

**Before the
Federal Communications Commission**

In Re:

Amendment of Section 73.622(b)
Table of Allotments (Digital TV Broadcast Stations)
{Salt Lake City, Ogden, and Provo, Utah}

To: Chief, Allocations Branch

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MM Docket No. 99-197
RM-9573

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JUL 12 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Comments

Comes now **Tooele 36, L.L.C.** (Applicant) to comment and offer alternatives for consideration by the Commission in regard to the Notice of Proposed Rule Making in its above captioned proceeding. In support of this request the Applicant states as follows:

1. On July 23, 1996, the Applicant filed its Petition for Rulemaking requesting allocation of NTSC channel 36 to Tooele, Utah (herein "Applicant's Petition") to bring first local television service to Tooele, the county seat of Tooele County, Utah. Concurrent therewith Applicant filed its application for authorization to construct a new television station on channel 36 so as to expedite the initiation of that much needed service. Both the Applicant's Petition and its Application remain pending before the Commission.
2. In its Sixth Report and Order concerning implementation of DTV the Commission undertook to protect the pending petitions for rule making and the pending applications. Indeed, in implementation of that commitment, the Commission modified the original proposed allocation of DTV channels (see page B-41, 42) in the Final Table of DTV Allocations (see pages B-37, 38) to protect the proposed channel 36 allocation and application.

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3. The caption proceeding, in apparent disregard of both the Applicant's Petition and the Commission's commitment to protect the pending matters, proposes to allocate channel 36 to Ogden, Utah. Such an allocation would preclude allocation of the same channel to Tooele as proposed in the Applicant's Petition (Applicant's Petition is incorporated herein by this reference).
4. At the minimum, fairness and rationality call for the proposal contained in the Applicant's Petition to be consolidated with the instant proceeding and accorded the protection promised by the Commission.
5. Further, as is demonstrated by the attached engineering report, there are alternate allocation schemes which will both protect the interests advanced by the Applicant's Petition and still permit the objectives of the proponents of the above captioned proceeding to be fully accomplished. Specifically there appears to be no technical reason why the allocation of channel 34 to Ogden needs to be changed to an allocation of channel 36.
6. While the Applicant has neither vested interest in nor claim to channel 36 (as opposed to any other specific channel that would bring first service to Tooele), the Commission's precedents are clear that having some channel available to bring such first local service is of far greater public interest than the modifications proposed by the proponents of the instant proceeding. Moreover, the Commission has undertaken, to the extent possible, to protect the proposal of the Applicant's Petition and its pending Application.

WHEREFORE, the Commission is requested to consolidate into this proceeding and act on Applicant's Petition for allocation of Channel 36 in order to implement first local service to Tooele, Utah. The Commission is further requested to modify the its proposed allocation in the instant proceeding so as to avoid conflicting with the proposal in the Applicant's Petition.

Respectfully Submitted,

Tooele 36, L.L.C.

By:

A handwritten signature in black ink, appearing to be "Jonathan D. Blake", written over a horizontal line.

The Applicant hereby certifies that a copy of the foregoing Comments has been mailed by first class U.S. mail to:

Jonathan D. Blake
Jennifer A. Johnson
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**ENGINEERING EXHIBIT
RULE MAKING
MM DOCKET NO. 99-197**

Comments of Tooele 36, L.L.C.

JULY 12, 1999

ENGINEERING STATEMENT

WES, Inc.

DECLARATION

I, Keith J. Leitch, declare and state that I am a Certified Broadcast Engineer, and my qualifications are a matter of record with the Federal Communications Commission. I am an engineer in the firm of WES, Inc., and that the firm has been retained to prepare an engineering statement on behalf of Tooele 36, L.L.C.

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.



Keith J. Leitch

Executed on the 12 day of July, 1999

Narrative Statement

I. GENERAL

The purpose of this engineering statement is to oppose a request that the TV Table of Assignments be amended to add Channel 36 at Ogden, UT. The proposed channel would be mutually exclusive with a previous rulemaking petition and a contingent application for Channel 36 at Tooele, UT.

II. ENGINEERING DISCUSSION

- A. There is no significant advantage in moving Ogden, UT, from Digital Channel 34 to Digital Channel 36. In fact, under the FCC's method of predicting a digital channel's coverage, a channel 36 would cover a smaller area than a channel 34 would at the same power and height. Moreover, if the Broadcasters of the Salt Lake City market were proposing a multi-channel antenna, a channel 36 would only narrow the required bandwidth of such an antenna by one channel.
- B. There are a plethora of suitable channels for Ogden to move to (other than channel 36) that would not cause additional interference to any NTSC or Digital channels. Channels 43, 45, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 are all available for Ogden, UT DTV Channel 34 to move to. Moreover, if the Broadcasters of the Salt Lake City market were proposing a multi-channel antenna, channels 43 and 45 would not increase the bandwidth requirements of such an antenna.
- C. The Commission has promised to protect rule-makings for new allotments where possible. In preparing the final digital allotment table, the Commission moved KSL's digital from Channel 36 to Channel 38 in order to protect the proposed rule making for Tooele, UT Channel 36. A

move of Ogden's DTV Channel 34 to 36 would thwart the Commission's efforts to protect rule-makings for additional channels.

