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July 14, 2000

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Magalie R. Salas, Esquire
Secretary
Federal Communications Commission
Room TW-B204
445 12th Street, S.W.
Washington, DC 20554

Re: Petition for Rulemaking to Amend Section
73.606(b) of the Commission's Rules, TV
Table of Allotments, TV Broadcast Stations
Owensboro, Kentucky

Dear Ms. Salas:

Transmitted herewith are an original and four copies of a Petition for Rulemaking seeking to to amend Section 73.606(b) of the Commission's rules. Please be advised that this rulemaking petition is being filed pursuant to *Public Notice*, 14 FCC Rcd 19559 (1999) ("Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations"), as extended by *Public Notice*, 15 FCC Rcd 4974 (2000).

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

Very truly yours,
FLETCHER, HEALD & HILDRETH, P.L.C.



Andrew S. Kersting
Counsel for Pappas Telecasting of America,
A California Limited Partnership

Enclosure

cc (w/ encl.): Certificate of Service (by hand)

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.606(b))	MM Docket No. _____
TV Table of Allotments)	RM No. _____
TV Broadcast Stations)	
(Owensboro, Kentucky))	

To: Chief, Allocations Branch

PETITION FOR RULEMAKING

Pappas Telecasting of America, A California Limited Partnership ("Pappas") and South Central Communications Corporation ("SCC") (collectively, "Petitioners"), through their respective counsel, and pursuant to Section 1.401 of the Commission's rules and *Public Notice*, 14 FCC Rcd 19559 (1999) ("Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations") ("*Window Filing Notice*"),¹ hereby request that the Commission institute a rulemaking proceeding for the purpose of amending the TV Table of Allotments to substitute Channel 47 for the existing Channel 48 allotment at Owensboro, Kentucky. Accordingly, Petitioners propose to amend Section 73.606(b) of the Commission's rules as follows:

¹ On March 9, 2000, the Commission extended the window filing period until July 15, 2000. *See Public Notice*, 15 FCC Rcd 4974 (2000) ("Window Filing Opportunity For Certain Pending Applications and Allotment Petitions For New Analog TV Stations Extended to July 15, 2000").

<u>City</u>	<u>Present</u>	<u>Channel No.</u>	<u>Proposed</u>
Owensboro, Kentucky	31-, 48, 61+		31-, 47+, 61+

In support of this Petition, Petitioners state the following:

In 1996, Pappas and SCC filed mutually exclusive applications for a construction permit for a new television broadcast station to operate on Channel 48 at Owensboro, Kentucky (File Nos. BPCT-960722KL and BPCT-960920IV, respectively). Subsequent to the filing of their applications, Congress added Section 309(l) of the Communications Act of 1934, as amended, directing the Commission to waive certain of its rules to encourage settlements among mutually exclusive broadcast applicants.² Accordingly, on January 30, 1998, Pappas and SCC filed a “Joint Request for Approval of Settlement Agreement” (“Joint Request”) requesting approval of their settlement agreement which contemplated the grant of Pappas’ application and the dismissal of SCC’s pending application. Petitioners’ Joint Request has remained pending before the FCC for nearly two and one-half years.

On November 22, 1999, the Commission released the *Window Filing Notice*, which provides NTSC applicants an opportunity to modify their pending proposals to eliminate technical conflicts with DTV stations and/or move from channels 60-69. The *Notice* specifically stated that pending “freeze” waiver applicants for new NTSC stations proposing to operate on channels 2-59 would be

² See 47 U.S.C. §309(l).

afforded an opportunity to amend their respective NTSC proposals through the filing of a rulemaking petition seeking a channel below Channel 60.³

