

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.622(b))
Digital Television Table of Allotments)
(Rutland, Vermont))

RM _____

To: Chief, Allocations Branch
Policy and Rules Division

DOCKET FILE COPY ORIGINAL

PETITION FOR RULE MAKING

Vermont ETV, Inc., licensee of noncommercial educational television station WVER(TV) (NTSC Ch. *28), Rutland, Vermont, hereby requests that the Commission promptly institute a rulemaking proceeding to amend Section 73.622(b), the DTV Table of Allotments ("DTV Table"), to substitute Channel *7 for Channel *56 as the reserved noncommercial educational ("NCE") DTV channel assigned to WVER.

As shown in Exhibit A, DTV Channel *7 can be substituted for WVER's existing Channel *56, allotted to Rutland, Vermont, and assigned to WVER in compliance with Section 73.623 of the Commission's Rules. The proposed Channel *7 DTV allotment/assignment would have reference coordinates at WVER's current site in Castleton, Vermont (43-39-32 N, 73-06-25 W) and would operate at a height of 411.4 m HAAT, with a power of 30 kW ERP.

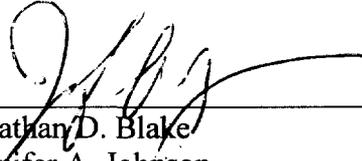
Changing WVER's DTV allotment/assignment from Channel *56 to Channel *7 will serve the public interest for several reasons. It will significantly reduce the burden of the DTV transition on WVER, a noncommercial station dedicated to serving the educational needs of the community. The transition to DTV will impose a substantial financial burden on WVER,

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requiring WVER to secure significant state and federal funding. This heavy burden is exacerbated by WVER's current out-of-core DTV assignment, which will require it to construct not one, but two DTV facilities by the end of the transition. Grant of Channel *7 to WVER in exchange for Channel *56 will allow WVER to avoid the expense and disruption of having to construct a second DTV facility at the close of the transition, when it would be required to relinquish its out-of-core DTV allotment. The proposal also will avoid unnecessary use of an out-of-core DTV allotment during the transition to DTV. In addition, DTV operation on Channel *7 would significantly reduce the long-term operating costs of WVER's DTV facilities, because of the lower power costs and increased economies associated with operating on a VHF channel. Further, WVER's Channel *7 DTV facilities may be constructed using the station's existing tower. These cost-savings will benefit WVER's viewers (and the viewers of the three other stations licensed to Vermont ETV, Inc.) because scarce funds that otherwise would have been diverted in order to construct a second DTV facility or to accommodate the higher operating costs associated with UHF DTV operations instead will be dedicated to serving the noncommercial and educational mission of Vermont ETV, Inc. and WVER.

Moreover, because of the superior propagation characteristics of Channel *7 (as a VHF channel) as compared to Channel *56, grant of this proposal will serve the public interest by allowing WVER to improve the service provided to its community of license and other communities that currently enjoy WVER's analog service. In addition, WVER's operations on Channel *7 will allow the station to improve the noncommercial educational service provided to those at the edge and beyond its existing service area. The service improvements associated with operating on Channel *7 are particularly significant to WVER, in light of the mountainous terrain characterizing the station's service area.

Respectfully submitted,



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Attorneys for Vermont ETV, Inc.

April 27, 2000

WVER's proposed operations on Channel *7 would not result in harmful interference to the NTSC and DTV operations of any full power stations. *See* Exhibit A. In addition, the proposed allotment would provide the requisite level of service to WVER's principal community, as required by Section 73.625(a) of the FCC rules. *See id.* Further, WVER's proposed operations on Channel *7 are not expected to cause any displacement to low power television stations in the area. *See id.* at 4 ("No adverse technical effect is anticipated by the proposed DTV operation to any other FCC licensed facility.")

Upon allotment and assignment of DTV Channel *7 to WVER, and grant of the construction permit requested in the associated DTV station application, WVER will complete construction of its digital facilities and will begin digital operations in a timely manner.

WHEREFORE, Vermont ETV, Inc. hereby respectfully requests that the Commission expeditiously issue a notice of proposed rulemaking incorporating the proposal set forth in this petition and, promptly after receiving comments and reply comments, adopt the proposed amendment to Section 73.622(b), the DTV Table of Allotments, by substituting Channel *7 for Channel *56 in Rutland, Vermont as the DTV channel assigned to WVER.¹

¹ A proposed Notice of Proposed Rule Making is attached for the Commission's convenience. *See* Exhibit B.

SECTION III PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

| | | | |
|---|--|--|-------------------|
| Name Brian F. Marengo | | Relationship to Applicant (e.g., Consulting Engineer) Consulting Engineer | |
| Signature <i>Brian F. Marengo</i> | | Date 4-25-00 | |
| Mailing Address Cohen, Dippell and Everist, P.C. 1300 L Street, N.W., Suite 1100 | | | |
| City Washington | | State or Country (if foreign address) D.C. | ZIP Code 20005 |
| Telephone Number (include area code) (202) 898-0111 | | E-Mail Address (if available) cdepc@worldnet.att.net | |

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT
(U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT
(U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Complete Questions 1-5 of the Certification Checklist and provide all data and information for the proposed facility, as requested in Technical Specifications, Items 1-13.

Certification Checklist: A correct answer of "Yes" to all of the questions below will ensure an expeditious grant of a construction permit. However, if the proposed facility is located within the Canadian or Mexican borders, coordination of the proposal under the appropriate treaties may be required prior to grant of the application. An answer of "No" will require additional evaluation of the applicable information in this form before a construction permit can be granted.

