

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

In the Matter of)
)
American Electric Power Service) FCC File No. 0007352620
Corporation Request for 800 MHz Waiver to) DA 16-1073
Use Frequencies Reserved for Public Safety)
Licensees)

To: Chief, Wireless Telecommunications Bureau

**AEP AND EWA
RESPONSE TO REPLY COMMENTS**

American Electric Power Service Corporation (“AEP”) and the Enterprise Wireless Alliance (“EWA”) (AEP and EWA, collectively, the “Parties”), in accordance with FCC Rule Section 1.45(c), jointly submit this response to the Reply Comments filed by the Association of Public-Safety Communications Officials-International, Inc. (“APCO”) and the National Public Safety Telecommunications Council (“NPSTC”) in the above-identified matter involving a waiver request (“Waiver Request”) filed by AEP after coordination by EWA.¹ The application and Waiver Request were placed on Public Notice by the FCC and comments on the filing were requested.² Had APCO registered its objections to the Waiver Request on the Comment date specified in the Public Notice, the Parties could have addressed those issues in a Reply Comment.

¹ NPSTC takes no position on the AEP Waiver Request itself and even suggests that any exceptions from FCC Rule Section 90.617 should be handled on a case-by-case basis, presumably pursuant to a waiver request such as this one. Its Reply Comments address only the recommendation in the EWA Comments filed in support of the Waiver Request that it would be appropriate for the FCC to examine its three-year set-aside of Sprint-vacated spectrum for public safety use now that the rule has been in place for over a decade. EWA agrees that this issue is beyond the scope of this proceeding and must be handled through a rulemaking.

² Wireless Telecommunications Bureau Seeks Comment on American Electric Power Service Corporation Request for Waiver Regarding 800 MHz Frequencies Reserved for Public Safety Licensees, *Public Notice*, File No. 0007352620, DA 16-1073 (rel. Sept. 22, 2016).

Since APCO waited until the Reply Comment date to raise its concerns, EWA and AEP are submitting this Response pursuant to FCC Rule Section 1.45(c).

AEP requested a waiver of FCC Rule Sections 90.619(g)(1), 90.621(b)(4), and 90.621(b)(5) to allow it to utilize seven 800 MHz channels approximately one and one-half years before they would be available for a qualified Critical Infrastructure Industry (“CII”) entity such as AEP. The frequencies in question are considered “Sprint-vacated” channels, which are held in reserve for public safety applicants for the first three years after availability. They then are available for an additional two years for CII and public safety entities.

APCO raises both procedural and substantive concerns with respect to the Waiver Request and associated application. Procedurally, it complains that proper notification was not provided by EWA to other frequency advisory committees (“FACs”) in accordance with the Memorandum of Agreement (“MOA”) that governs the recommendation of Sprint-vacated channels by participating FACs. EWA regrets this oversight but submits that it has not adversely affected any interested party. Contrary to this Reply, EWA did not need concurrence *per se* from APCO or any other FAC. The purpose of the MOA is to allow any FAC that is processing a mutually exclusive application the opportunity to notify other FACs of the potential conflict and potential resolutions, so that no mutually exclusive applications are filed with the FCC. Having been notified of the AEP application through the FCC’s Public Notice, APCO has not suggested that there is such an application. The FCC, of course, could require AEP to prepare a duplicate application that EWA then could send to other FACs pursuant to the MOA, but that would appear to elevate form over substance.

With respect to its substantive objections, AEP/EWA can only assume that APCO has not read the Waiver Request in detail. APCO argues that AEP has failed to describe its need for

spectrum or to explain any compelling circumstances that underlie the Waiver Request. To the contrary, AEP described its responsibilities in providing electric service reliably and safely to millions of customers throughout an eleven-state area, including the rural area at issue in this proceeding.³ It explained that it already is licensed for five of the seven channels requested herein at other sites in the state, including a site only one mile from the proposed location. It described its efforts to identify other usable 800 MHz channels at this site and the fact that there are no assignable Business/Industrial/Land Transportation channels at the location where it needs to provide fill-in coverage in an otherwise unreachable area. In fact, the Waiver Request represents an effort by AEP to reuse frequencies when possible and to request only the capacity and coverage that is essential to carrying out its functions in a responsible fashion.

