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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

April 20, 1998

**BY HAND DELIVERY**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

Re: Advanced Television Systems and Their Impact  
Upon the Existing Television Broadcast Service  
MM Docket No. 87-268

Dear Ms. Salas:

Transmitted herewith on behalf of Oregon Family Broadcasting Association, are an original and four copies of its "Petition for Reconsideration," which is being filed in response to the Commission's *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, FCC 98-24 (released February 23, 1998), in the above-referenced proceeding.

Should any questions arise concerning this matter, please communicate directly with this office.

Very truly yours,



Andrew S. Kersting  
Counsel for Oregon Family  
Broadcasting Association

Enclosures

cc (w/ encl.): Certificate of Service (by hand & first-class mail)

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BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

RECEIVED  
APR 20 1998  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

To: The Commission

**PETITION FOR RECONSIDERATION**

Oregon Family Broadcasting Association ("Family"), by its counsel, hereby seeks reconsideration of the Commission's *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, FCC 98-24 (released February 30, 1998) ("*MO&O*"), in the above-captioned proceeding. In support of this petition, the following is stated:

**I. Background.**

On July 26, 1996, Family filed an application for a new noncommercial educational television station to operate on Channel 30 at Portland, Oregon (File No. BPET-960726KN). Family's application included a request for waiver of the Commission's order in *Advanced Television Systems and Their Impact on the Existing Television Broadcast Service*, RM-5811, 1987 FCC LEXIS 3477 (July 17, 1987), 52 Fed.Reg. 28346 (1987) ("Freeze Order").

In its *Sixth Report and Order* in this proceeding, 12 FCC Rcd 14588 (1997), the Commission noted that, in its *Sixth Further Notice of Proposed Rulemaking*, it stated that it would not accept additional applications for new NTSC stations that were filed after September 20, 1996.<sup>1</sup> The

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<sup>1</sup> See *Sixth Further Notice of Proposed Rulemaking*, 11 FCC Rcd 10968, 10992 ¶60  
(continued...)

Commission also noted, however, that it would continue to process applications already on file and those that were filed on or before September 20, 1996, because the Commission did not believe that these applications would have a “significant negative impact” on the development of the DTV Table of Allotments. *Sixth Report and Order*, 12 FCC Rcd at 14635, ¶104. In addition, the Commission stated that when applications for new stations were accepted for filing, it would continue its practice of issuing cut-off lists announcing the opportunity to file competing, mutually-exclusive applications.<sup>2</sup>

**II. The *MO&O* Failed to Protect Family’s Pending NTSC Application for Channel 30 at Portland.**

In its recent *MO&O*, the Commission repeatedly confirmed that it fully intended to protect pending NTSC applications filed by the September 20, 1996, deadline. *See, e.g., MO&O* at ¶¶571, 575, 608, 627. Nevertheless, the DTV Table set forth in the *MO&O* fails to protect Family’s pending noncommercial NTSC application for the Channel 30 facility at Portland because the Commission allotted a co-channel DTV facility to the same community. As stated above, Family’s application for the noncommercial NTSC Channel 30 facility at Portland was filed long before the September 20, 1996, filing deadline. The Commission’s failure to protect Family’s pending NTSC application is inconsistent with the statements the Commission made in its *Sixth Further Notice* and *Sixth Report and Order*, and the Commission neglected to provide any explanation for its failure to consider

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<sup>1</sup>(...continued)

(1996) (“*Sixth Further Notice*”). Specifically, the Commission stated that it would not accept additional applications for NTSC stations that were filed after 30 days from the publication of the *Sixth Further Notice* in the Federal Register. A summary of the *Sixth Further Notice* was published in the Federal Register on August 21, 1996. *See* 61 Fed.Reg. 43009 (1996).

<sup>2</sup> *Report and Order*, ¶104; *Sixth Further Notice*, ¶60.

Family's pending application in establishing the DTV Table. Therefore, for this reason alone, the DTV Table contained in the *MO&O* should be revised to accommodate the existing noncommercial NTSC allotment of Channel 30 at Portland, Oregon, and Family's pending application for that facility.