1. The proposed DTV facility complies with 47 C.F.R. Section 73.622 in the following respects:

- (a) It will operate on the DTV channel for this station as established in 47 C.F.R. Section 73.622. Yes No
- (b) It will operate from a transmitting antenna located within 5.0 km (3.1 miles) of the DTV reference site for this station as established in 47 C.F.R. Section 73.622. Yes No
- (c) It will operate with an effective radiated power (ERP) and antenna height above average terrain (HAAT) that do not exceed the DTV reference ERP and HAAT for this station as established in 47 C.F.R. Section 73.622. Yes No

2. The proposed facility will not have a significant environmental impact, including exposure of workers or the general public to levels of RF radiation exceeding the applicable health and safety guidelines, and therefore will not come within 47 C.F.R. Section 1.1307. Yes No

Applicant must submit the Exhibit called for in Item 13.

3. Pursuant to 47 C.F.R. Section 73.625, the DTV coverage contour of the proposed facility will encompass the allotted principal community. Yes No
4. The requirements of 47 C.F.R. Section 73.1030 regarding notification to radio astronomy installations, radio receiving installations and FCC monitoring stations have either been satisfied or are not applicable. Yes No
5. The antenna structure to be used by this facility has been registered by the Commission and will not require reregistration to support the proposed antenna, OR the FAA has previously determined that the proposed structure will not adversely effect safety in air navigation and this structure qualifies for later registration under the Commission's phased registration plan, OR the proposed installation on this structure does not require notification to the FAA pursuant to 47 C.F.R. Section 17.7. Yes No

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX

1. Channel Number: DTV 7 Analog TV, if any 28
2. Zone: I II III
3. Antenna Location Coordinates: (NAD 27)
- 43 ° 39 ' 32 " N S Latitude
73 ° 06 ' 25 " E W Longitude
4. Antenna Structure Registration Number: 1210439
- Not applicable FAA Notification Filed with FAA
5. Antenna Location Site Elevation Above Mean Sea Level: 602.0 meters
6. Overall Tower Height Above Ground Level: 94.5 meters
7. Height of Radiation Center Above Ground Level: 68.4 meters
8. Height of Radiation Center Above Average Terrain: 411.4 meters
9. Maximum Effective Radiated Power (average power): 30 kW
10. Antenna Specifications:
- | | | |
|----|-----------------------------------|----------------------------|
| a. | Manufacturer <u>Dielectric</u> | Model <u>THP-O-10-1</u> |
|----|-----------------------------------|----------------------------|
- b. Electrical Beam Tilt: 0.6 degrees Not Applicable
- c. Mechanical Beam Tilt: _____ degrees toward azimuth _____ degrees True Not Applicable
- Attach as an Exhibit all data specified in 47 C.F.R. Section 73.625(c). Exhibit No.
App. A
- d. Polarization: Horizontal Circular Elliptical

TECH BOX

e. Directional Antenna Relative Field Values: Not applicable (Nondirectional)
 Rotation: _____ ° No rotation

| Degree | Value | Degree | Value | Degree | Value | Degree | Value | Degree | Value | Degree | Value |
|---------------------|-------|--------|-------|--------|-------|--------|-------|--------|-------|--------|-------|
| 0 | | 60 | | 120 | | 180 | | 240 | | 300 | |
| 10 | | 70 | | 130 | | 190 | | 250 | | 310 | |
| 20 | | 80 | | 140 | | 200 | | 260 | | 320 | |
| 30 | | 90 | | 150 | | 210 | | 270 | | 330 | |
| 40 | | 100 | | 160 | | 220 | | 280 | | 340 | |
| 50 | | 110 | | 170 | | 230 | | 290 | | 350 | |
| Additional Azimuths | | | | | | | | | | | |

If a directional antenna is proposed, the requirements of 47 C.F.R. Section 73.625(c) must be satisfied. **Exhibit required.**

Exhibit No.

11. Does the proposed facility satisfy the interference protection provisions of 47 C.F.R. Section 73.623(a)? (Applicable only if **Certification Checklist** Items 1(a), (b), or (c) are answered "No.") Yes No

If "No," attach as an Exhibit justification therefor, including a summary of any related previously granted waivers.

Exhibit No.

12. If the proposed facility will not satisfy the coverage requirement of 47 C.F.R. Section 73.625, attach as an Exhibit justification therefor. (Applicable only if **Certification Checklist** Item 3 is answered "No.")

Exhibit No.

13. **Environmental Protection Act. Submit in an Exhibit** the following:

Exhibit No.
E

a. If **Certification Checklist** Item 3 is answered "Yes," a brief explanation of why an Environmental Assessment is not required. Also describe in the Exhibit the steps that will be taken to limit RF radiation exposure to the public and to persons authorized access to the tower site.

By checking "Yes" to **Cettification Checklist** Item 3, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

If **Certification Checklist** Item 3 is answered "No," an Environmental Assessment as required by 47 C.F.R. Section 1.1311.

PREPARER'S CERTIFICATION IN SECTION III MUST BE COMPLETED AND SIGNED.

ENGINEERING STATEMENT
RE DTV BROADCAST ENGINEERING DATA
ON BEHALF OF
VERMONT ETV, INC.
WVER-DT, RUTLAND, VERMONT
CHANNEL 7 30 KW ERP 411.4 METERS

APRIL 2000

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

This engineering statement has been prepared on behalf of Vermont ETV, Inc., licensee of WVER(TV), Rutland, Vermont. The purpose of this engineering statement is to accompany its request for digital television ("DTV") specifically that data required in FCC Form 301, Section V-D. This narrative and the numbering of the exhibits follows the sequence in the FCC Form 301, Section III-D. FCC Form 301 III-D is being used at the request of the FCC.

