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Federal Communications Commission

DA 97-1503

DISPATCHED

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.606(b),	)	MM Docket No. 97-96
Table of Allotments,	)	RM-8756
TV Broadcast Stations.	)	
(Johnstown and Jeannette, Pennsylvania)	)	

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: July 14, 1997;

Released: July 18, 1997

By the Chief, Allocations Branch:

1. At the request of Venture Technologies Group, Inc. ("petitioner"), licensee of Station WTWB-TV, Television Channel 19+, Johnstown, Pennsylvania, the Commission has before it the Notice of Proposed Rule Making 12 FCC Rcd 3196 (1997), proposing the reallocation of Channel 19+<sup>1</sup> from Johnstown to Jeannette, Pennsylvania. Petitioner also proposes the modification of Station WTWB-TV's license to specify Jeannette as its new community of license. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel if reallocated to Jeannette, Pennsylvania. Reply comments and request for expedited action were also filed by petitioner.<sup>2</sup>

2. As stated in the Notice, petitioner seeks to invoke the provisions set forth in Section 1.420(i) of the Commission's Rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990). In support of its proposal, petitioner states that Station WTWB-TV, Channel 19+ at Johnstown has had a long history of

<sup>1</sup>A television station with a "plus" or "minus" offset is required to operate with its carrier frequency 10 kHz above or below the normal frequency. A different offset between two television stations reduces interference and makes possible the separation criteria set forth in the Commission's Rules

<sup>2</sup>After the record closed, petitioner filed a "Supplemental Submission," not accompanied by a motion to accept late-filed pleading. However, in view of our action herein, it is not necessary to consider this pleading.

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failing to serve the public interest due to the fact that the Johnstown-Altoona market is economically depressed and cannot support a fifth television broadcast station.

3. Moreover, petitioner states that Jeannette is the second largest incorporated city located in Westmoreland County, and has a population of 11,221<sup>3</sup> persons. There are no television stations licensed to Jeannette. The only radio station licensed to Jeannette is Station WBCW(AM), a daytime-only station. Excluding Station WTWB-TV, Johnstown, with a population of 28,134 persons, has two licensed commercial television stations and an unused educational allotment on Channel \*28+. Additionally, there is a construction permit for a new low-power television station on Channel 35 at Johnstown. Lastly, petitioner states that Johnstown also has seven radio stations licensed to the community.

4. Upon adoption of the Sixth Further Notice of Proposed Rule Making in the digital television ("DTV") proceeding ("Sixth Further Notice"), the Commission stated that it would no longer accept petitions for rule making proposing to amend the TV Table of Allotments to add an allotment for a new NTSC station after July 25, 1996.<sup>4</sup> The Commission further stated that pending petitions and open allocation rule making proceedings as of that date would be considered "on a case-by-case basis taking into account the impact on the draft DTV table." We have determined that the allotment of Channel 19+ to Jeannette, Pennsylvania, will have no impact on the draft DTV allotment table because the proposal does not result in a new allotment but merely the reallocation of an existing allotment with no change in the transmitter site. See Sixth Further Notice of Proposed Rule Making, supra, at 10992.

5. We believe the public interest would be served by the reallocation of Channel 19+ from Johnstown to Jeannette, Pennsylvania, since it would provide the community with its first local television broadcast service. An engineering analysis has determined that Channel 19+ can be allotted to Jeannette in compliance with the Commission's minimum distance separation requirements with a site restriction of 41.1 kilometers (25.6 miles) southeast at petitioner's authorized site.<sup>5</sup> Since Jeannette is located within 400 kilometers (250 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. As requested, we shall also modify Station WTWB-TV's license to specific operation on Channel 19+ at Jeannette, Pennsylvania, as its new community of license.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and

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<sup>3</sup>All population figures are taken from the 1990 U.S. Census

<sup>4</sup>Sixth Further Notice of Proposed Rule Making, MM Docket No. 87-268, 11 FCC Rcd 10968 (1996).

<sup>5</sup>The coordinates for TV Channel 19+ at Jeannette are North Latitude 40-10-51 and West Longitude 79-09-46.

0.283 of the Commission's Rules, IT IS ORDERED, That effective September 2, 1997, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Johnstown, Pennsylvania	6, 8-, *28+
Jeannette, Pennsylvania	19+

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Venture Technologies Group, Inc., for Station WTWB-TV, Johnstown, Pennsylvania, IS MODIFIED to specify operation on TV Channel 19+ at Jeannette, Pennsylvania, in lieu of Johnstown, Pennsylvania, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Venture Technologies Group, Inc., licensee of Station WTWB-TV is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

9. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Venture Technologies Group, Inc.  
6611 Santa Monica Blvd.  
Los Angeles, California 90038  
(Licensee of Station WTWB-TV)

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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