I. Summary

WES, Inc. asserts that the Salt Lake City Broadcasters can still accomplish their plans of co-locating eight DTV stations on one tower site with all of the proposed channel changes except Ogden, Utah's proposed move to channel 36. Digital Channels 34 and 35 will work just as well as 35 and 36 will for KULC and KUTV. Alternatively, channels 43, 45, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 are open if Ogden, UT, wishes to move to any one of them.

Exhibit 1
Ogden, UT
Digital Spacing Study
by WES, Inc. Broadcast Consultants

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

Job title: Ogden, UT
Channel: 43
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST | Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|----|---------|------------|----------------|----|---|-----|-------|-------|-------------|--------|
| 44 | KBYUTV | 11009 | PROVO | UT | 2 | | 217.4 | .1 | <9.7 | 9.6 |
| 46 | KJZZTV | 11010 | SALT LAKE CITY | UT | 2 | | 217.4 | .1 | <24.1 | 24.0 |
| 42 | KUED-DT | | SALT LAKE CITY | UT | 2 | | 148.6 | 6.7 | <32.2 | 25.5 |

***** End of channel 43 study *****

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

Job title: Ogden, UT
Channel: 45
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST | Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|-----|--------|------------|----------------|----|---|-----|-------|-------|-------------|--------|
| 30o | KUWB | 11004 | OGDEN | UT | 2 | L | 181.9 | .7 | <24.1 | 23.4 |
| 44 | KBYUTV | 11009 | PROVO | UT | 2 | | 217.4 | .1 | <9.7 | 9.6 |
| 46 | KJZZTV | 11010 | SALT LAKE CITY | UT | 2 | | 217.4 | .1 | <9.7 | 9.6 |
| 48 | KUWB | 11011 | OGDEN | UT | 2 | | 217.4 | .1 | <24.1 | 24.0 |

***** End of channel 45 study *****

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

Job title: Ogden, UT
Channel: 49
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST | Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|----|--------|------------|----------------|----|---|-----|-------|-------|-------------|--------|
| 46 | KJZZTV | 11010 | SALT LAKE CITY | UT | 2 | | 217.4 | .1 | <24.1 | 24.0 |
| 48 | KUWB | 11011 | OGDEN | UT | 2 | | 217.4 | .1 | <24.1 | 24.0 |

***** End of channel 49 study *****

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

Job title: Ogden, UT
Channel: 50
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|-----|--------|------------|----------------|------|-----|-------|-------|-------------|--------|
| 36 | KULC | 11005 | OGDEN | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |
| 36o | ALLOTM | 11006 | TOOELE | UT 2 | A | 208.9 | 16.0 | <24.1 | 24.0 |
| 46 | KJZZTV | 11010 | SALT LAKE CITY | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |
| 48 | KUWB | 11011 | OGDEN | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |

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

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

Job title: Ogden, UT
Channel: 51
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|-----|--------|------------|--------|------|-----|-------|-------|-------------|--------|
| 36o | ALLOTM | 11006 | TOOELE | UT 2 | A | 208.9 | 16.0 | <24.1 | 24.0 |
| 48 | KUWB | 11011 | OGDEN | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |

***** End of channel 51 study *****

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

Job title: Ogden, UT
Channel: 52
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|----|------|------------|-------|------|-----|-------|-------|-------------|--------|
| 48 | KUWB | 11011 | OGDEN | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |

***** End of channel 52 study *****

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

Job title: Ogden, UT
Channel: 53
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|----|------|------------|-------|------|-----|-------|-------|-------------|--------|
| 48 | KUWB | 11011 | OGDEN | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |

***** End of channel 53 study *****

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

Job title: Ogden, UT
Channel: 54
Database file name: tv990615.edx

Latitude: 40 39 35
Longitude: 112 12 5

| CH | Call | Record No. | City | ST Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|----|------|------------|-------|------|-----|-------|-------|-------------|--------|
| 48 | KUWB | 11011 | OGDEN | UT 2 | | 217.4 | .1 | <24.1 | 24.0 |

44 KBYUTV 11009 PROVO UT 2 217.4 .1 119.9 -119.8

***** End of channel 59 study *****