WVER(TV) operates on NTSC television Channel 28 with a maximum visual effective radiated power of 275 kW (maximum) and a HAAT of 429 meters (1407 feet). WVER(TV) has been allocated DTV Channel 56 with facilities of 50 kW and HAAT of 429 meters (1407 feet) in the revised DTV Table of Allotments.¹ WVER(TV) proposes to construct interim DTV facilities of 30 kW non-directional on Channel 7 (horizontal polarization) and at a height above average terrain of 411 meters. The DTV facilities will operate from a separate antenna. The DTV facilities proposed herein will exceed the replicated coverage criteria authorized by the FCC in its revised DTV Table of Allotments and is an application to "maximize" the WVER-DT facilities in accordance with the Community Broadcasters Protection Act.

There are no AM stations located within one km of the existing WVER(TV) tower site. There are two FM stations(WVRT(FM) and WEXP(FM)) and one NTSC station (WVER(TV)) operating from the tower.

¹In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket No. 87-286, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (FCC 98-24), 2/12/98, DTV Table of Allotments, p. B-58.

The TV antenna will be side-mounted on the existing tower having a total overall structure height above ground of 94.5 meters. The existing transmitter site is located at the summit of Grandpa's Knob. The tower registration number is 1210439.

Since there is no change in overall height, FAA airspace approval is not required.

The geographic coordinates of the site also have been corrected using the updated U.S. geological quadrangle.

North Latitude: 43° 39' 32"

West Longitude: 73° 06' 25"

NAD-27

Equipment Data

Antenna: Dielectric, Type THP-0-10-1 (or equivalent) antenna with 0.6° electrical beam tilt. The vertical plane pattern and other exhibits required by Section 73.625(c) are herein included in Appendix A

Elevation Data

[(Existing Tower; No Change in Overall Height)]

| | | |
|--|-------|--------|
| Overall height above ground of the existing antenna structure (including beacon) | 94.5 | meters |
| Center of radiation of Channel 7 antenna above ground | 68.4 | meters |
| Elevation of site above mean sea level | 602.0 | meters |
| Center of radiation of Channel 7 antenna above mean sea level | 670.4 | meters |

| | |
|---|--------------|
| Overall height above mean sea level of existing tower (including beacon) | 696.5 meters |
| Antenna height above average terrain | 411.4 meters |

Note: Slight height differences may result due to conversion to metric.

Allocation

An allocation study from the proposed site has been performed. In addition, a petition for rule making is being concurrently filed.

Interference Analysis

A study of predicted interference caused by the proposed WVER-DT service has been performed using a version of the Longley-Rice program as described in OET Bulletin No. 69 (July 2, 1997) and the Public Notice, "Additional Application Processing Guidelines for Digital Television (DTV)" (August 1998). The FCC's FORTRAN-77 code was modified only to the extent necessary (primarily input/output handling) for the program to run on a Windows98/Intel platform. Comparison of service/interference areas and populations indicates that this model closely matches the FCC's evaluation program. Best efforts have been made to use data and calculations identical to the FCC's program. Any slight differences are attributable to compiler, operating system and/or processor characteristics. The effect of any variance in calculated population values versus the FCC's program is minimized when differencing a given model's results, e.g., new interference equals total interference less baseline interference. The effect is further reduced for ratios of calculated

population values, e.g., incremental population affected as a percent of total population served. The model employs the Longley-Rice propagation methodology and evaluates in grid cells of approximately 4 km² using 3-second terrain data sampled approximately every 0.1 km at one degree azimuth intervals with 1990 census centroids. All studies are based upon data in the update of the FCC's engineering data base dated December 30, 1999. Table I provides a summary of that analysis.

Other Licensed and Broadcast Facilities

No adverse technical effect is anticipated by the proposed DTV operation to any other FCC licensed facility. If required, the applicant will install filters or take other measures as necessary to resolve the problem.

FCC Rule, Section 1.1307

The proposed 30 kW operation will utilize a Dielectric THP-0-10-1 antenna or the equivalent with a center of radiation above ground of 68.4 meters. The proposed antenna will be side-mounted on an existing single guyed, uniform, cross-section, steel lattice tower.

According to the FCC data base, FM stations WVRT(FM) and WEXP(FM) are authorized to operate from the tower. Assuming a relative field factor of 0.5 for these FM antennas, the total RFF contribution of these two stations will be approximately 15.6 $\mu\text{W}/\text{cm}^2$ or 7.8% of the 200 $\mu\text{W}/\text{cm}^2$ limit for the general public based upon OET Bulletin No. 65, Edition No 97-01.

For the proposed DTV operation, the antenna manufacturer representative indicates that the elevation pattern for this antenna shows a maximum relative field of less than 0.1

towards the ground in the vicinity of the tower. Using this relative field factor and the procedures prescribed in OST Bulletin No. 65, the maximum RFF resulting from the present operation at two meters above the base of the tower will be approximately $2.3 \mu\text{W}/\text{cm}^2$. This is approximately 1.1% of the $200 \mu\text{W}/\text{cm}^2$ maximum uncontrolled exposure to RFF recommended by the current FCC guidelines for the general population.

For NTSC Station WVER(TV) a relative field factor of 0.2 will be assumed. Using this relative field factor and the procedures prescribed in OET Bulletin 65, the maximum RFF resulting from the proposed operation will be approximately $26.0 \mu\text{W}/\text{cm}^2$. This is 7.0 percent of the $374 \mu\text{W}/\text{cm}^2$ maximum human exposure to RFF recommended by the current FCC guidelines for the general population.

The total contribution of all stations, 2 meters above the ground at the base of the tower, will be approximately 15.9 percent of the current FCC guidelines for general population exposure.