**III. The Commission Should Substitute DTV Channel 50 for the DTV Channel 30 Allotment at Portland, Oregon, or, Alternatively, Family Should be Permitted to Amend Its Pending NTSC Application to Specify an Available Alternative Channel.**

As stated above, the NTSC allotment of Channel 30 at Portland, Oregon is significantly short-spaced to a co-channel DTV allotment for Station KPTV(TV), Portland, Oregon. Assuming, *arguendo*, the Commission should determine that its failure to consider Family's pending NTSC application for the Channel 30 facility at Portland does not constitute a sufficient basis, in itself, for granting reconsideration of the co-channel DTV allotment to Portland, the Commission has stated throughout this proceeding that it intends to give broadcasters the flexibility to develop alternative allotment plans where they do not result in additional interference to other stations and/or allotments. In order to accommodate Family's pending application for the noncommercial NTSC Channel 30 facility at Portland, Family respectfully requests that the Commission change the DTV allotment for Station KPTV(TV), Portland, from Channel 30 to Channel 50. As demonstrated in the attached engineering materials, the substitution of DTV Channel 50 for Channel 30 at Portland would result in a 99.968% match, and a gain in population of 21,152 persons. The proposed substitution also would result in no interference to other digital or NTSC facilities.

Alternatively, in the event the Commission elects not to substitute DTV Channel 50 for Channel 30 at Portland, Family requests that it be permitted to amend its pending noncommercial

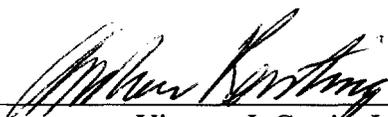
NTSC application to specify operation on Channel 58. As shown in the attached engineering materials, operation on Channel 58 at Portland will not cause interference to any DTV facility.

The proposed substitution of DTV Channel 50 for Channel 30 at Portland, or, alternatively, permitting Family to amend its pending noncommercial NTSC application to specify operation on Channel 58, would effectuate the Commission's pronouncements in its *Sixth Further Notice* and *Sixth Report and Order* that it would protect those pending NTSC applications that were on file as of September 20, 1996. Moreover, Family's alternative proposal would serve an important public interest of providing a second noncommercial educational television service to the community of Portland.

WHEREFORE, in light of the foregoing, Oregon Family Broadcasting Association respectfully requests that the Commission GRANT reconsideration of its *MO&O* by substituting DTV Channel 50 for Channel 30 at Portland, Oregon, or, alternatively, permit Family to amend its pending noncommercial NTSC application to specify operation on Channel 58 at Portland.

Respectfully submitted,

OREGON FAMILY  
BROADCASTING ASSOCIATION

By:   
\_\_\_\_\_  
Vincent J. Curtis, Jr.  
Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.  
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April 20, 1998

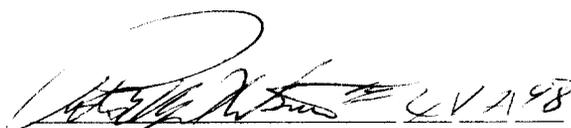
c:\ask...wb\rm\portland.pet

**Engineering Statement**  
**Portland, OR Channel 30**  
**Wes, Inc. Broadcast Consultants**

The program used to demonstrate interference and service replication percentages in this study was the OET FLR program, OET Bulletin 69, running on our own Sun Microsystems computers. These computers have been verified to give identical results to the runs generated by OET. The spacing programs are our own proprietary programs utilizing the FCC broadcast database and DTV database.

Due to a digital channel Channel 30 being assigned to Portland, OR 1.3km away, a study was conducted to propose moving the digital channel 30 to channel 50. The study showed that it would receive a 99.968% match and would cause no interference to any digital stations and no interference to any NTSC stations.

Should the Commission prefer moving the proposed NTSC channel 30 in Portland, OR the TV channel spacing study shows channel 58 open to such a change. Also, the attached NTSC to DTV study of channels within 300 km shows no other conflict on channel 58 with any digital channels.



Pete E Myrl Warren, III      Date  
Whose qualifications are a matter of  
record with the Commission

Study Title:  
Portland, OR Channel 58

NTSC Study Station, Transmitter Coordinates: 45-30-58 N 122-43-59 W

Study distance: 300 km

\*\*\*NTSC TO DTV STUDY RESULTS\*\*\*

City of License	ST	Chan	Distance	Bearing	Req. Dist	Diff.
Bellevue	WA	50	228.50	14.76	96.60	131.90

Station is in the clear!