As demonstrated in the attached engineering statement of Pete Myrl Warren, Pappas' pending proposal to operate on Channel 48 at Owensboro would cause interference to a DTV Channel 52 allotment at Vincennes, Indiana, and a DTV Channel 48 allotment at Bowling Green, Kentucky. *See* Engineering Statement, Exhibit RM-1. Accordingly, Petitioners request that the FCC amend the NTSC TV Table of Allotments by substituting Channel 47 for Channel 48 at Owensboro. As demonstrated in Mr. Warren's attached engineering statement, from the proposed allotment reference point at North Latitude: 38° 06' 00"; West Longitude: 87° 18' 00", the proposed Channel 47 NTSC operation at Owensboro would not cause harmful interference to any other NTSC station, and less than 0.5% interference to any digital station. *See* Engineering Statement, Exhibits RM-3, FLR-1, and FLR-2. The proposed Channel 47 NTSC facility could operate from the allotment reference point with 5,000 kilowatts directional effective radiated power with the main lobe oriented at 20 degrees and an antenna height of 284 meters above average terrain without adversely affecting any other television station. The proposed new NTSC station would bring a new television service to 658,629 people in the Owensboro area, and would provide an 80 dBu contour to the entire community of Owensboro. *Id.* at 1.

In light of the above, Petitioners request that the Commission amend the TV Table of Allotments by substituting Channel 47 for the existing Channel 48 allotment at Owensboro,

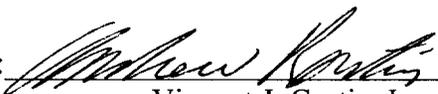
³ Both Pappas and SCC requested a waiver of the ATV "freeze" in their respective applications. *See Advanced Television Systems and Their Impact on the Existing Television Broadcast Service*, RM-5811, 1987 FCC LEXIS 3477 (July 17, 1987), 52 Fed.Reg. 28346 (1987) ("*Freeze Order*"). To the extent it is necessary, Petitioners hereby reiterate their respective requests for waiver of the ATV "freeze".

Kentucky. In the event Channel 47 is allotted to Owensboro, Pappas, the surviving applicant under the Petitioners' pending settlement proposal, will amend its pending application in accordance with the Report and Order issued in this proceeding to specify the new channel, and modify its technical proposal as necessary so that the proposed Channel 47 NTSC facility will not cause harmful interference to any other television station. In the event its application is granted, Pappas will promptly construct and operate the new NTSC facility.

WHEREFORE, in light of the foregoing, Pappas Telecasting of America, A California Limited Partnership, and South Central Communications Corporation respectfully request that the Commission GRANT this petition for rulemaking, AMEND the TV Table of Allotments, and SUBSTITUTE Channel 47 for the existing Channel 48 allotment at Owensboro, Kentucky.

Respectfully submitted,

PAPPAS TELECASTING OF AMERICA,
A CALIFORNIA LIMITED PARTNERSHIP

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

Its Counsel

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SOUTH CENTRAL COMMUNICATIONS
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By: 
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July 14, 2000

WES, INC.
6200 Valeria Ln.
El Paso, TX 79912

505-589-2224

**ENGINEERING EXHIBIT
PETITION TO MODIFY THE TABLE OF
ALLOTMENTS TO SPECIFY A
DISPLACEMENT CHANNEL TO
SUBSTITUTE FOR OWENSBORO, KY
CHANNEL 47**

June 23, 2000

ENGINEERING STATEMENT

Wes, Inc.

DECLARATION

I, Pete E Myrl Warren, III, declare and state that I am a Certified Broadcast Engineer, by the National Association of Radio and Television Engineers, and my qualifications are a matter of record with the Federal Communications Commission, and that 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 Pappas Telecasting.

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.



Pete E Myrl Warren, III

Executed on the 23rd day of June, 2000

Narrative Statement

I. GENERAL

This engineering report has been prepared on behalf of Pappas Telecasting, in support of its request for a displacement channel (Channel 47) for its pending application for Channel 48 in Owensboro, KY (BPCT960722KL).