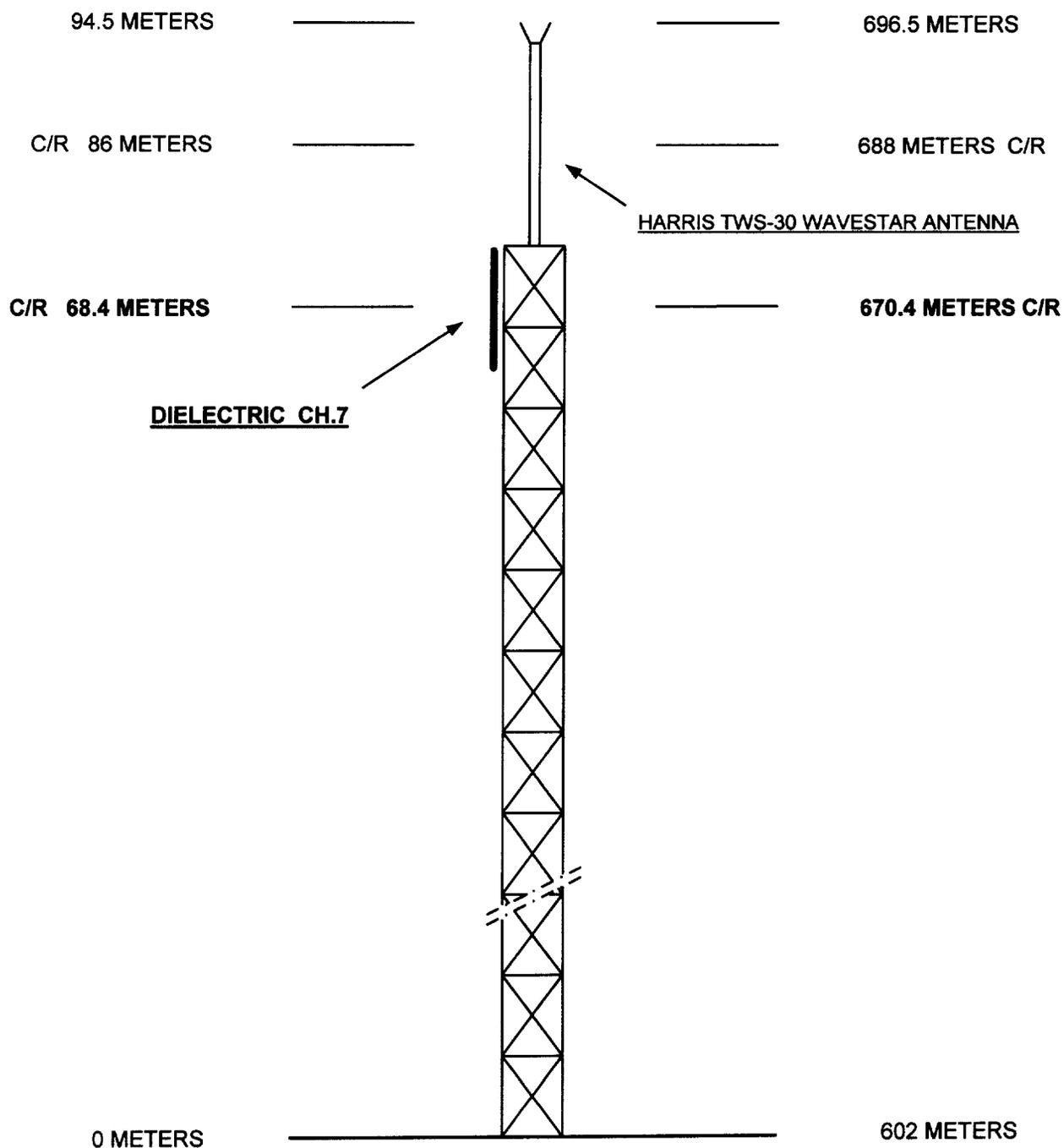
Authorized personnel and rigging contractors will be alerted to the potential zone of high radiation on the tower, and if necessary, the station will operate with reduced power or terminate the operation of the transmitter as appropriate when it is necessary for authorized personnel or contractors to perform work on the tower. Workers and the general public, therefore, will not be subjected to RFF levels in excess of the current FCC guidelines.

An environmental assessment (EA) is categorically excluded under Section 1.1307 of the FCC Rules and Regulations since the licensee indicates:

- (a)(1) The existing tower is not located in an officially designated wilderness area.
- (a)(2) The existing tower is not located in an officially designated wildlife preserve.
- (a)(3) The proposed facilities will not affect any listed threatened or endangered species or habitats.
- (a)(3)(ii) The proposed facilities will not jeopardize the continued existence of any proposed endangered or threatened species or likely to result in the destruction or adverse modification of proposed critical habitats.
- (a)(4) The proposed facilities will not affect any known districts, sites, buildings, structures, or objects significant in American history, architecture, archaeology, engineering, or culture.
- (a)(5) The existing tower is not located near any known Indian religious sites.
- (a)(6) The existing tower is not located in a flood plain.
- (a)(7) The installation of the DTV facilities on an existing guyed tower will not involve a significant change in surface features of the ground in the vicinity of the tower.
- (a)(8) It is not proposed to equip the tower with high intensity white lights unless required by the FAA.
- (b) Workers and the general public will not be subjected to RFF levels in excess of the current FCC guidelines contained in OET Bulletin 65, Edition 97-01 and Supplement A. Authorized personnel will be alerted to areas of the antennas where potential radiation levels are in excess of the FCC guidelines. A security fence with a locked gate precludes access to the tower site.