Portland, Oregon, Digital Channel 30 as it is presently

Run begins Fri Apr 17 16:02:17 1998, host providence

Analysis of: 12N OR PORTLAND

	POPULATION	AREA (sq km)
within Noise Limited Contour	2082637	41188.3
not affected by terrain losses	1941915	29262.7
lost to NTSC IX	59424	1006.4
lost to additional IX by ATV	0	0.0
lost to all IX	59424	1006.4

Analysis of: 30A OR PORTLAND

HAAT 543.0 m, ATV ERP 735.3 kW, direction 45.0 degrees T, F/B = 0.2 dB

	POPULATION	AREA (sq km)
within Noise Limited Contour	2082637	41188.3
not affected by terrain losses	1986216	30229.2
lost to NTSC IX	0	0.0
lost to additional IX by ATV	27687	187.7
lost to ATV IX only	27687	187.7
lost to all IX	27687	187.7
percent match ATV/NTSC	100.0	99.8

Finished Fri Apr 17 16:09:55; run time 0:07:09

25709 calls to Longley-Rice; path distance increment 1.00 km

Portland, OR, NTSC Channel 12's Digital allotment moved from DTV channel 30 to DTV Channel 50

Run begins Fri Apr 17 16:12:23 1998, host providence  
Analysis of: 12N OR PORTLAND

	POPULATION	AREA (sq km)
within Noise Limited Contour	2082637	41188.3
not affected by terrain losses	1941915	29262.7
lost to NTSC IX	59424	1006.4
lost to additional IX by ATV	0	0.0
lost to all IX	59424	1006.4

Analysis of: 50A OR PORTLAND

HAAT 543.0 m, ATV ERP 1000.0 kW, Cap Adj 0.3 dB 45.0 deg T, F/B = 0.2 dB

	POPULATION	AREA (sq km)
within Noise Limited Contour	2082637	41188.3
not affected by terrain losses	1980267	29474.4
lost to NTSC IX	0	12.0
lost to additional IX by ATV	586	75.9
lost to ATV IX only	586	79.9
lost to all IX	586	87.9
percent match ATV/NTSC	99.9	98.6

Finished Fri Apr 17 16:20:19; run time 0:07:40  
30890 calls to Longley-Rice; path distance increment 1.00 km

\*\*\*\*\* TV CHANNEL SPACING STUDY \*\*\*\*\*

Job title: Portland

Latitude: 45 30 58

Channel: 58

Longitude: 122 43 59

Database file name: c:\tvsrc\tv980408.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd.	Dist.	Result
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\*\*\*\*\* End of channel 58 study \*\*\*\*\*

\*\*\*\*\* DTV TO NTSC TV CHANNEL SPACING STUDY \*\*\*\*\*

Job title: Portland  
DTV Channel: 50  
Database file name: c:\tvsvr\tv980408.edx

Latitude: 45 31 19  
Longitude: 122 44 53

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
49-	KPDX	12948	VANCOUVER	WA	2	A	287.0	.3	<9.7	9.4

\*\*\*\*\* End of channel 50 study \*\*\*\*\*

Portland Oregon Digital Channel 30 moved to Digital Channel 50

DTV CHANNEL 50

DTV Study Station, Transmitter Coordinates: 45-31-19 N 122-44-53 W

Study distance: 300 km

\*\*\*DTV TO DTV STUDY RESULTS\*\*\*

City of License	ST	Chan	Distance	Bearing	Req. Dist	Diff.
Bellevue	WA	50	228.17	15.08	223.70	4.47

Station is in the clear.

**CERTIFICATE OF SERVICE**

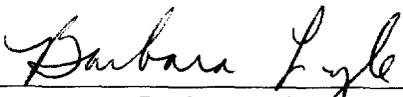
I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 20th day of April, 1998, copies of the foregoing "Petition for Reconsideration" were hand delivered or mailed first-class, postage pre-paid, to the following:

Roy J. Stewart, Chief\*  
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Federal Communications Commission  
1919 M Street, N.W., Room 314  
Washington, DC 20554

Mr. Bruce A. Franca\*  
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Station KPTV(TV)  
Oregon Television, Inc.  
211 S.E. Caruthers Street  
Portland, OR 97214

  
\_\_\_\_\_  
Barbara Lyle

\* Hand Delivered