II. ENGINEERING DISCUSSION

The applicant originally applied for a construction permit for an existing allocation on channel 48 in Owensboro, KY. The applicant is precluded from going on channel 48 due to interference to several short-spaced digital allotments as outlined in Exhibit RM-1

The applicant proposes the allocation site at a point 10 kilometers from the applicant's application for Owensboro, KY Channel 48

North Latitude: 38° 06' 00"

West Longitude: 87° 18' 00"

It is proposed to amend Section 73.606(b) of the Commission's rules, NTSC Table of Allotments, to allot Channel 47 (668-674 MHz) for the NTSC television operation at Owensboro, KY. As demonstrated below, the proposed Channel 47 NTSC operation at Owensboro, KY, would not cause any harmful interference to any other analog NTSC or DTV station or allotments exceeding the Commission's guidelines. Owensboro, KY Channel 47 would provide additional service to a population of 658,629 people.

The proposed NTSC Channel 47 has site availability and can operate from the proposed antenna site at 5000 kW directional ERP with the main lobe oriented at 240 degrees and 284 meters HAAT without adversely impacting other TV operations. A tabulation of the relative field of the proposed antenna pattern is provided for in Exhibit 2. The proposed Channel 47 would serve all of Owensboro within its 80 dBu contour.

Analog NTSC TV Allocation Situation

The attached Exhibit RM-2 demonstrates that Channel 47, Owensboro, KY, **is free of all short-spacing to NTSC stations**. The allocation for channel 48 in Owensboro, KY that is on the report is this station that is changing to Channel 47.

Class A Situation

There is only one Class A station within 300 kilometers of the proposed allocation that needed a detailed interference study. Exhibits FLR-2 and FLR-3 demonstrate no interference from the proposed allocation to W47AZ in Indianapolis, IN.

DTV Allocation Situation

The attached Exhibit RM-3 lists all digital allotments that must be considered within 429 kilometers of the proposed rule-making. The applicant will not cause any interference to Evansville DTV channel 45 and will only accept negligible to no interference from this station. The attached exhibits FLR-1 and FLR-2 demonstrate what interference Louisville DTV 47 and Evansville DTV 46 receive at present and with the addition of Owensboro, KY Channel 47 as specified in the concurrent modification application by Pappas Telecasting. The interference accepted by each of these stations is less than 0.5% and is therefore considered negligible and acceptable.

III. Summary

The applicant must change channel from Channel 48 in Owensboro, KY to channel 47 in order to avoid interference to digital television. On channel 47, Owensboro will not cause any interference to any NTSC stations and less than 0.5% interference to any Digital stations.

**Exhibit RM-1
Owensboro, KY**

June 23, 2000

by WES, Inc. Broadcast Consultants

Spacing study to Digital TV on Owensboro's current channel 48

Study Location:
Owensboro, KY Channel 48

NTSC Study Station, Transmitter Coordinates: 38-1-27 N 87-21-43 W

Study distance: 429 km

NTSC TO DTV STUDY RESULTS

City of License	ST	Chan	Bearing	Distance	Req. Dist	Diff.
Champaign	IL	48	337.84	249.59	244.60	4.99
Evansville	IN	45	226.58	21.98	<24.1	2.12
Salem	IN	51	74.74	137.38	96.60	40.78
South Bend	IN	48	14.55	409.63	244.60	165.03
Vincennes	IN	52	351.79	70.37	96.60	-26.23
Bowling Green	KY	48	148.23	122.03	244.60	-122.57
Louisville	KY	47	74.21	176.28	88.50	87.78
Louisville	KY	49	74.74	137.38	88.50	48.88
Louisville	KY	55	74.46	137.68	96.60	41.08

Station is short-spaced to 2 stations.