More specifically, as shown on Attachment A, the contour of the proposed location on two channels, 811/856.3625 and 812/857.3625 MHz, falls entirely within the contours of AEP's already licensed facilities. Those channels could not be licensed by a public safety applicant in that area. Any proposed public safety use on three additional channels, 809/854.9375, 812/857.8125, and 814/859.8125 MHz, would need to protect the contours of licensed AEP stations, again making their use in this area highly problematic. Denying AEP's request to use them would not advance any public interest objective. It would simply prevent an entity providing critical energy services from securing needed capacity at a remote location, even though no other party could license them in that area. The remaining two channels, 813/858.8125 and 814/859.9375 MHz, are frequencies assigned to the Business/Industrial/Land Transportation

³ NPSTC noted that the area in question is "a relatively rural area of the state" and that the Town of Sugarcreek, the closest town to the site, has a population of only 2,233. NPSTC Reply Comments at 5.

(“B/ILT”) Pool, but from the proposed location have some contour overlap with Sprint-vacated licenses that included these same channels.

APCO’s objection rests on its argument that the purpose of the set-aside of Sprint-vacated spectrum for public safety use would be undermined were the FCC to grant this request. It states that the purpose of the rule is to accommodate the “generally slow budgetary process of public safety agencies” by reserving spectrum for their use while they complete that process.⁴ While that may be the case generally, the fact that no public safety entity has expressed an interest in these channels in this rural area may be explained by the fact that there are sixteen public safety channels in the interleaved band that are assignable today at AEP’s proposed location in accordance with FCC Rule Section 90.621(b)⁵ In relatively remote areas such as the site proposed by AEP, it is not surprising that the supply of 800 MHz public safety channels, including Sprint-vacated channels, exceeds the demand for that spectrum.

The FCC went to painstaking efforts to provide public safety entities every opportunity to meet actual spectrum demand by giving them first priority for Sprint-vacated channels. However, this is an instance where the three-year reservation will mean that spectrum needed to serve the public’s interest in reliable electric service instead will lie fallow in anticipation of potential public safety demand, even though ample supplies of 800 MHz public safety pool spectrum remain available should a qualified entity find that it needs capacity in this area.

⁴ EWA hopes that public safety agencies in need of 800 MHz capacity do not wait until the Sprint-vacated spectrum is able to be licensed before beginning whatever budgetary process they must complete to apply for it. The fact that this spectrum will become available is known well in advance of that date. EWA would encourage public safety entities to take all steps needed to be prepared to file applications for it promptly upon availability, particularly since extended implementation authority under FCC Rule Section 90.629 allows them up to five years for system deployment.

⁵ See Attachment B.

Of course, any party seeking access to this reserved spectrum must demonstrate that it satisfies the FCC's waiver standard. AEP has done so. It is not, as APCO implies, just any applicant. It is a public utility with a compelling need for 800 MHz spectrum at this site, a need that cannot be satisfied without waiver relief. AEP is in the process of upgrading its 800 MHz system to increase its data applications by including enhanced VGPS/AVL for telematics detailed diagnostics and driving behaviors, fixed data for gridSMART distribution automation, take-out point for Advanced Meter Infrastructure, and fixed data for transmission services such as transformer monitoring. It may need to increase capacity in other locations as well, but thought it prudent to request at the outset the channels it has determined will be needed to provide these functionalities at the proposed location.

