

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

In the Matter of)
)
Waiver Requests by Clarity Media Systems, LLC)
To Operate an Ultra Low-Power, Very Short Range) DA 07-1946
System in the 2,205–2,109 MHz Band at)
Flying J Travel Plazas)
)

To: The Commission

Opposition to Application for Review

The Society of Broadcast Engineers, Incorporated (SBE), the national association of broadcast engineers and technical communications professionals, with more than 5,000 members world wide, hereby respectfully submits its opposition to the June 4, 2007, *Application for Review* of the Media Bureau's May 3, 2007, decision denying Clarity Media Systems, LLC ("Clarity") the multiple rule waivers needed for its proposed "Trucker TV" system. SBE also opposes the June 4, 2007, *Application for Review* filed by the KlaasKids Foundation.

I. The Commission Should Deny the Applications for Review, or, In the Alternative, Affirm the Media Bureau's Decision

1. Clarity asks the Commission to review and reverse a May 3, 2007, Order¹ by the Media Bureau, denying Clarity the multiple rule waivers it requests in order to use essentially all of the 2,025–2,110 MHz TV Broadcast Auxiliary Services (BAS) band for direct-to-subscribers transmissions of video programming from fixed base stations that would be located at the approximately 250 Flying J Travel Plazas ("truck stops") throughout the United States. Clarity characterizes the Media Bureau's decision as "shockingly unbalanced and arbitrary" and "woefully inadequate," and accuses the Media Bureau of writing an order "in blatant derogation" of Clarity's "comprehensive record." Not stopping there, Clarity goes on to accuse the Media Bureau of "rattling off the whims of its media regulatees," and that the Media Bureau "essentially thumbs its nose at both the public and the public interest." Clarity further alleges that the Media Bureau's decision is "fatally flawed" and came to a "totally mistaken and inaccurate finding of fact." This treatment of Media Bureau goes on throughout the entire

¹ DA 07-1946.

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Application for Review. Clarity then asks the full Commission to reverse the Media Bureau's "dreadful decision."

II. The KlaasKids Foundation Application for Review

2. Although not as colorful in its language as the Clarity filing, the similar *Application for Review* by the KlaasKids Foundation repeats several of the allegations in the Clarity material, and argues that only Clarity's "Trucker TV" system can fill a supposed void in the dissemination of missing child alerts. The KlaasKids Foundation claims that Clarity's "Trucker TV" would "vastly revolutionize the spread and effectiveness of Amber (sic) Alert."² No documentation of this claim is provided. SBE notes that the current combination of broadcast alerts, news stories, and electronic road signs to find a missing child are effective.

3. The KlaasKids Foundation totally misses the point by apparently not recognizing that its missing child alert channel would be only one of many that Clarity is proposing. SBE finds it difficult to believe that there would be many truckers that would pay a fee to watch "Trucker TV" and then tune to a trucker "lost kids" channel when it would be only one of many available channels. If Clarity really wanted to make a "lost kids" channel available to the KlaasKids Foundation, it could simply run such as a 24/7 channel on a closed-circuit master antenna television (MATV) system inside their truck stops, without the need of any FCC licenses, rule waivers, or truckers needing to first purchase "Trucker TV."

4. The KlaasKids Foundation makes the point that missing child alerts are supposed to be targeted for local dissemination, but "Trucker TV" as proposed by Clarity would be a *nationwide*, satellite-delivered service. Not only would the nationwide nature of "Trucker TV" make it difficult to locally target missing child alerts, it could potentially compete with truly local attempts to distribute AMBER alerts issued by local TV and radio stations.

III. SBE's Rebuttal

5. Clarity repeats its argument that a simple telephone call by a BAS licensee experiencing interference to its 2 GHz operations would be instantly responded by shutting down an operating "Trucker TV" system with no questions asked. SBE finds this claim unbelievable. And even if the operator of a "Trucker TV" base station at a Flying J truck stop were to promptly shut down a "Trucker TV" base station in response to a telephone call, and not re-start transmissions until an

² KlaasKids Foundation *Application for Review*, at Page 5. SBE notes that since AMBER is an acronym for "America's Missing: Broadcast Emergency Response," its proper use is "AMBER" and not "Amber." SBE further notes that AMBER is a Department of Justice (DOJ) program begun in 1996, and a completely separate program from the KlaasKids Foundation. See <http://www.amberalert.gov/index.htm>.

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"all clear" follow-up telephone call had been received, Clarity cannot vouch whether other truck stop operators, or the operators of recreational vehicle (RV) parks, asking for "me too" waivers, would behave in a similar manner.

6. To try and rebut the SBE showings that many direct broadcast satellite (DBS) receiving systems designed to mount on trucks and RVs are readily available, which SBE submitted to counter the incorrect Clarity claim that it is impractical to mount a DBS receiving dish on a long-haul truck, Clarity now changes its argument that long-haul truck drivers are "credit challenged" and cannot afford to pay the cost of DBS service as the reason why DBS should not be considered as a readily available multichannel video programming distributor (MVPD) signal source.³ While SBE gives Clarity credit for an innovative restructuring of the argument provided in its initial filing for the supposed need for "Trucker TV," SBE notes that Clarity fails to provide any credible and independent documentation of its claim. And even if true, Clarity provides no information about what its supposedly lower subscription rate would be. Nor can Clarity make any commitment regarding what rates other truck stop operators (or the operators of RV parks) might charge if granted "me too" waivers.

7. At the bottom of Page 9 of Clarity's *Application for Review*, Clarity notes that the purpose of the Part 78 Rules is "...to foster the provision of local program origination on a multi-channel video distribution system." But Clarity is not proposing any local origination, its system would be totally satellite-originated.

8. SBE will not re-argue all of the other points raised in its comments, or the opposition comments of other broadcast industry associations and BAS licensees. SBE is quite content to let the full Commission review the record in this proceeding, and come to its own opinion.

³ Clarity *Application for Review*, at Page 2, Footnote 2.

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IV. Summary

9. SBE supports the Media Bureau's May 3, 2007, Order and asks that the Commission either dismiss the Clarity and KlaasKids Foundation *Applications for Review*, or, in the alternative, affirm the Media Bureau's decision as reasoned and correct.

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