**Exhibit RM-2
Owensboro, KY**

June 23, 2000

by WES, Inc. Broadcast Consultants

Spacing study to NTSC TV on channel 47

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

Job title: Owensboro, KY

Latitude: 38 6 0

Channel: 47

Longitude: 87 18 0

Database file name: tv000117.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
32-	WLKYTV	4145	LOUISVILLE	KY	2	L	76.4	131.8	119.9	11.9
44-	WEVV	4622	EVANSVILLE	IN	1	L	222.2	31.8	31.4	.4
48o	NEW	4646	OWENSBORO	KY	2	A	212.8	10.0	87.7	-77.7
48o	NEW	4647	OWENSBORO	KY	2	A	212.8	10.0	87.7	-77.7

***** End of channel 47 study *****

**Exhibit RM-3
Owensboro, KY**

June 23, 2000

by WES, Inc. Broadcast Consultants

Spacing study to Digital TV on channel 47

Study Location:
Owensboro, KY Channel 47

NTSC Study Station, Transmitter Coordinates: 38-6-0 N 87-18-0 W

Study distance: 429 km

NTSC TO DTV STUDY RESULTS

City of License	ST	Chan	Bearing	Distance	Req. Dist	Diff.
Chicago	IL	47	356.09	420.56	244.60	175.96
East St. Louis	IL	47	276.54	280.90	244.60	36.30
Evansville	IN	45	222.29	31.80	96.60	-64.80
Evansville	IN	46	219.11	30.44	88.50	-58.06
Evansville	IN	54	212.86	10.02	<24.1	14.08
Indianapolis	IN	46	25.50	224.91	88.50	136.41
Salem	IN	51	77.68	130.04	96.60	33.44
Terre Haute	IN	39	356.16	126.03	96.60	29.43
Bowling Green	KY	48	152.35	126.62	88.50	38.12
Elizabethtown	KY	43	109.89	136.37	96.60	39.77
Louisville	KY	47	76.45	168.81	244.60	-75.79
Louisville	KY	49	77.68	130.04	96.60	33.44
Louisville	KY	55	77.38	130.30	96.60	33.70
Lima	OH	47	42.23	399.29	244.60	154.69
Chattanooga	TN	47	151.75	373.51	244.60	128.91
Lexington	TN	47	203.58	290.21	244.60	45.61

Station is short-spaced to 2 stations.

**Exhibit FLR-1
Owensboro, KY Channel 47
June 23, 2000**

**Fortran Longley-Rice Interference Study
by WES, Inc. Broadcast Consultants**

Study run without Owensboro Channel 47

Run begins Fri Jun 23 15:43:36 2000, host providence
Analysis of: 47A KY LOUISVILLE

HAAT 527.0 m, ATV ERP 1000.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	2736651	40847.4
not affected by terrain losses	2632242	39659.6
lost to NTSC IX	118898	350.3
lost to additional IX by ATV	315	20.1
lost to ATV IX only	1764	28.2
lost to all IX	119213	370.4

Finished Fri Jun 23 15:53:37; run time 0:07:31
26526 calls to Longley-Rice; path distance increment 1.00 km

Study run with Owensboro Channel 47 at 5 MW with an Antenna Concepts C170 at 240 degrees

Run begins Fri Jun 23 15:58:16 2000, host providence
Analysis of: 47A KY LOUISVILLE

HAAT 527.0 m, ATV ERP 1000.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	2736651	40847.4
not affected by terrain losses	2632242	39659.6
lost to NTSC IX	126898	1099.2
lost to additional IX by ATV	0	4.0
lost to ATV IX only	1764	28.2
lost to all IX	126898	1103.2

Finished Fri Jun 23 16:10:10; run time 0:09:47
34910 calls to Longley-Rice; path distance increment 1.00 km

Exhibit FLR-2
Owensboro, KY Channel 47
June 23, 2000

Fortran Longley-Rice Interference Study
by WES, Inc. Broadcast Consultants

Study run without Owensboro Channel 47:

Run begins Fri Jun 23 16:34:15 2000, host providence

Analysis of: 46A IN EVANSVILLE

HAAT 290.0 m, ATV ERP 250.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	584932	17672.3
not affected by terrain losses	584788	17636.2
lost to NTSC IX	690	68.2
lost to additional IX by ATV	6230	328.9
lost to ATV IX only	6404	361.0
lost to all IX	6920	397.1

Finished Fri Jun 23 16:41:43; run time 0:07:12

26463 calls to Longley-Rice; path distance increment 1.00 km

Study run with Owensboro Channel 47 at 5MW with an Antenna Concepts C170
oriented at 240 degrees

