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February 23, 2006

By Hand

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

*Re: Television Station: WFGC, Palm Beach, FL
Facility ID: 11123*

**AMENDED AND SUPPLEMENTAL REQUEST FOR AUTHORITY TO
DISCONTINUE ANALOG SERVICE**

Dear Ms. Dortch:

On November 17, 2005 this firm, on behalf of Christian Television of Palm Beach County, Inc. ("CTPBC"), the licensee of television station WFGC, Palm Beach, Florida (NTSC channel 61) and the permittee of its paired DTV station WFGC-DT (DTV channel 49) which is operating at reduced power pursuant to Special Temporary Authority (File No. BDSTA-20050707ADW), requested authority from the Commission to permit CTPBC to cease the analog operations of WFGC in order to broadcast only the digital signal of WFGC-DT on channel 49. At the request of staff, we are now amending and supplementing that request.

In its *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking in the matter of Service Rules for the 746-764 and 776-794MHz Bands, and Revisions to Part 27 of the Commissions Rules*¹, the Commission established a presumption in favor of approving broadcasters' applications to voluntarily vacate the upper 700 MHz NTSC channels prior to the end of the DTV transition. The Commission found that said voluntary vacations will provide "substantial public interest benefits" in part by helping "expedite a transition to DTV", "providing supplemental resources to incumbent broadcast licensees facing the cost of transition to DTV operations" thus strengthening "the viability of those licensees and their ability to provide over-the-air service in the long run."²

¹ 15 FCC Rcd 20845 (2000).

² *Id.* at ¶ 56.

CTPBC recognizes that the early return of the NTSC signal will result in the loss of an over-the-air analog service. However, the Commission has made clear that it will rely on the "voluntary judgment of the incumbent broadcast licensees with a direct interest in strengthening their transition to DTV" when evaluating the loss of over the air service. "[W]e find that the limited and temporary loss of service issues here – especially when the loss results in supplemental resources that . . . strengthen the individual licensee's long term viability as a DTV provider – do not raise concerns that prevent" the approval of applications to vacate the upper 700 MHz band.

Indeed, that is exactly what the grant of this application will do. Presently, WFGC-DT is operating at reduced power pursuant to special temporary authority. That reduced power operation is necessary because of restrictions in CTPBC's tower lease, which require WFGC and WFGC-DT to broadcast using a dual antenna and a single transmitter that permits one signal to be broadcast at full power but restricts the other to lower power. CTPBC's transmitter cannot broadcast both stations at full power and there is no room where CTPBC leases transmitter space to allow for the expansion of its transmitter facilities. Further, it is simply not financially feasible for CTPBC to purchase another antenna and transmitter and find another tower to operate one of its signals. Though WFGC is a commercial station, CTPBC is a non-profit corporation that operates the station using viewer support.

Therefore, returning WFGC's analog license and beginning digital only operations will enable delivery of a full power digital signal in the DMA, providing more digital coverage to a broader DMA population. Indeed, WFGC's full power digital signal will reach Vero Beach and Ft. Pierce; areas not currently reached by WFGC's NTSC signal. The return of WFGC's analog license and the digital only operation of WFGC will accelerate the pace of the DTV transition in the DMA. Further, the analog hand-in will avoid continuation by waiver of WFGC-DT's reduced power operation after July 1, 2006 because of the lease restrictions.

In addition, given the cable and satellite penetration rates in the DMA, the impact on the public will be virtually imperceptible. Neilson Media Research reports that in Nov. 2005, the total cable and/or alternate delivery system (ADS) penetration rate for the West Palm Beach-Ft. Pierce DMA was 95.1% of TV Households.³ According to Neilsen, only one other DMA has a higher cable and ADS penetration rate.⁴ WFGC's NTSC signal is presently carried on the largest cable system in the DMA owned by Adelphia, and on 2-3 smaller cable systems in the DMA.⁵

³ Television Bureau of Advertising Online, DMA Household Universe Estimates, [http://www.tvb.org/nav/build_frameset.asp?url=/rcentral/MarketTrack/Cable_and_ADS_Penetration_by_D
MA.asp](http://www.tvb.org/nav/build_frameset.asp?url=/rcentral/MarketTrack/Cable_and_ADS_Penetration_by_DMA.asp)

⁴ *Id.*

⁵ WFGC's NTSC signal does not reach the Comcast cable systems in the Vero Beach and Ft. Pierce areas, but WFGC's full power digital signal will provide a sufficient signal for carriage in those communities.

In further support of this request, CTPBC submits that there are 22 other NTSC television stations providing Grade B service with WFGC's NTSC Grade B coverage contour.⁶ Further, of the 10 television stations licensed in the West Palm Beach-Ft. Pierce DMA, WFGC's market share in this, the 39th largest DMA is not in the top four. WFGC is an independent station and is not among the network affiliated four largest stations in the DMA. While WFGC is the sole full power television station licensed to Palm Beach, it is not the sole broadcast, or even television service, licensed to the community. A Class A television station⁷ and a FM station⁸ are also licensed to Palm Beach.⁹ In addition, as WFGC is not a NCE station, the grant of this request will have no effect on the number of NCE television stations available to viewers.

The Commission staff also requested that CTPBC distinguish this application from the application of KJLA (TV), Ventura, CA to cease analog operations that was denied.¹⁰ The first and most important difference between the two applications is the fact that the channel that CTPBC is seeking to return is Channel 61, in the upper 700 MHz band. KJLA's channel, Channel 57, is in the lower 700 MHz band. The Commission has specified different criteria in considering applications for the early hand in of channels in the different sections of the band and has provided a presumption that any turn in is in the public interest only for channels 60-69. Further, KJLA was Ventura's sole broadcast television station. As mentioned above, WFGC is not the sole television broadcast station licensed to Palm Beach. Additionally, KJLA provides "unique Spanish-language programming" that would no longer be available to analog over-the-air viewers. CTPBC's programming is not "unique Spanish language programming."

Finally, as set forth above, continuing to broadcast on both an analog and digital basis is a significant financial burden to CTPBC. Given the incredibly high cable and satellite penetration in the market, continuing these dual operations makes the station viewable by few, if any, more people than digital only service. Monies saved by the cessation of analog service would be used to bring WFGC-DT to full power and to improve programming on WFGC-DT.

Should this request be granted, prior to ceasing analog operations, CTPBC commits to broadcasting announcements informing viewers that it will change to digital-only operations. Further CTPBC will request that cable operators initially carry WFGC-DT's over-air digital signal in an analog format and provide the cable operators with any conversion equipment necessary to translate the station's digital signal to analog.

⁶ See attachment.

⁷ WTCN-CA, Fac. ID. No. 70865.

⁸ WRMF, Fac. Id. No. 20436.

⁹ It is noted that the Commission, after considering the factors set forth in *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, has approved the discontinuance of the analog service of the sole television broadcast station licensed to a community. (See *WNVTV-TV, Goldvein, Virginia*, DA 03-2845, released September 10, 2003.)

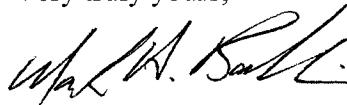
¹⁰ Letter to Barry Friedman dated February 9, 2005 (DA 05-343)

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Based on the foregoing, there is nothing to rebut the presumption that the public interest will be served by permitting CTPBC to cease broadcasting on and surrender its license for NTSC channel 61, Palm Beach, Florida and commence full power digital operations on DTV channel 49.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Mark a. Balkin

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cc: Ms. Barbara Kreisman, Chief, Video Division
Ms. Joyce Bernstein
Mr. Robert D'Andrea
Ms. Virginia Oliver