ABOVE GROUND

ABOVE MEAN SEA LEVEL



(NOT TO SCALE)

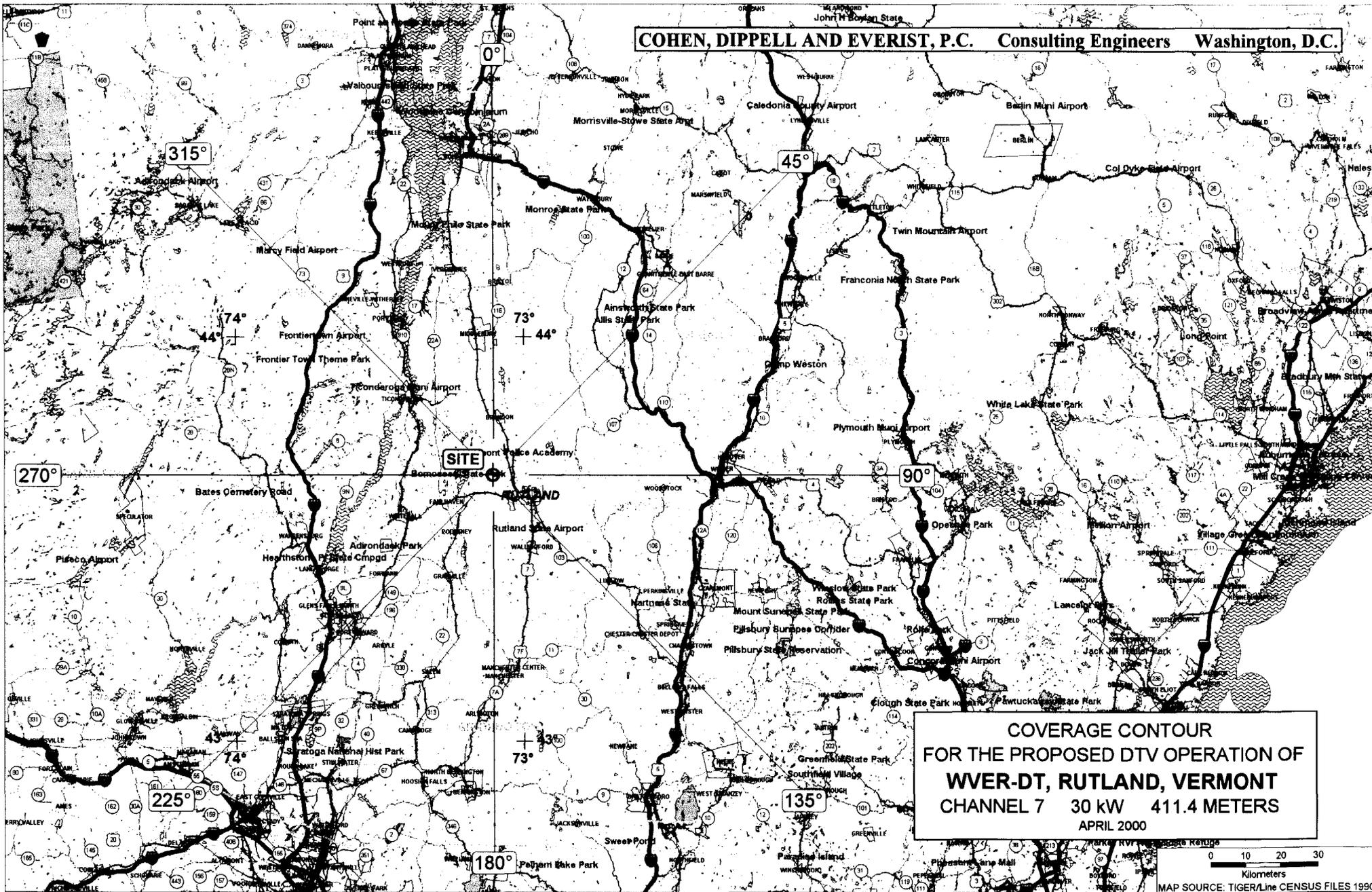
VERTICAL SKETCH
FOR THE OPERATION OF
WVER-DT, RUTLAND, VERMONT
CHANNEL 7 30 kW 411 METERS
APRIL 2000

TABLE I
POTENTIAL INTERFEREES OF
WVER-DT, RUTLAND, VERMONT
CHANNEL 7, 50 KW, 429 METERS
APRIL 2000

| <u>NTSC</u> | <u>Channel</u> | <u>City/State</u> | <u>Power kW</u> | <u>Bearing/Distance from WVER-DT</u> | <u>New Interference</u> |
|-------------|----------------|--------------------|---------------------|--|-------------------------|
| WHDH-TV | 7 | Boston, MA | 316 | 133.6°/214.9 km | 0.3% |
| WVII-TV | 7 | Bangor, ME | 316 | 69.7°/382.9 km | 0.0% |
| WWNY-TV | 7 | Carthage, NY | 316 | 279.8°/213.6 km | 0.1% |
| WABC-TV | 7 | New York, NY | 64.6 | 193.2°/335.8 km | 0.0% |
| WMTW-TV | 8 | Poland Springs, ME | 316 | 82.9°/190.0 km | 0.0% |
| <u>DTV</u> | | | | | |
| WBNG-DT* | 7 | Binghamton, NY | 200 | 233.5°/292.7 km | 0.3% |

COHEN, DIPPELL AND EVERIST, P. C.

* DTV Stations with an ERP of less than 200kW are studied at 200 kW



COVERAGE CONTOUR
FOR THE PROPOSED DTV OPERATION OF
WVER-DT, RUTLAND, VERMONT
CHANNEL 7 30 kW 411.4 METERS
APRIL 2000

0 10 20 30
Kilometers
MAP SOURCE: TIGER/Line CENSUS FILES 1990

TABLE II
DTV COVERAGE DATA
FOR THE PROPOSED OPERATION OF
WVER-DT, RUTLAND, VERMONT
APRIL 2000

| <u>Radial</u> N ° E, T | <u>Average</u> <u>Elevation</u> meters | <u>Effective</u> <u>Height</u> meters | <u>Effective</u> <u>Radiated</u> <u>Power</u> kW | <u>Distance to</u> <u>36 dBu</u> <u>F(50,90)</u> <u>Contour</u> km |
|---------------------------|--|---|---|--|
| 0 | 337.0 | 333.4 | 30 | 103.6 |
| 45 | 236.0 | 434.4 | 30 | 111.8 |
| 90 | 264.0 | 406.4 | 30 | 109.4 |
| 135 | 202.0 | 468.4 | 30 | 114.7 |
| 180 | 476.0 | 194.4 | 30 | 94.0 |
| 225 | 174.0 | 496.4 | 30 | 116.3 |
| 270 | 183.0 | 487.4 | 30 | 115.9 |
| 315 | 200.0 | 470.4 | 30 | 114.9 |