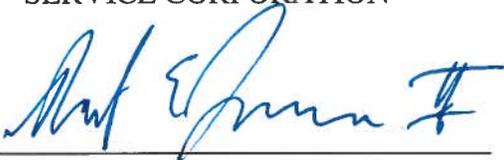
It unquestionably is in the public interest to allow a CII entity such as AEP to have sufficient spectrum to provide energy-saving, efficient, forward-thinking capabilities for the benefit of its customers. As discussed above, a grant of waiver relief would not undermine the purpose of the Sprint-vacated public safety reservation, both because the great majority of the channels would not be available to public safety entities in any event due to AEP's already licensed facilities and because ample public safety interleaved channels, as well as other Sprint-vacated spectrum, remain available in the unlikely event that a public safety entity should need to acquire spectrum in this precise area.⁶

⁶ The FCC granted a waiver of FCC Rule Section 90.617(g) to DPE, LLC, a commercial Specialized Mobile Radio licensee, based, in part, on its demonstration that there was ample public safety spectrum available in the area. *See* DPE, LLC, *Order*, 31 FCC Red 179 (MD/WTB 2016).

For the reasons addressed herein, the Parties respectfully request the FCC to grant the Waiver Request and the associated application filed by AEP.

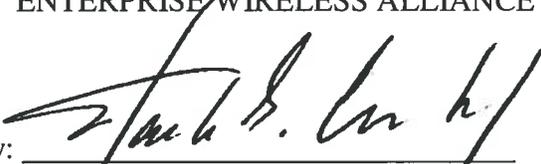
Respectfully submitted,

AMERICAN ELECTRIC POWER
SERVICE CORPORATION

By: 

