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JUL 22 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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July 22, 1996

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

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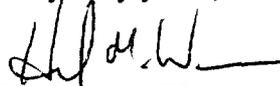
Re: NEW - Channel 46
Derby, Kansas

Dear Mr. Caton:

Transmitted herewith are an original and four copies of a Petition for Rule Making to allot Channel 46 to Derby, Kansas as its first local transmission television service. A contingent application for construction permit for a new television station to operate on Channel 46 at Derby is being transmitted simultaneously under separate cover. A request for waiver of Sections 73.607 and 73.3517 of the Commission's rules is included in the application.

Should any questions arise concerning this matter, please communicate with the undersigned.

Very truly yours,



Howard M. Weiss
Counsel for Pappas Telecasting of America,
A California Limited Partnership

Enclosures

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BEFORE THE

Federal Communications Commission RECEIVED

WASHINGTON, D.C. 20554

JUL 22 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b) of the)
Commission's Rules, TV Table of Allotments,)
to allot Channel 46 to Derby, Kansas)

MM Docket No. _____
RM No. _____

To: Chief, Allocations Branch

PETITION FOR RULEMAKING

Pappas Telecasting of America, A California Limited Partnership ("Pappas"), by counsel, and pursuant to Section 1.401 of the Commission's rules, hereby requests the Commission to institute a rulemaking proceeding for the purpose of amending the TV Table of Allotments to allot Channel 46 to Derby, Kansas, as that community's first local television service. Pappas proposes to amend Section 73.606(b) of the Commission's rules as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Derby, Kansas	- - -	46

No change in the existing allotments is requested. In support of this request, the following is stated:

The city of Derby, Kansas, is an incorporated community with a 1990 U.S. Census population of 14,699. It has its own post office and zip code, and is served by at least one bank as well as the Atchison, Topeka and Santa Fe Railroad.

As demonstrated in the attached engineering exhibit, the coordinates of the proposed site meet the minimum distance separation requirements with respect to all known licenses, construction permits, pending applications, and pending rulemaking proceedings.

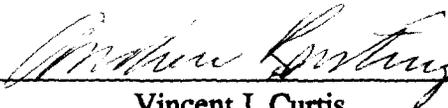
As stated above, the allotment of Channel 46 will provide Derby with a first local television service, which will promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of television broadcast stations among the various States and communities. 47 U.S.C. §307(b). See National Broadcasting Co. v. U.S., 319 U.S. 190, 217 (1943) (describing goal of Communications Act to "secure the maximum benefits of radio to all the people of the United States); FCC v. Allentown Broadcasting Co., 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to "secure local means of expression"). In addition, the proposed allotment will promote the second television allotment priority established in the Sixth Report and Order in Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing each community with at least one television broadcast station. The proposed allotment also will permit an additional network to serve the Wichita-Hutchinson television market. Therefore, the allotment will serve the public interest.

Contemporaneously herewith, the petitioner is filing an application for a construction permit for the new facility contingent upon the grant of the proposed allotment. In the event its application is granted, the petitioner will promptly construct the new facility.

WHEREFORE, in light of the foregoing, Pappas Telecasting of America, A California Limited Partnership, respectfully requests the Commission to GRANT this petition for rulemaking, AMEND the TV Table of Allotments, and ALLOT Channel 46 to Derby, Kansas, as that community's first local television service.

Respectfully submitted,

PAPPAS TELECASTING OF AMERICA,
A CALIFORNIA LIMITED PARTNERSHIP

By: 
Vincent J. Curtis
Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Rosslyn, Virginia 22209
(703/812-0400)

July 22, 1996

WES, INC.
5925 CROMO DR.
EL PASO, TX 79912

915-581-0306

ENGINEERING EXHIBIT RM:

For Derby, KS
CH 46

JUNE 14, 1996

**ENGINEERING STATEMENT IN SUPPORT OF A
PETITION FOR RULE MAKING
TO AMEND
THE TV TABLE OF ASSIGNMENTS**

WES, INC.

DECLARATION

I, Pete E. M. Warren III, declare and state that I am a Certified Engineer, Class I, Senior, with Master Endorsement radiating and non-radiating, by The National Association of Radio and Telecommunications Engineers, Inc., and my qualifications are a matter of record with the Federal Communications Commission, and that I am an engineer in the firm of WES, Inc., and that the firm has been retained to prepare an engineering statement in support of a Petition to Amend the TV Table of Assignments.

All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.


Pete E. M. Warren III

Executed on the 14th day of June, 1996

Narrative Statement

I. General

The purpose of this engineering statement is to support a request that the TV Table of Assignments be amended to add Ch. 46 at Derby KS. The proposed channel has no short-spacing, as can be seen by the channel spacing study. A contingent application will be submitted.

It should be noted that the area in question is not within 320 kilometers (200 miles) of a US Border and, therefore, foreign concurrence is not required.

II. ENGINEERING DISCUSSION

A. Proposed site:

We propose a site located at the following coordinates:

Latitude: 38 00 00

Longitude: 97 35 00

The allocation can be made within a wide area.

B. Channel Allocation Study

Exhibit 1 is a Channel Allocation Study of channel 46. The study indicates the required separation in kilometers to all known Licenses, Construction Permits, Open Allocations, pending Allocations, and pending Rule Makings.

Exhibit 2 is a map of the resulting arcs indicating minimum separation and a cross-hatched zone showing area to locate.

C. Public Interest Showing:

1. This would be the first allotment to Derby, KS. The petitioner believes that the requested channel addition is in the Public Interest and, therefore, should be granted by the Commission.
2. An additional station in the area would allow for carriage of a fifth network.

III. SUMMARY

Petitioner request that the TV Table of Assignments be amended as follows:

City	Present	Proposed
Derby, KS	None	460



Pete E.M. Warren III

June 14, 1996

EXHIBIT #1

CHANNEL ALLOCATION STUDY

TV CHANNEL SPACING STUDY

by WES Inc.

Job title: DERBY KS

Latitude: 38 0 0

Channel: 46

Longitude: 97 35 0

Database file name: c:\tvsrc\tv960524.edx

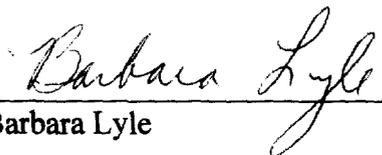
CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
31o	ALLOTM	5695	JUNCTION CITY	KS	2		29.5	131.6	119.9	11.7
46-	ALLOTM	6010	NORMAN	OK	2		177.6	309.1	280.8	28.3
42o	ALLOTM	6043	WICHITA	KS	2		147.8	40.5	31.4	9.1
32+	ALLOTM	6340	PRATT	KS	2		249.7	108.8	95.7	13.1

***** End of channel 46 study *****

CERTIFICATE OF SERVICE

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 22nd day of July, 1996, a copy of the foregoing "Petition for Rulemaking" was hand delivered to the following:

Mr. Roy J. Stewart
Chief, Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, DC 20554

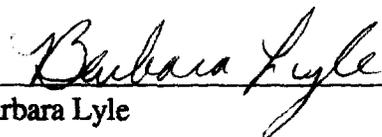


Barbara Lyle

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I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 22nd day of July, 1996, a copy of the foregoing "Petition for Rulemaking" was hand delivered to the following:

Mr. Roy J. Stewart
Chief, Mass Media Bureau
Federal Communications Commission
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Washington, DC 20554


Barbara Lyle