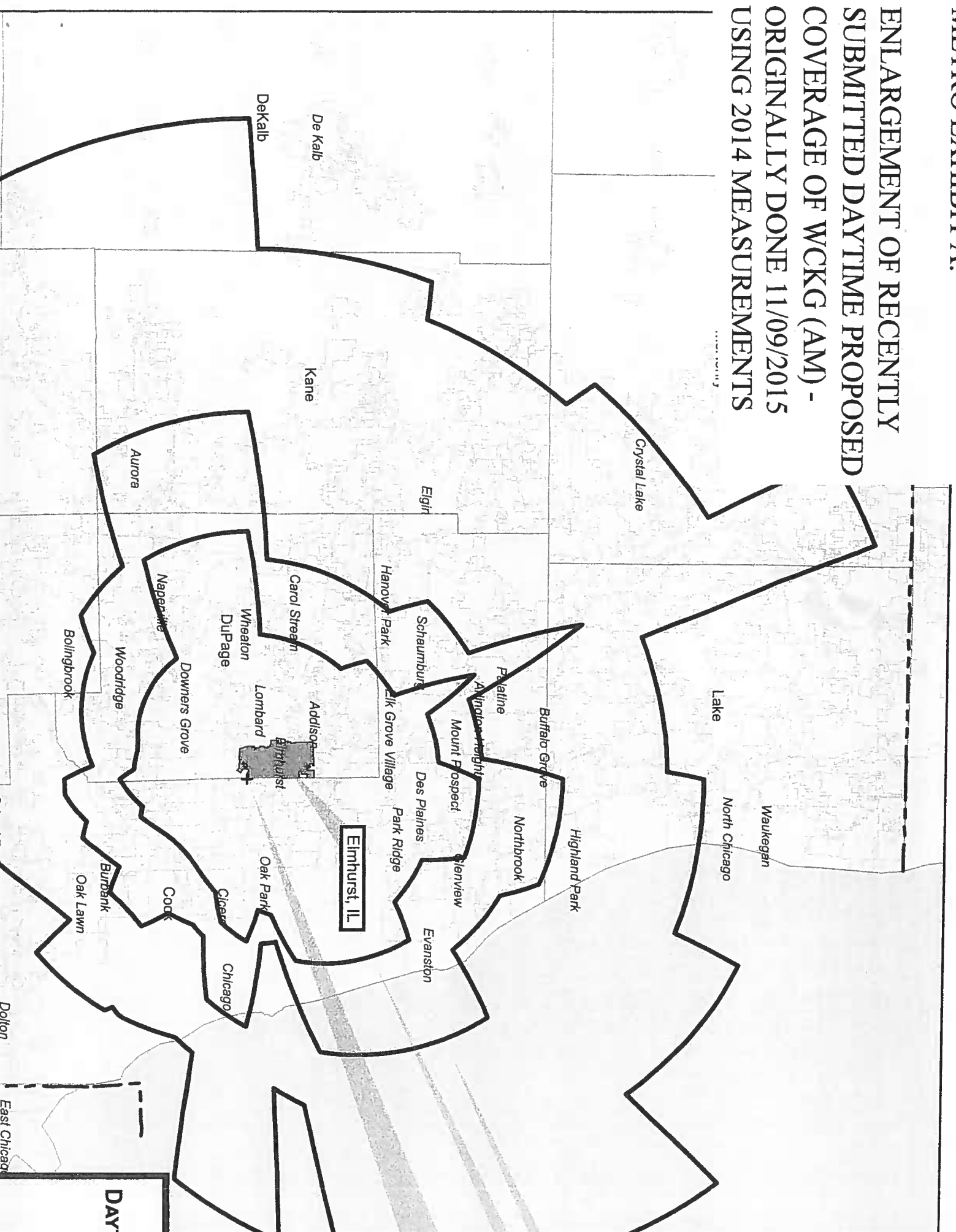


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Mark Heller



ENLARGEMENT OF RECENTLY  
SUBMITTED DAYTIME PROPOSED  
COVERAGE OF WCKG (AM) -  
ORIGINALLY DONE 11/09/2015  
USING 2014 MEASUREMENTS



ENLARGEMENT OF WCKG (AM)  
DAYTIME COVERAGE, SHOWING  
MASSIVE POPULATION,  
COMMERCIAL AND INDUSTRIAL  
AREAS. ORIGINALLY DONE  
11/09/2015 USING 2014 MEASUREMENTS