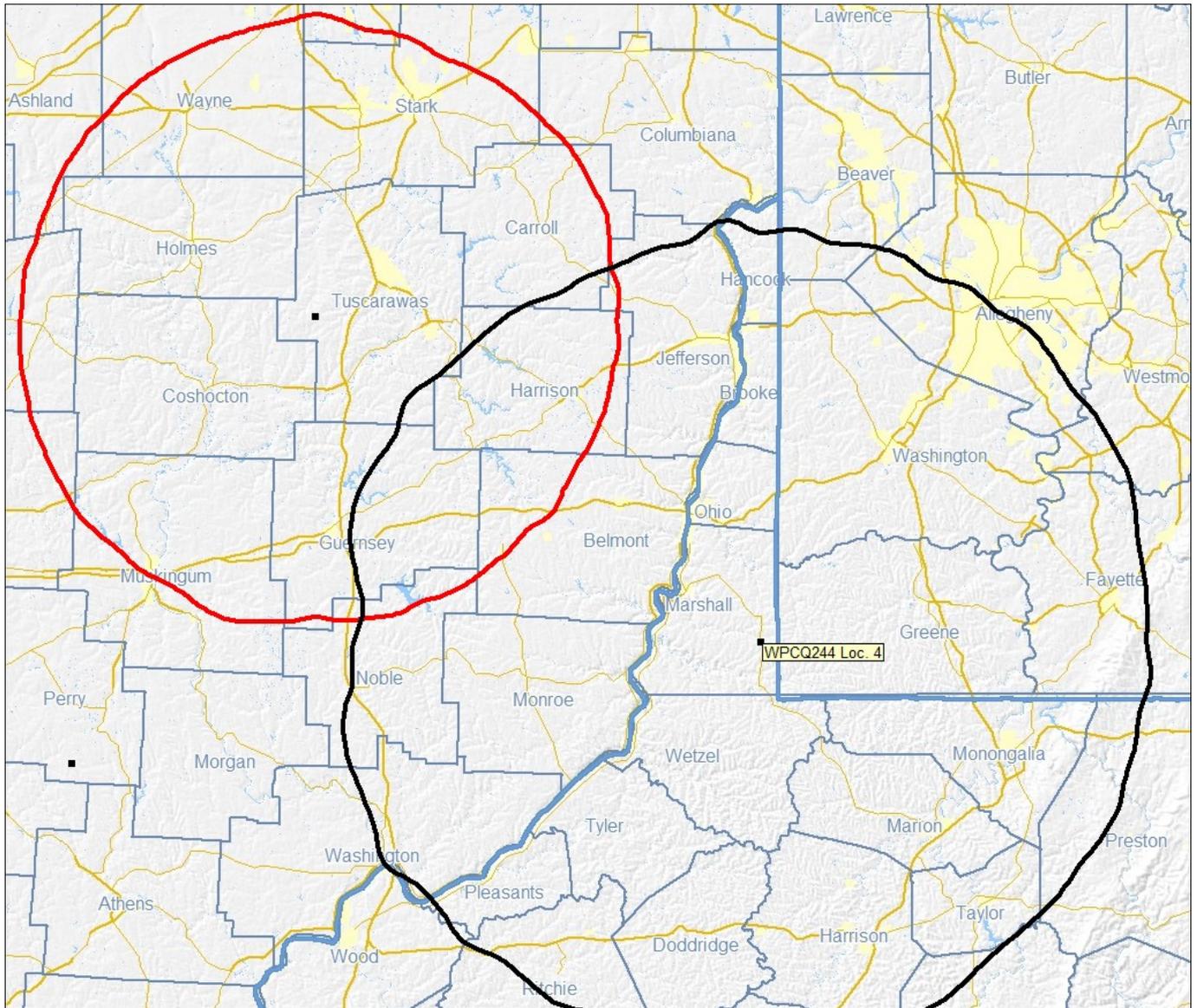
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