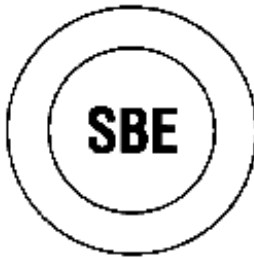


SBE Comments: DA 06-1664, Trucker TV

SBE Rebuttal to the Clarity Six-Month Report Regarding Experimental Station WD2XPK



SOCIETY OF BROADCAST ENGINEERS
FCC LIAISON COMMITTEE

BY E-MAIL: JULIUS.KNAPP@FCC.GOV

CHAIRMAN

DANE E. ERICKSEN, P.E.,
CSRTE, 8VSB, CBNT
Hammett & Edison, Inc.
San Francisco, CA
707/996-5200 (voice)
707/996-5280 (fax)
dericksen@h-e.com

Committee Members

KENNETH J. BROWN
Consultant
White Plains, NY

PAUL B. CHRISTENSEN, Esq.
Law Office of Paul Christensen
Jacksonville, FL

GERRY DALTON, CBRE, CBNT
Consolidated
Communications Inc.
Dallas, TX

HOWARD FINE
Pacific Television Center
Los Angeles, CA

CLAY FREINWALD, CPBE
Entercom Communications
Seattle, WA

CHRISTOPHER D. IMLAY, Esq.
SBE General Counsel
Booth, Freret, Imlay & Tepper
Silver Spring, MD

GERALD M. LEBOW
TMC, Inc.
Valhalla, NY

MICHAEL G. MCCARTHY,
CSRE
McCarthy Radio Engineering
Chicago, IL

JOHN L. PORAY, CAE
SBE Executive Director
Indianapolis, IN

RICHARD RUDMAN, CPBE
RemotePossibilities
Tech Consulting
Los Angeles, CA

KARL VOSS
TV Station KPNX
Mesa, AZ

March 14, 2006

Mr. Julius Knapp
Acting Chief, Office of Engineering & Technology
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Knapp:

On behalf of the Society of Broadcast Engineers, Inc., the SBE FCC Liaison Committee submits this letter regarding the *Six-Month Progress Report to the Federal Communications Commission* ("Six-Month") filed by Clarity Broadcasting Systems, LLC ("Clarity") regarding its Experimental Radio Service License WD2XPK, FCC File Number 0046-EX-PL-2005. SBE notes that although this report is dated December 22, 2005, it was not filed with the Office of Engineering and Technology (OET) until January 4, 2006.

SBE disputes facts and claims in major portions of Clarity's Six-Month report, and wishes the WD2XPK record to reflect these contested issues. Specifically, SBE takes issue with the following facts and claims made in the Clarity Six-Month report:

1. **This Was Not a Testing Program; It Was a Demonstration Program.** SBE disputes Clarity's characterization of the Frazier Park, CA; North Salt Lake City, UT, and Ogden, UT, as "tests" of their "Trucker TV" system. To the contrary, these were show and no-tell events offered as a demonstration of the system. To qualify as "tests" Clarity should have included detailed engineering measurements of the undesired Trucker TV signal levels at all nearby electronic newsgathering receive only (ENG-RO) sites. Further, Clarity demonstrated a profound lack of cooperation with broadcasters at the Frazier Park. Clarity refused to allow broadcast station representatives (several of which were also SBE members) to even see their transmitting facilities or transmitting antenna, let alone make or witness power level measurements. SBE also must remind the Commission that the Frazier Park tests took place at a site 3.7 kilometers from the authorized coordinates, and at a site elevation of 1,170.4 meters (3,840 feet) AMSL instead of the higher and potentially more interference-prone 1,328.9 meters (4,360 feet) AMSL site elevation of the authorized site. Clarity then had the temerity to claim that the Frazier Park demonstration had less interference potential to the Frazier Mount ENG-RO site than had Clarity conducted the Frazier Park demonstration at the authorized height and coordinates. Had Clarity also put its transmitter in a copper screen shield room, they could have claimed even less interference potential. Accordingly, no conclusions based on commonly accepted



SOCIETY OF BROADCAST ENGINEERS, INC.
Indianapolis, Indiana

060827
Figure 3A

SBE Rebuttal to the Clarity Six-Month Report Regarding Experimental Station WD2XPK

Mr. Julius Knapp, page 2
March 14, 2006

engineering principals should be drawn from the unauthorized Frazier Park demonstration.