Run begins Fri Jun 23 16:23:26 2000, host providence

Analysis of: 46A IN EVANSVILLE

HAAT 290.0 m, ATV ERP 250.0 kW

	POPULATION	AREA (sq km)
within Noise Limited Contour	584932	17672.3
not affected by terrain losses	584788	17636.2
lost to NTSC IX	690	68.2
lost to additional IX by ATV	6230	328.9
lost to ATV IX only	6404	361.0
lost to all IX	6920	397.1

Finished Fri Jun 23 16:31:07; run time 0:07:21

26463 calls to Longley-Rice; path distance increment 1.00 km

Exhibit FLR-3
Owensboro, KY Channel 47
June 23, 2000

Fortran Longley-Rice Interference Study
by WES, Inc. Broadcast Consultants

Study run without Owensboro, KY Channel 47 and with Indianapolis W47AZ as specified in their construction permit BPTTL990226JD:

Run begins Fri Jun 23 18:52:03 2000, host providence
Analysis of: 47N IN INDIANAPOLIS

	POPULATION	AREA (sq km)
within Noise Limited Contour	421255	1141.2
not affected by terrain losses	421255	1141.2
lost to NTSC IX	38539	31.9
lost to additional IX by ATV	322999	993.6
lost to all IX	361538	1025.5

Finished Fri Jun 23 18:53:24; run time 0:01:16
2505 calls to Longley-Rice; path distance increment 1.00 km

Study run without Owensboro, KY Channel 47:

Run begins Fri Jun 23 18:55:36 2000, host providence
Analysis of: 47N IN INDIANAPOLIS

	POPULATION	AREA (sq km)
within Noise Limited Contour	421255	1141.2
not affected by terrain losses	421255	1141.2
lost to NTSC IX	38539	31.9
lost to additional IX by ATV	322999	993.6
lost to all IX	361538	1025.5

Finished Fri Jun 23 18:57:03; run time 0:01:23
2789 calls to Longley-Rice; path distance increment 1.00 km

Exhibit FLR-4
Owensboro, KY Channel 47
June 23, 2000

Fortran Longley-Rice Interference Study
by WES, Inc. Broadcast Consultants

Study run without Owensboro, KY Channel 47 and with Indianapolis W47AZ as specified in their construction permit BPTTL900205JF.

Run begins Fri Jun 23 18:44:15 2000, host providence
Analysis of: 47N IN INDIANAPOLIS

	POPULATION	AREA (sq km)
within Noise Limited Contour	987794	2245.3
not affected by terrain losses	987794	2245.3
lost to NTSC IX	233	4.0
lost to additional IX by ATV	126149	823.0
lost to all IX	126382	827.0

Finished Fri Jun 23 18:46:02; run time 0:01:41
4825 calls to Longley-Rice; path distance increment 1.00 km

Run begins Fri Jun 23 18:36:40 2000, host providence
Analysis of: 47N IN INDIANAPOLIS

	POPULATION	AREA (sq km)
within Noise Limited Contour	987794	2245.3
not affected by terrain losses	987794	2245.3
lost to NTSC IX	233	4.0
lost to additional IX by ATV	126149	823.0
lost to all IX	126382	827.0

Finished Fri Jun 23 18:38:38; run time 0:01:52
5384 calls to Longley-Rice; path distance increment 1.00 km

CERTIFICATE OF SERVICE

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 14th day of July, 2000, copies of the foregoing "Petition for Rulemaking" were hand delivered to the following:

Mr. Roy J. Stewart
Chief, Mass Media Bureau
Federal Communications Commission
The Portals II, Room 2-C347
445 Twelfth Street, S.W.
Washington, DC 20554

Mr. Keith Larson
Assistant Chief, Engineering
Mass Media Bureau
Federal Communications Commission
The Portals II, Room 2-C420
445 Twelfth Street, S.W.
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Barbara Lyle