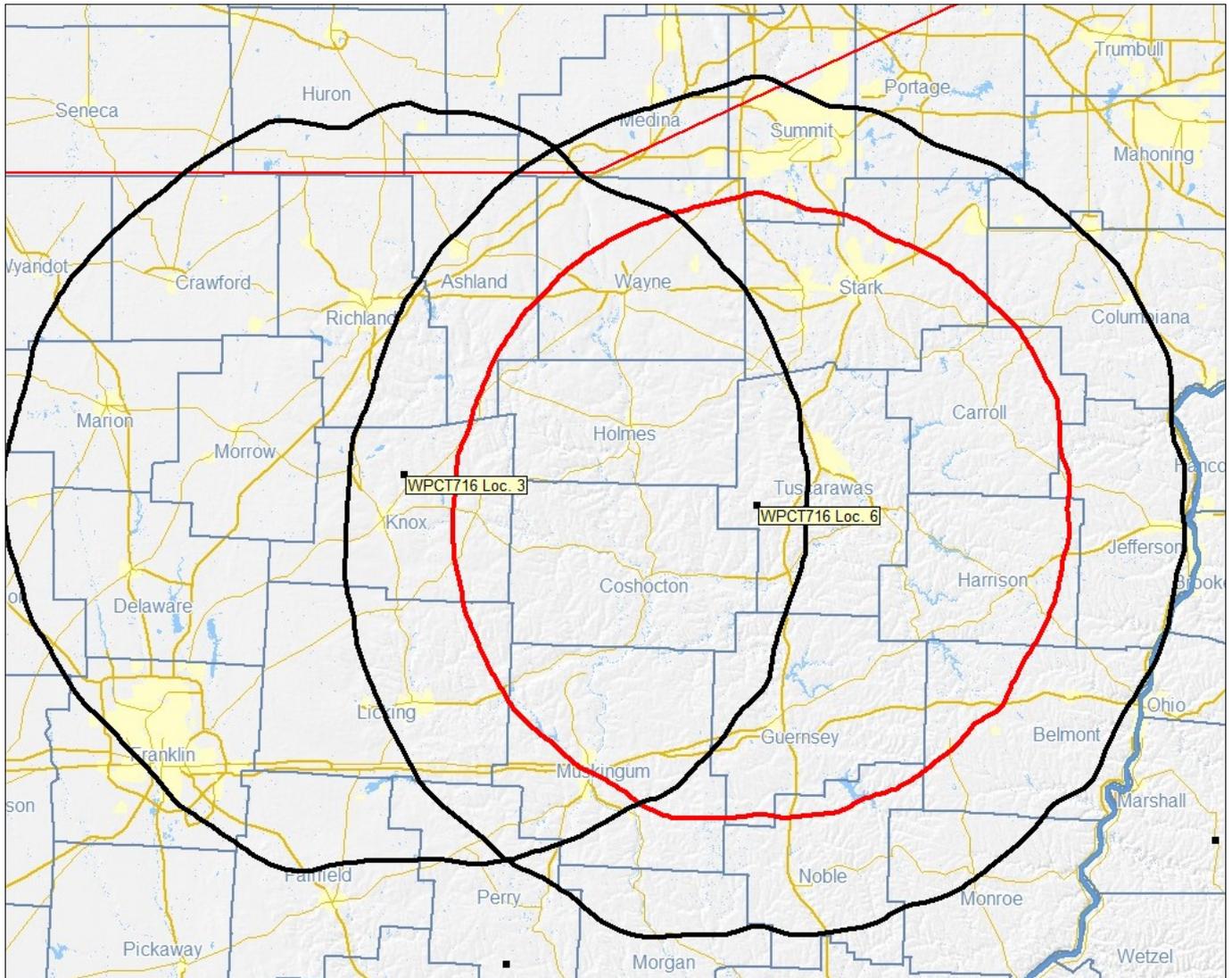
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November 15, 2016