DTV Channel 7 (174-180 MHz)
 Average Elevation 3 to 16 km 259.0 meters AMSL
 Center of Radiation 670.4 meters AMSL
 Antenna Height Above Average Terrain 411.4 meters
 Site Elevation 602.0 meters AMSL
 Effective Radiated Power
 30 kW (14.771 dBk) Max. at 0.6 ° Tilt

(NAD-27)

North Latitude: 43° 39' 32"
 West Longitude: 73° 06' 25"

TABLE III
POPULATION AND AREA DATA
FOR THE PROPOSED OPERATION OF
WVER-DT, RUTLAND, VERMONT
APRIL 2000

| <u>DTV</u> <u>F(50,90)</u> <u>Contour</u> | <u>Population</u> | <u>Area</u> sq.km |
|---|-------------------|----------------------|
| 36 dBu | 1,023,734 | 38,598 |

APPENDIX A

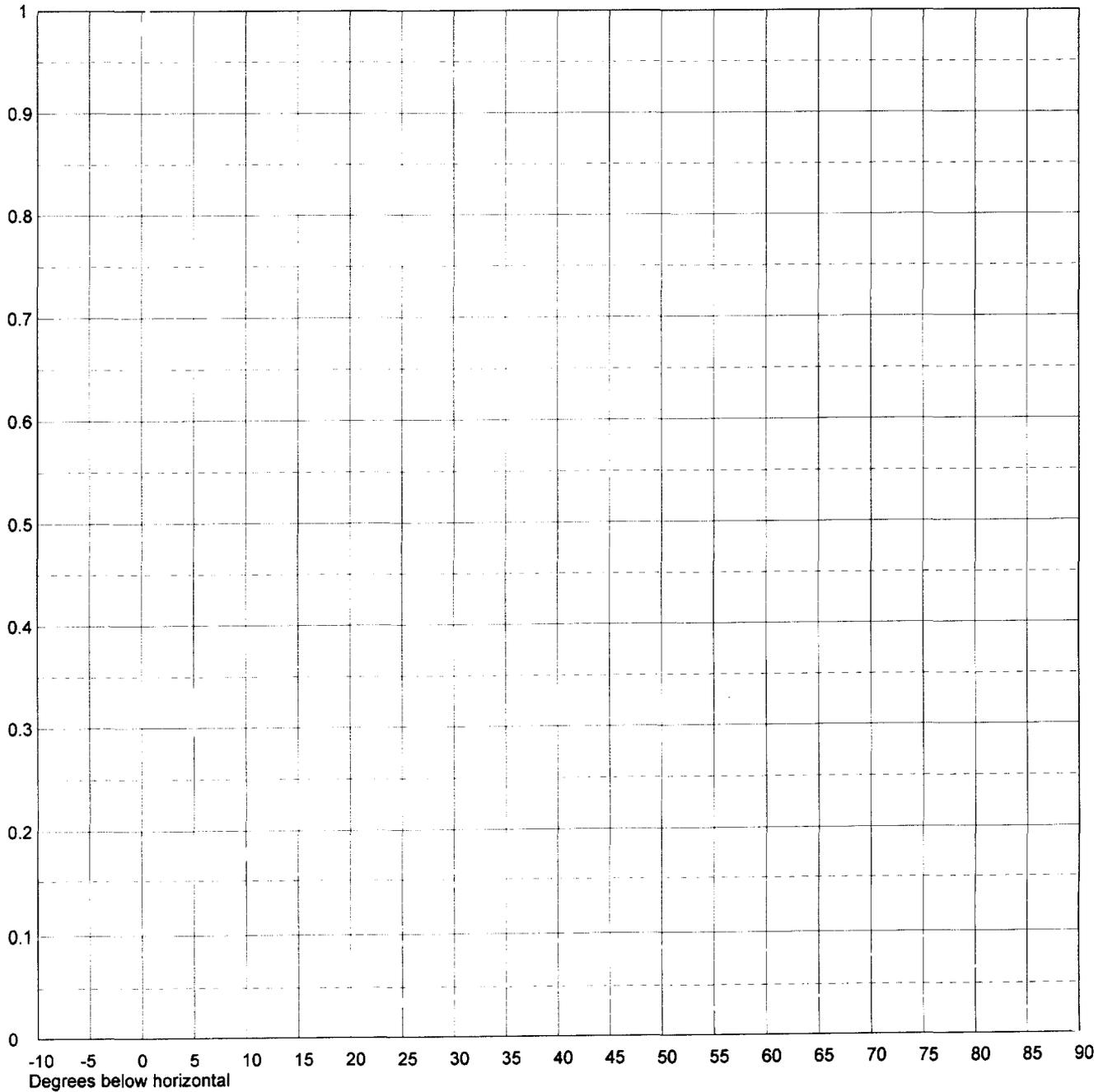
ANTENNA
MANUFACTURER
DATA



Date **26 Apr 2000**
Call Letters **WVER-DT** Channel **7**
Location **Rutland, VT**
Customer **Vermont ETV**
Antenna Type **THP-O-10-1**

ELEVATION PATTERN

| | | | |
|------------------------|------------------------|-----------|---------------------|
| RMS Gain at Main Lobe | 10.0 (10.00 dB) | Beam Tilt | 0.60 Degrees |
| RMS Gain at Horizontal | 9.7 (9.87 dB) | Frequency | 177.00 MHz |
| Calculated / Measured | Calculated | Drawing # | 10H10006-90 |



Remarks:



Exhibit No.

