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June 13, 1997

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JUN 13 1997

Federal Communications Commission
Office of Secretary

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

Re: MM Docket No. 87-268

Dear Mr. Caton:

On behalf of Retlaw Enterprises, Inc., I am transmitting herewith an original and eleven (11) copies of a "Petition for Partial Reconsideration and Clarification" in the above-referenced proceeding.

If there are any questions concerning this matter, kindly communicate with the undersigned.

Very truly yours,

Carl R. Ramey

Carl R. Ramey

Enclosures

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ORIGINAL

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

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JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of	)	
	)	
Advanced Television Systems	)	MM Docket No. 87-268
and Their Impact Upon the	)	
Existing Television Broadcast	)	
Service	)	

To: The Commission

PETITION FOR PARTIAL RECONSIDERATION
AND CLARIFICATION
BY
RETLAW ENTERPRISES, INC.

Retlaw Enterprises, Inc. ("Retlaw"), by its attorneys, submits herewith the following petition for partial reconsideration and clarification in the above-captioned proceeding. Retlaw is the licensee (or controlling party) of nine television stations located in California and the upper northwest states of Washington, Oregon and Idaho.[1]

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[1] Retlaw television stations are: KJEO, Fresno, California; KVAL, Eugene, Oregon; KCBY, Coos Bay, Oregon; KIMA-TV, Yakima, Washington, KEPR-TV, Pasco, Washington; KLEW, Lewiston, Idaho; KBCI-TV, Boise, Idaho; and KIDK-TV, Idaho Falls, Idaho. In addition, Retlaw is a 50% owner and the managing entity of Southwest Oregon Television Broadcasting Corporation, the licensee of KPIC-TV, Roseburg, Oregon.

I.

Preliminary Statement

Retlaw has participated during several earlier stages of this proceeding as a signatory to the filings of the Joint Broadcasters group led by the Association of Maximum Service Telecasters ("MSTV"). MSTV (joined by other broadcasters) is simultaneously filing a petition asking for reconsideration and clarification of certain issues that arise under both the Sixth Report and Order (FCC 97-115) ("Sixth R & O") and the Fifth Report and Order (FCC 97- 116) ("Fifth R & O") released herein on April 21, 1997. Given the strong interrelationship between the DTV allotments and assignments dealt with in the Sixth R & O and the DTV service rules dealt with in the Fifth R & O, we believe it is appropriate to address our limited but specific concerns in a combined document that touches upon both Commission orders.

This is a complex proceeding that thrusts the entire television industry into a new and uncertain future. The conversion from analog to digital is not only premised on vast technical changes that are largely untested or unproven, it is dependent upon numerous practical and marketplace conditions that neither the Commission nor the television industry can reliably predict or control. As such, many of the policy, technical and procedural decisions reached now will, of necessity, require future reassessment and readjustment as "real world" experience is gained and various practical conditions surface and unfold.

Retlaw generally shares many of the concerns expressed and points addressed in the MSTV petition. In particular, Retlaw endorses the view that without substantial revision and clarification, as outlined in the MSTV petition, the build-out of DTV will not be achievable as planned. In addition to supporting the MSTV filing, this individual petition by Retlaw is designed to address certain concerns that especially impact Retlaw's stations. These are outlined below.

II.

Issues of Special Concern to Retlaw Which Warrant Further Consideration or Clarification

Revised DTV Channel Assignments for KIMA-TV, Yakima, Washington and KEPR-TV, Pasco, Washington:

Concurrently with this filing, Retlaw is also joining in a "Petition for Reconsideration" prepared and submitted by the ad hoc Eastern Washington and Northern Idaho DTV Channel Allocation Caucus ("Caucus"). The "Caucus" is composed of numerous television licensees in the Spokane, Washington and Yakima-Pasco-Richland-Kennewick, Washington Neilsen Designated Market Areas. The Caucus petition urges the Commission to adopt a coordinated and totally revised DTV channel allocation plan for a number of stations licensed to different communities throughout Eastern Washington and Northern Idaho. With respect to Retlaw, the Caucus recommendation includes the following specific proposals:

Station and NTSC Channel	DTV Channel Allotment in Sixth R & O	Proposed Substitute DTV Channel Allotment
KIMA-TV, Yakima, WA. NTSC 29	DTV 52	DTV 33
KEPR-TV, Pasco, WA. NTSC 19	DTV 20	DTV 18

The foregoing DTV channel changes would benefit Retlaw in at least the following respects: (a) they would ensure that KIMA-TV, Retlaw's station in Yakima, Washington, is assigned a DTV channel in the "core spectrum" from the outset and (b) they would provide KEPR-TV, Retlaw's station in Pasco, Washington, with the capability to combine both NTSC and DTV transmitters into a single antenna.

Channel 14 Allocation
To KJEO-TV, Fresno, California:

In Fresno, California, the nation's 55th largest television market, the Sixth R & Q assigns DTV Channel 14 to Retlaw's existing NTSC station, KJEO-TV. While Channel 14 is not currently shared with any land mobile operations in the Fresno area, a significant "sharing" related problem nevertheless exists which, we believe, warrants the Commission's attention. In particular, Retlaw's Channel 14 DTV operations would be virtually co-located with a major provider of land mobile services currently utilizing frequencies adjacent to TV Channel 14 (470-476 MHz).