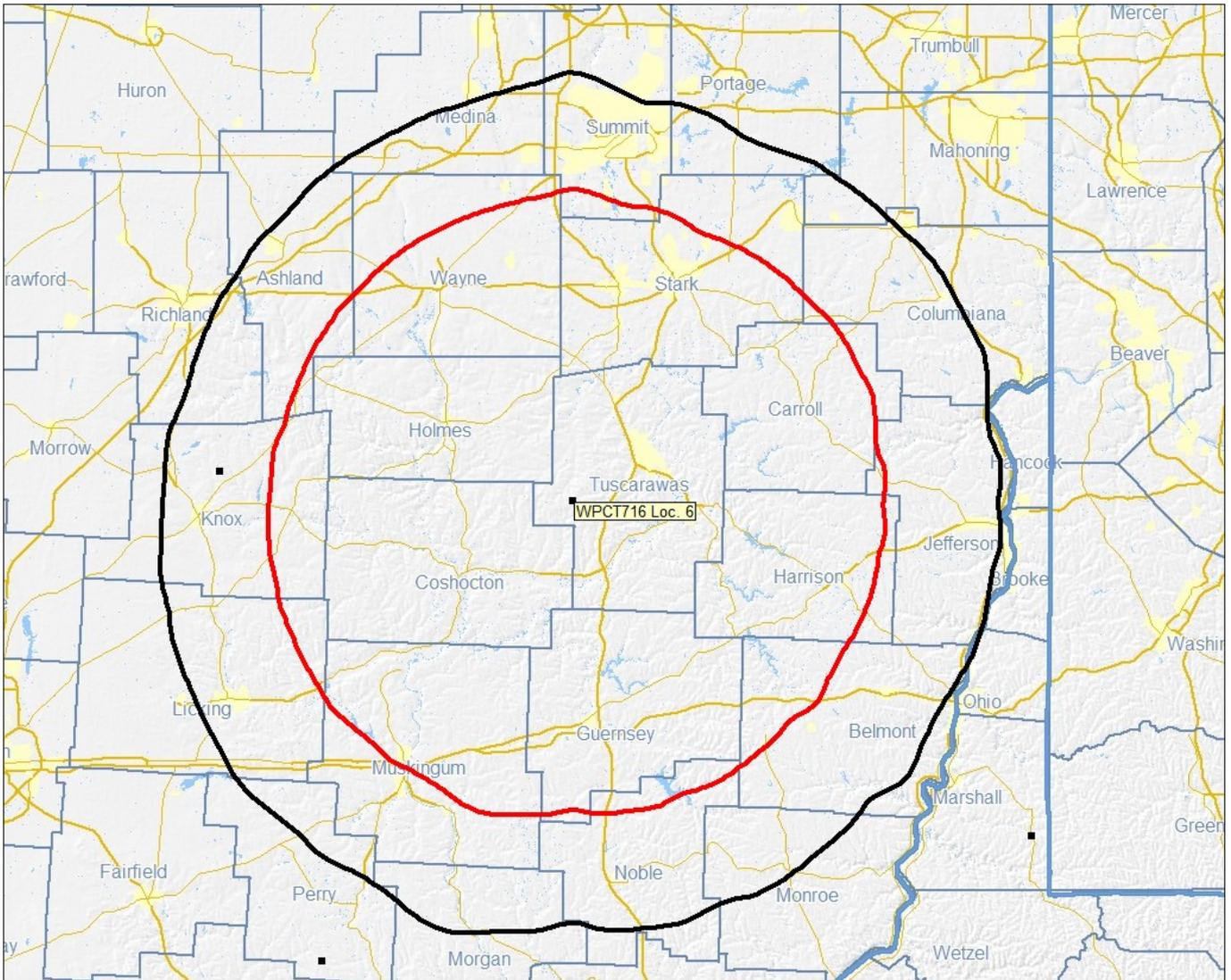
Callsign	Latitude	Longitude	Freq (MHz)	Antenna Height (m)	ERP (W)	Emission
Proposed WPLZ771	40°24'45.6" N	81°37'13.2" W	854.9375	104.5	125	20K0F3E
WPCQ244 Loc. 4	39°48'57.4" N	80°33'37.9" W	854.9375	58.8	1000	20K0F3E

