Leslie Shapiro
2025 bldg.
Rm. 8324

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

JUL 19

IN REPLY REFER TO:

JUL 18 1994

Ann C. Farhat, Esq.
Bechtel & Cole, Chartered
1901 L. Street, N.W.
Suite 250
Washington, D.C. 20036

Dear Ms. Farhat:

This is in response to the petition for rule making which you submitted on behalf of 3-J Broadcasting Company requesting the allotment of UHF TV Channel 38 to Bend, Oregon, as the community's fourth local and second commercial television channel.

You state that Bend is located 194.1 kilometers from the Portland, Oregon, reference coordinates and thus your request is subject to the Freeze Order issued in connection with the Commission's rule making concerning advanced television technologies. See Advanced Television Systems and Their Impact on the Existing Television Broadcast Service, 52 FR 28346, July 29, 1987. You contend that a waiver of the freeze should be granted in this case because Channel 38 at Bend would have no preclusive effect on the possible Portland allotments since the channel is already precluded by the existence of Portland Channels 24, 30 and 40.

The Commission's Freeze Order does permit waiver requests to be considered on a case-by-case basis. However, these requests are limited to noncommercial channels and to licensees which provide "compelling" reasons why the freeze should not apply to their particular situation or class of station. In this case, 3-J Broadcasting Company's request falls within neither exception since it is not an existing licensee seeking a change in its facilities nor does it concern noncommercial educational television broadcasting. Therefore, the request of 3-J Broadcasting Company to allot Channel 38 to Bend, Oregon, is not acceptable for consideration at this time.

Sincerely,

John A. Karouses
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

LKShapiro:AB:PRD:MM