Date **26 Apr 2000**
 Call Letters **WVER-DT** Channel **7**
 Location **Rutland, VT**
 Customer **Vermont ETV**
 Antenna Type **THP-O-10-1**

TABULATION OF ELEVATION PATTERN

Elevation Pattern Drawing # **10H10006-90**

| Angle | Field |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| -10.0 | 0.089 | 2.4 | 0.851 | 10.6 | 0.140 | 30.5 | 0.032 | 51.0 | 0.079 | 71.5 | 0.089 |
| -9.5 | 0.131 | 2.6 | 0.818 | 10.8 | 0.126 | 31.0 | 0.031 | 51.5 | 0.072 | 72.0 | 0.092 |
| -9.0 | 0.171 | 2.8 | 0.783 | 11.0 | 0.113 | 31.5 | 0.038 | 52.0 | 0.063 | 72.5 | 0.093 |
| -8.5 | 0.204 | 3.0 | 0.745 | 11.5 | 0.086 | 32.0 | 0.047 | 52.5 | 0.053 | 73.0 | 0.095 |
| -8.0 | 0.225 | 3.2 | 0.706 | 12.0 | 0.077 | 32.5 | 0.055 | 53.0 | 0.043 | 73.5 | 0.095 |
| -7.5 | 0.234 | 3.4 | 0.665 | 12.5 | 0.089 | 33.0 | 0.061 | 53.5 | 0.033 | 74.0 | 0.096 |
| -7.0 | 0.228 | 3.6 | 0.623 | 13.0 | 0.112 | 33.5 | 0.063 | 54.0 | 0.025 | 74.5 | 0.095 |
| -6.5 | 0.207 | 3.8 | 0.579 | 13.5 | 0.133 | 34.0 | 0.063 | 54.5 | 0.022 | 75.0 | 0.094 |
| -6.0 | 0.174 | 4.0 | 0.535 | 14.0 | 0.149 | 34.5 | 0.059 | 55.0 | 0.026 | 75.5 | 0.093 |
| -5.5 | 0.143 | 4.2 | 0.491 | 14.5 | 0.157 | 35.0 | 0.051 | 55.5 | 0.034 | 76.0 | 0.091 |
| -5.0 | 0.139 | 4.4 | 0.447 | 15.0 | 0.156 | 35.5 | 0.042 | 56.0 | 0.044 | 76.5 | 0.089 |
| -4.5 | 0.188 | 4.6 | 0.403 | 15.5 | 0.147 | 36.0 | 0.032 | 56.5 | 0.053 | 77.0 | 0.086 |
| -4.0 | 0.274 | 4.8 | 0.360 | 16.0 | 0.131 | 36.5 | 0.024 | 57.0 | 0.061 | 77.5 | 0.083 |
| -3.5 | 0.377 | 5.0 | 0.318 | 16.5 | 0.110 | 37.0 | 0.025 | 57.5 | 0.068 | 78.0 | 0.080 |
| -3.0 | 0.488 | 5.2 | 0.278 | 17.0 | 0.086 | 37.5 | 0.035 | 58.0 | 0.074 | 78.5 | 0.076 |
| -2.8 | 0.533 | 5.4 | 0.241 | 17.5 | 0.064 | 38.0 | 0.049 | 58.5 | 0.079 | 79.0 | 0.073 |
| -2.6 | 0.578 | 5.6 | 0.207 | 18.0 | 0.050 | 38.5 | 0.062 | 59.0 | 0.082 | 79.5 | 0.069 |
| -2.4 | 0.621 | 5.8 | 0.177 | 18.5 | 0.053 | 39.0 | 0.075 | 59.5 | 0.083 | 80.0 | 0.065 |
| -2.2 | 0.664 | 6.0 | 0.154 | 19.0 | 0.067 | 39.5 | 0.085 | 60.0 | 0.083 | 80.5 | 0.061 |
| -2.0 | 0.706 | 6.2 | 0.137 | 19.5 | 0.082 | 40.0 | 0.093 | 60.5 | 0.082 | 81.0 | 0.057 |
| -1.8 | 0.745 | 6.4 | 0.129 | 20.0 | 0.095 | 40.5 | 0.098 | 61.0 | 0.079 | 81.5 | 0.053 |
| -1.6 | 0.783 | 6.6 | 0.129 | 20.5 | 0.102 | 41.0 | 0.100 | 61.5 | 0.075 | 82.0 | 0.049 |
| -1.4 | 0.818 | 6.8 | 0.136 | 21.0 | 0.103 | 41.5 | 0.098 | 62.0 | 0.071 | 82.5 | 0.045 |
| -1.2 | 0.851 | 7.0 | 0.147 | 21.5 | 0.099 | 42.0 | 0.094 | 62.5 | 0.065 | 83.0 | 0.040 |
| -1.0 | 0.881 | 7.2 | 0.159 | 22.0 | 0.088 | 42.5 | 0.087 | 63.0 | 0.059 | 83.5 | 0.036 |
| -0.8 | 0.908 | 7.4 | 0.172 | 22.5 | 0.073 | 43.0 | 0.078 | 63.5 | 0.053 | 84.0 | 0.032 |
| -0.6 | 0.932 | 7.6 | 0.184 | 23.0 | 0.054 | 43.5 | 0.067 | 64.0 | 0.047 | 84.5 | 0.029 |
| -0.4 | 0.953 | 7.8 | 0.195 | 23.5 | 0.033 | 44.0 | 0.055 | 64.5 | 0.042 | 85.0 | 0.025 |
| -0.2 | 0.970 | 8.0 | 0.204 | 24.0 | 0.010 | 44.5 | 0.045 | 65.0 | 0.038 | 85.5 | 0.021 |
| 0.0 | 0.983 | 8.2 | 0.211 | 24.5 | 0.013 | 45.0 | 0.038 | 65.5 | 0.036 | 86.0 | 0.018 |
| 0.2 | 0.992 | 8.4 | 0.215 | 25.0 | 0.034 | 45.5 | 0.036 | 66.0 | 0.037 | 86.5 | 0.015 |
| 0.4 | 0.998 | 8.6 | 0.218 | 25.5 | 0.052 | 46.0 | 0.042 | 66.5 | 0.040 | 87.0 | 0.012 |
| 0.6 | 1.000 | 8.8 | 0.218 | 26.0 | 0.067 | 46.5 | 0.050 | 67.0 | 0.044 | 87.5 | 0.009 |
| 0.8 | 0.998 | 9.0 | 0.216 | 26.5 | 0.077 | 47.0 | 0.060 | 67.5 | 0.050 | 88.0 | 0.006 |
| 1.0 | 0.992 | 9.2 | 0.212 | 27.0 | 0.083 | 47.5 | 0.069 | 68.0 | 0.055 | 88.5 | 0.004 |
| 1.2 | 0.982 | 9.4 | 0.206 | 27.5 | 0.084 | 48.0 | 0.077 | 68.5 | 0.061 | 89.0 | 0.002 |
| 1.4 | 0.969 | 9.6 | 0.198 | 28.0 | 0.081 | 48.5 | 0.083 | 69.0 | 0.067 | 89.5 | 0.001 |
| 1.6 | 0.952 | 9.8 | 0.188 | 28.5 | 0.074 | 49.0 | 0.087 | 69.5 | 0.073 | 90.0 | 0.000 |
| 1.8 | 0.932 | 10.0 | 0.178 | 29.0 | 0.063 | 49.5 | 0.088 | 70.0 | 0.078 | | |
| 2.0 | 0.908 | 10.2 | 0.166 | 29.5 | 0.051 | 50.0 | 0.087 | 70.5 | 0.082 | | |
| 2.2 | 0.881 | 10.4 | 0.153 | 30.0 | 0.040 | 50.5 | 0.084 | 71.0 | 0.086 | | |