Indeed, KJEO's NTSC/DTV transmitting antennas will be installed within only 150 meters of the existing land-mobile tower and equipment of Cookes Communications. According to information supplied to Retlaw, this particular land mobile service provider (within the allocated receive spectrum of 466-470 MHz) currently uses channels at 469.55, 469.10 and 469.05 MHz. Therefore, even assuming the installation of a sizable and costly blocking filter, and realizing attenuation of at least -70dB for out of band emissions between 469 and 470 MHz, it can be anticipated that KJEO, operating with the maximum allowed DTV power of 50 Kw, will effectively "illuminate" the near-by land mobile facilities with several milliwatts of energy at 469-470 MHz. Given the fact that a typical land mobile receiver has a sensitivity of less than 0.5 microvolts, it is likely that substantial portions of the land mobile spectrum in KJEO's immediate vicinity will be rendered unusable or severely impaired.

It is Retlaw's view that this major technical impediment should be acknowledged and addressed sooner than later. No only is it essential to clarify what procedures and rights will apply in such circumstances, but, we submit, steps should be taken now, if at all possible, to remedy this obvious technical conflict well before it happens.

We recognize that it has been impossible for the Commission to resolve definitively, at this stage, all potential, even likely, technical issues and problems - - i.e., if it is to move forward at all with the roll-out of DTV technology and service. On the other hand, Retlaw urgently wishes to avoid going through the lengthy and

extremely costly process of building its new DTV facilities on Channel 14 in Fresno only to face monumental technical and public service problems in its community that might require further costly adjustments by one or both parties involved (i.e., KJEO and the co-located land mobile operator).

For these reasons, Retlaw respectfully urges the Commission to consider this particular problem and to provide explicit guidance to Retlaw and others facing such dilemmas before we are required to construct a new TV facility that will inevitably conflict with certain existing land mobile operations. At a minimum, the Commission should sanction a process to examine and resolve equitably such real world problems on an ad hoc basis, without any pre-conceptions as to who is responsible for causing the problem or who is responsible for fixing the problem.

Use of Low Band VHF Channels for DTV:

As pointed out in "Reply Comments" submitted on January 24, 1997 in response to the Sixth Further Notice of Proposed Rulemaking in this proceeding, Retlaw is particularly concerned about certain assumptions regarding the future use of low-band VHF channels for DTV service. As we noted on that occasion, four of Retlaw's existing NTSC stations operate on such channels.

We are gratified that, in response to numerous comments from parties objecting to the exclusion of these channels from the DTV core spectrum, the Commission, in the

Sixth R & O, has adopted a DTV table of allotments using channels 2-6 and, in addition, promises that it "will consider" retaining those channels for the final core spectrum. Sixth R & O, ¶ 83. We remain concerned, however, that this very equivocation regarding the future use of low-band UHF channels is both unnecessary and potentially harmful. As numerous parties have pointed out in this proceeding, no spectrum should be singled out, at this stage, with second-class status, particularly channels 2-6. Not only is there no demonstrable technical basis for doing so, to the extent it is ultimately determined that there are, indeed, noise problems in the spectrum at channels 2-6 that interfere with DTV transmissions, the Commission has a variety of effective means for addressing such issues.

More importantly, from Retlaw's perspective, is the strong likelihood that, in specific circumstances, the proven longer range propagation characteristics of channels 2-6 (and the resulting extended coverage in rural areas and rugged terrain) could easily outweigh any perceived disadvantage of any noise experienced on those channels. It is, of course, widely recognized that due to their unique propagation characteristics and ability to cover and to overcome unusual and difficult terrain, the lower VHF channels offer wider area coverage than other channels. As such, they are better able to efficiently extend service to rural areas and smaller towns located in fringe areas, such as those currently served by Retlaw's Channel 3 in Lewiston, Idaho (KLEW) and Channel 4 in Roseburg, Oregon (KPIC). KLEW and KPIC, for example, provide service to numerous small communities spread out over a large area with extremely

mountainous terrain, well beyond what could be served by UHF stations. With UHF signals being basically line of sight for DTV reception, knife edge defraction followed by additional close in terrain obstruction, will be equivalent to infinite attenuation.

If Retlaw were denied the option of developing DTV service via its existing low band VHF channels to the largely rural, extremely mountainous areas served by KLEW and KPIC, the result could be highly detrimental. If viewers of KPIC and KLEW were only able to receive DTV service by means of UHF off-air signals, a multitude of DTV translators and/or on channel boosters would be required. This would, in turn, raise serious practical concerns regarding access to essential site locations, as well as interference issues. Retlaw's engineers have, in fact, confirmed the acute vertical terrain features of KLEW and KPIC by using 3 second USGS data, with radials spaced every 5 degrees and extending 55 miles.

In sum, Retlaw again urges the Commission to avoid singling out channels 2-6 for an uncertain DTV future and, instead, requests that it defer any ultimate judgments regarding such channels until at least it has the benefit of real world data developed from the early stages of DTV implementation.

III

Conclusion

WHEREFORE, the above premises considered, Retlaw respectfully urges the Commission to reconsider and/or clarify the Sixth R & O and Fifth R & O in this proceeding consistent with the comments in this petition and the separately filed

petitions of MSTV and the Eastern Washington and Northern Idaho DTV Channel Allocation Caucus.

Respectfully submitted,

RETLAW ENTERPRISES, INC.

By: Carl R. Ramey

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Its Attorney

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June 13, 1997