Black – Protected 22dbu Interference Contour Red – Proposed 22dbu Interference Contour



Callsign	Latitude	Longitude	Freq (MHz)	Antenna Height (m)	ERP (W)	Emission
Proposed WPLZ771	40°24'45.6" N	81°37'13.2" W	856.3625	104.5	125	20K0F3E
WPCT716 Loc. 3	40°27'56.2" N	82°26'11.6" W	856.3625	50	1000	20K0F3E
WPCT716 Loc. 6	40°24'46.2" N	81°37'11.4" W	856.3625	56	1000	20K0F3E

Black – Protected 22dbu Interference Contours Red – Proposed 22dbu Interference Contour



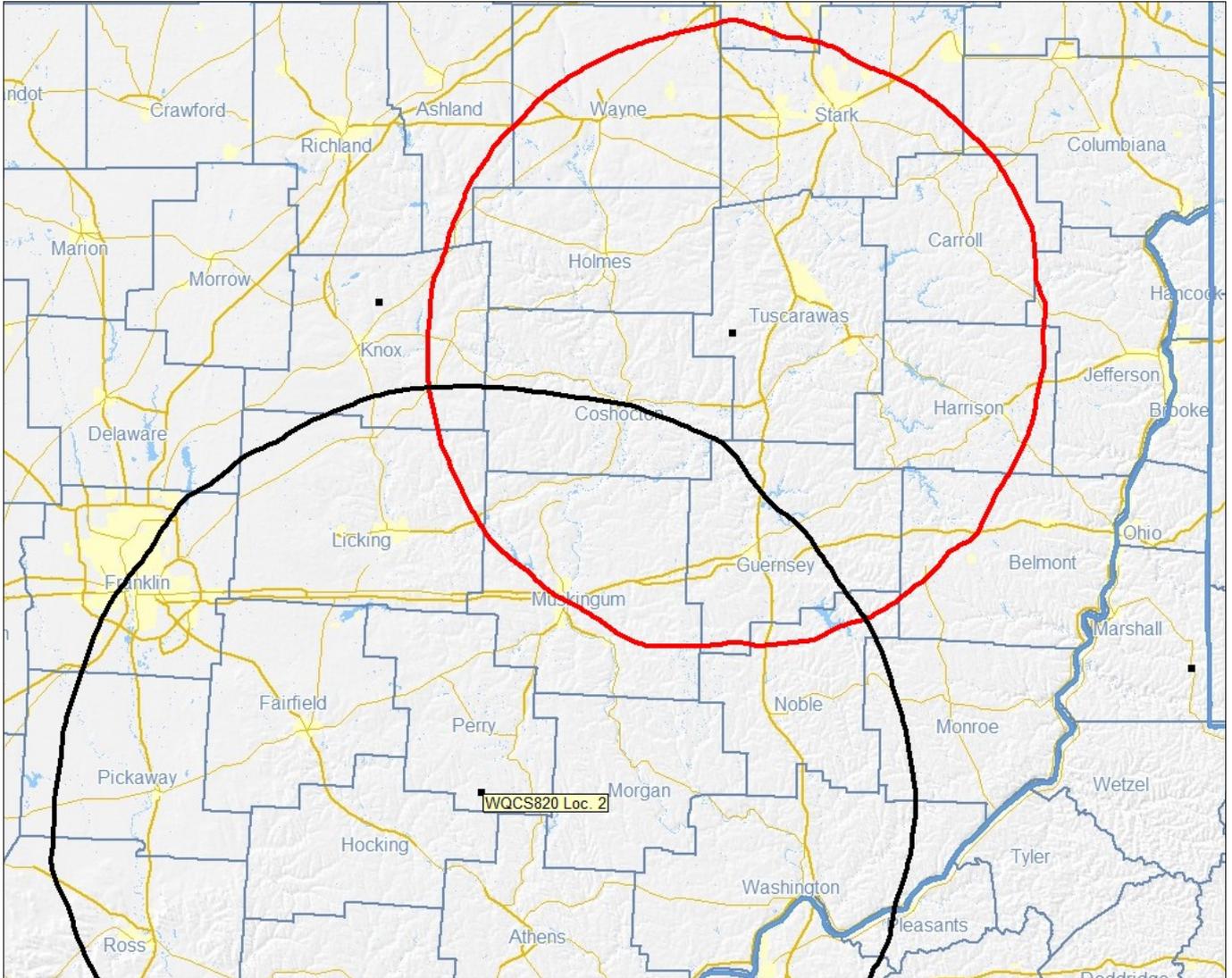
Callsign	Latitude	Longitude	Freq (MHz)	Antenna Height (m)	ERP (W)	Emission
Proposed WPLZ771	40°24'45.6" N	81°37'13.2" W	857.3625	104.5	125	20K0F3E
WPCT716 Loc. 6	40°24'46.2" N	81°37'11.4" W	857.3625	56	1000	20K0F3E

Black – Protected 22dbu Interference Contour Red – Proposed 22dbu Interference Contour



Callsign	Latitude	Longitude	Freq (MHz)	Antenna Height (m)	ERP (W)	Emission
Proposed WPLZ771	40°24'45.6" N	81°37'13.2" W	857.8125	104.5	125	20K0F3E
WQCS820 Loc. 2	39°35'33.6" N	82°12'1.1" W	857.8125	104.5	1000	20K0F3E

Black – Protected 22dbu Interference Contour Red – Proposed 22dbu Interference Contour



Callsign	Latitude	Longitude	Freq (MHz)	Antenna Height (m)	ERP (W)	Emission
Proposed WPLZ771	40°24'45.6" N	81°37'13.2" W	859.8125	104.5	125	20K0F3E
WQCS820 Loc. 2	39°35'33.6" N	82°12'1.1" W	859.8125	104.5	1000	20K0F3E

Black – Protected 22dbu Interference Contour Red – Proposed 22dbu Interference Contour

ATTACHMENT B

Frequency
855.2125
855.9875
856.0625
856.9625
857.4875
857.7125
857.7625
857.9375
857.9875
858.7625
858.9375
858.9875
859.2125
859.7125
859.7625
859.9875

CERTIFICATE OF SERVICE

I, Linda J. Evans, hereby certify that on this 15th day of November, 2016, I provided copies of the foregoing RESPONSE TO REPLY COMMENTS by e-mail in pdf format or, alternatively, by first-class mail, postage prepaid, to the following:

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0007352620 File Number

Attachment(s)

11/15/2016 Pleading AEP-EWA Response to APCO and NPSTC Reply Comments EWA-AEP Response to Reply Comments 11-15-16.pdf

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