Remarks:

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

In the Matter of)
)
Amendment of Section 73.622(b)) MM Docket No. _____
Digital Television Table of Allotments) RM _____
(Rutland, Vermont))

NOTICE OF PROPOSED RULE MAKING

Adopted: _____, 2000

Released: _____, 2000

Comment Date:

Reply Comment Date:

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by Vermont ETV, Inc. ("Vermont ETV"), licensee of noncommercial educational station WVER(TV), NTSC Channel *28, Rutland, Vermont. Vermont ETV requests substitution of DTV Channel *7 for station WVER's assigned DTV Channel *56.

2. In support of its proposal, Vermont ETV states that the proposed allotment/assignment of DTV Channel *7 to WVER would serve the public interest by significantly reducing the burden of the DTV transition on WVER. Vermont ETV states that the transition to DTV will impose a substantial financial burden on WVER that is exacerbated by WVER's current out-of-core DTV assignment. Vermont ETV states that grant of Channel *7 to WVER in exchange for Channel *56 will allow WVER to avoid the expense and disruption of having to construct a second DTV facility at the close of the transition, when it would be required to relinquish its out-of-core DTV allotment. Vermont ETV also notes that the proposal will avoid unnecessary use of an out-of-core DTV allotment during the transition to DTV. Vermont ETV further states that its DTV operation on a VHF channel rather than a UHF channel would significantly reduce the long-term operating costs of WVER's DTV facilities, and notes that the proposed Channel *7 DTV facilities may be constructed using the station's existing tower. Vermont ETV asserts that these cost-savings will benefit the public because scarce funds that otherwise would have been diverted in order to construct a second DTV facility or to accommodate the higher operating costs associated with UHF DTV operations instead will be dedicated to serving the noncommercial and educational mission of WVER. Vermont ETV also states that the proposed allotment/assignment will improve the service WVER can provide to viewers within and beyond its existing service area, because of the superior propagation

characteristics of Channel *7 (as a VHF channel) as compared to Channel *56, particularly in the mountainous terrain that characterizes WVER's service area.

3. Vermont ETV states that WVER's proposed operations on Channel *7 would not result in harmful interference to the NTSC and DTV operations of any full power stations. In addition, Vermont ETV states that WVER's proposed operations on Channel *7 are not anticipated to cause any displacement to LPTVs in the area.

4. The Commission tentatively concludes that Vermont ETV's proposal would advance the goals of the DTV transition and the public interest. DTV Channel *7 can be substituted and allotted to Rutland, Vermont, as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) at reference coordinates 43-39-32 N, 73-06-25 W. In addition, we find that this channel change is acceptable under the 2 percent/10 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2). As requested, we also propose to modify the technical parameters associated with WVER's allotment/assignment to specify operation on the alternate DTV channel with following specifications:

| State & City | DTV Channel | DTV Power (kW) | Antenna HAAT (m) |
|--------------|-------------|----------------|------------------|
| VT Rutland | *7 | 30 | 411.4 |

5. Accordingly, we seek comments on the proposed amendment to the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, for the community listed below, to read as follows:

| <u>Community</u> | <u>Channel No.</u> | |
|------------------|--------------------|-----------------|
| | <u>Present</u> | <u>Proposed</u> |
| Rutland, Vermont | *56 | *7 |

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

7. Interested parties may file comments on or before _____ and reply comments on or before _____, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Jonathan D. Blake, Esq.
Jennifer A. Johnson, Esq.
Covington & Burling

1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the TV Table of Allotments, Sections 73.606(b) and 73.622(b) of the Commission's rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rulemaking to Amend Sections 73.202(b), 73.604 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

9. For further information concerning this proceeding, contact _____ . For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. Contacts with Commission staff regarding accommodations for translators and LPTVs that may be impacted by Petitioner's proposal are expressly excluded from the *ex parte* restrictions. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.