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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

**REPLY TO OPPOSITION TO  
SUPPLEMENT TO PETITION FOR RECONSIDERATION**

America 51, L.P. ("America 51"), permittee of KAJW(TV), NTSC channel 51, Tolleson, Arizona, by its attorneys hereby replies to the opposition to supplement to petition for reconsideration ("Opposition") filed in this proceeding on September 26, 1997 by Brooks Broadcasting, LLC ("Brooks"). America 51 submits that the Commission should reject any changes to KAJW's DTV allotment in this proceeding. Specifically, America 51 agrees with Brooks that the Commission should not modify America 51's DTV channel assignment from channel 52 to channel 53 in order to accommodate the low power television ("LPTV") station operating on low power channel 52 in Tucson, Arizona,

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K52AO, licensed to Univision Communications, Inc. ("Univision").<sup>1</sup> America 51, however, respectfully disagrees with Brooks to the extent that Brooks proposes to move America 51's DTV allocation to channel 55 in order to allow K52AO to remain at channel 52.

Brooks is the permittee of television station KASW, NTSC channel 61, Phoenix, Arizona. In its Opposition, Brooks argues that Univision's suggested allotment of DTV channel 53 in Tolleson for KAJW, resulting in an eight channel separation between KAJW and KASW, would violate standards set forth in sections 73.698 and 73.623 of the Commission's rules prohibiting allotments separated by eight channels.<sup>2</sup> Furthermore, Brooks suggests that Univision's proposal is contrary to the established Commission standard that LPTV stations are responsible for accepting interference from full power stations.<sup>3</sup>

America 51 agrees with Brooks that the Commission should reject the proposal to change the DTV Table of Allotments for KAJW from channel 52 to channel 53 to accommodate Univision's Tucson low power station, K52AO. Low power television stations operate on a secondary basis and, under the

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<sup>1</sup> Univision filed a petition for reconsideration in this proceeding on June 13, 1997, and a supplement to its petition for reconsideration on August 22, 1997. Brooks' Opposition addresses Univision's August 22 supplement.

<sup>2</sup> See 47 C.F.R. §§ 73.698 (Table II), 73.623; Brooks Opposition at 2.

<sup>3</sup> Brooks Opposition at 2-3.

Commission's rules, are required to correct at their expense interference to primary analog TV or DTV stations.<sup>4</sup> Furthermore, authorizations for new DTV stations may be made without regard to existing LPTV stations.<sup>5</sup> In adopting the DTV rules, the Commission has accepted the fact that "it will be necessary to displace a number of LPTV and TV translator operations, especially in the major markets."<sup>6</sup> Accordingly, there is no regulatory basis for changing KAJW's Tolleson DTV allotment to accommodate K52AO.

Furthermore, America 51, which is currently in the process of constructing its analog facilities, has already set in motion the process of building and operating on DTV channel 52 in Tolleson. Any change to KAJW's DTV allocation at this point would disrupt America 51's ability to convert to DTV on an expedited basis, a result which is plainly contrary to the public interest. Consequently, America 51 agrees with Brooks that the Commission should not change KAJW's current DTV allotment from channel 52 to channel 53.

As an alternative, as Brooks suggests, Univision could operate on another channel in Tucson, such as a channel between 63 and 66, during the

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<sup>4</sup> See 47 C.F.R. § 74.703(b); see also 47 C.F.R. § 74.702(b). The Commission stated in the instant proceeding that LPTV stations are to maintain their secondary status. See *Advanced Television Systems*, 7 C.R. (P & F) 994, 1033, ¶ 142 (1997) ("*Sixth Report and Order*").

<sup>5</sup> 47 C.F.R. § 74.702(b).

<sup>6</sup> *Sixth Report and Order*, 7 C.R. (P & F) at 1033, ¶ 141 (citations omitted).

DTV transition.<sup>7</sup> The Commission expressly modified its rules for this purpose. An LPTV licensee who is displaced by a DTV station may apply for a replacement channel in the same area without subjecting itself to competing applications.<sup>8</sup> Furthermore, the Commission has adopted technical rule changes to provide LPTV stations with more flexibility in addressing interference issues.<sup>9</sup> Thus, the Commission has already provided Univision with several options that could resolve potential interference to K52AO from the DTV allocation in Tolleson.

America 51 respectfully disagrees with Brooks to the extent that Brooks proposes to move America 51's DTV allocation to channel 55 in order to allow K52AO to remain at channel 52.<sup>10</sup> As stated above, there is simply no basis in the Commission's rules or in the standards set forth in this proceeding to alter a DTV allotment to protect an LPTV station. Such a change would force America 51 to alter its build out plans, possibly delaying inauguration of DTV service to the public. Accordingly, changing KAJW's DTV allotment from channel 52 to channel 55 is not a viable solution to Univision's predicament.

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<sup>7</sup> Brooks Opposition at 3.

<sup>8</sup> See 47 C.F.R. § 74.702(b); see also *Sixth Report and Order*, 7 C.R. (P & F) at 1034, ¶ 144.

<sup>9</sup> See *Sixth Report and Order*, 7 C.R. (P & F) at 1034-36, ¶¶ 145-47.

<sup>10</sup> Brooks Opposition at 3-4.

For the foregoing reasons, America 51 respectfully submits that the Commission should reject any change to KAJW's DTV allotment in this proceeding. Univision can operate on another channel in Tucson during the DTV transition. Accordingly, America 51 supports Brooks' Opposition to the extent stated herein, and the Commission should deny Univision's petition for reconsideration and the supplement thereto.

Respectfully submitted,

AMERICA 51, L.P.

By:



John C. Quale  
David H. Pawlik

Skadden, Arps, Slate,  
Meagher & Flom LLP  
1440 New York Ave., N.W.  
Washington, D.C. 20005  
(202) 371-7000

Its Attorneys

October 6, 1997

**CERTIFICATE OF SERVICE**

I hereby certify that on this sixth day of October, 1997, I caused a copy of the foregoing "Reply to Opposition to Supplement to Petition for Reconsideration" to be served by U.S. mail, postage prepaid on the following:

Paul H. Brown  
Wood & Brinton, Chartered  
Suite 900A  
2300 M Street, N.W.  
Washington, D.C. 20037

  
Gaston de Béarn