2. **Clarity Did Not "Fully Coordinate" the Frazier Park Demonstration.** Contrary to the claim made in Clarity's Six-Month report, Clarity did not "fully coordinate" the Frazier Park demonstration with SBE. Instead, by a first class mail letter dated September 12, 2005, and received by SBE on September 15, Clarity unilaterally advised SBE that the demonstration would take place on September 28 and 29, 2005. A lead time of a mere two weeks for demonstration tests was hardly reasonable notice by Clarity had its intentions been honorable. When Clarity was asked to re-schedule that date by approximately a week, to better accommodate the schedules of SBE members who desired to witness the demonstration, Clarity flatly refused. The unilateral specification of a date for the WD2XPK Frazier Park demonstration, made with no prior consultation whatsoever with SBE, does not constitute "full coordination" by Clarity, or even good faith.

3. **Clarity Refused to Allow Verification of the Power Levels Used.** Even at the North Salt Lake City and Ogden demonstrations, where Clarity did allow broadcast representatives to see the demonstration transmitter, no data regarding the power levels that were actually used was ever made available to SBE representatives. Coupled with the lack of transmitter power measurements in the Clarity Six-Month report, neither SBE, nor OET, can draw meaningful engineering conclusions regarding the demonstrations.

4. **The Report Fails to Disclose the Massive Interference Caused To Trucker TV by ENG Operations.** Nowhere in the Six-Month report does Clarity disclose that when an ENG truck transmitted from the truck stop plaza location, it shut down the Trucker TV system. ENG trucks, originating news about Interstate 5 driving conditions (especially in the winter) often use this site. It did not matter which direction the ENG truck transmit antenna was aimed; all orientations of the ENG truck transmit antenna caused interference to the Trucker TV system. There can be no valid claim by Clarity that such interference is unlikely. Despite the assertion in Clarity's returned Cable Television Relay Service (CARS) applications that it would "live with this," SBE feels that Clarity should have disclosed this massive incompatibility in its Six-Month report.

5. **SBE Respectfully Requests That Its Informal Objection to the Clarity CARS applications be made part of the WD2XPK Record.** On November 22, 2005, SBE filed its Informal Objection to the March 10, 2005, Clarity CARS applications for Frazier Park, North Salt Lake City and Ogden. Only after this filing did SBE learn that those three CARS applications had been dismissed, on September 14, 2005. These applications by Clarity were apparently never assigned file numbers, nor put on public notice, nor was the dismissal placed on public notice, so SBE had no reasonable means to learn that the applications had already been dismissed. However, since the sole reason given for the dismissals was that the CARS applications were premature, pending a WD2XPK report, and since the dismissals were without prejudice to a re-filing by Clarity (which the Clarity Six-Month report now indicates it plans to do), SBE wants the WD2XPK record to reflect SBE's November 22 filing, and the facts we are offering in this instant letter.



SBE Comments: DA 06-1664, Trucker TV

SBE Rebuttal to the Clarity Six-Month Report Regarding Experimental Station WD2XPK

Mr. Julius Knapp, page 3
March 14, 2006

6. Even if the Commission does deem the Clarity WD2XPK Six-Month report as an acceptable submission, SBE believes that the next step should be for Clarity to file a Petition for Rulemaking to amend the Part 78 CARS Rules to create such a new "Trucker TV" service, and not to re-file applications that ask for waivers that are so numerous and fundamental as to constitute the creation of a new radio service.

Sincerely,

/s/ Dane E. Ericksen

Dane E. Ericksen, P.E., CSRTE, 8VSB, CBNT
Chairman, SBE FCC Liaison Committee

Enclosure (copy of SBE's November 22, 2005, Informal Objection)

cc: Stephen D. Baruch, Esq. by e-mail: sbaruch@lsl-law.com

