

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554
JUN 12 10 08 AM '95

DISPATCHED BY
MM Docket No. 92-246

In the Matter of

Amendment of Section 73.606. RM-8091
Table of Allotments
Television Broadcast Stations
(Ridgecrest, California)

MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)

Adopted: June 1, 1995; Released: June 9, 1995

By the Chief, Policy and Rules Division:

1. The Commission has before it the Petition for Reconsideration filed by Valley Public Television ("Valley") of the *Report and Order* ("R&O")¹ in the above captioned proceeding. The R&O dismissed the petition for rule making filed by Valley requesting the substitution of Channel *41 for vacant Channel *25 (reserved for noncommercial use) at Ridgecrest, or, alternatively, requesting the placement of a site restriction on Channel *25 at Ridgecrest to accommodate Valley's application site for a new noncommercial station on Channel *39 at Bakersfield.

2. *Background.* Valley proposed the channel substitution at Ridgecrest to cure a short-spacing between the allotment site for Channel *25 at Ridgecrest and Valley's proposed Channel *39 site at Bakersfield. Valley stated that this would release Channel *25 for use in another community outside of the Los Angeles ATV freeze area. Alternatively, Valley suggested that Channel *25 be retained at Ridgecrest with a site restriction clearing Valley's Bakersfield Channel *39 application site. In further support of its proposal Valley pointed out that Channel *25 had never been applied for since its allotment 25 years prior. Community Television of Southern California ("CTSC") filed comments in opposition. Valley filed reply comments.

3. Subsequently, Valley and CTSC filed and were granted a joint petition for approval of settlement regarding their applications for Channel *39 at Bakersfield. That settlement provided in pertinent part, that each party's application be dismissed with prejudice, and that neither party file an application for a full service station to operate on Channel *39 at Bakersfield for five years unless an independent third party filed an application for such facility first. In view of that settlement, the Allocations Branch issued the R&O dismissing as moot the petition for rule making in the instant docket.

4. *Petition for Reconsideration.* Valley argues that the Commission should continue to consider the Ridgecrest proposal because it "wishes to be in a position to apply for

the Channel *39 transmitter site as specified in its application for Bakersfield either at the end of the five year settlement period, or sooner, if the contingency terminating the settlement occurs." Valley argues that since the settlement agreement between it and CTSC was good for only five years, and contained the contingency involving an independent third party, the settlement was not final and the question with respect to Ridgecrest continues to be alive.

5. *Discussion.* Valley's request will be denied. The R&O properly dismissed the Ridgecrest proposal as moot. Since both applications for Channel *39 at Bakersfield were dismissed, and no other expression of interest in the Ridgecrest allotment was filed, there was no reason to make the allotment. Valley's interest in refiling its application for Channel *39 at Bakersfield at some indefinite future date does not provide adequate justification to warrant the change at Ridgecrest. Valley's argument that the proposal is alive is based on speculation. The Commission does not entertain speculative arguments with respect to requests to amend Table of Allotments. See, e.g., *Wickenburg, Arizona*, 10 FCC Rcd 1576 (1995).

6. Accordingly, IT IS ORDERED. That the Petition for Reconsideration filed by Valley Public Television IS DENIED.

7. IT IS FURTHER ORDERED. That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Victoria M. McCauley, Mass Media Bureau, (202) 76-1653.

FEDERAL COMMUNICATIONS COMMISSION

Douglas W. Webbink
Chief, Policy and Rules Division
Mass Media Bureau

¹ 8 FCC Rcd 7626 (Allocations Br. 1993).