

ORIGINAL

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

RECEIVED

JUL 17 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

_____)
In The Matter Of _____)
Amendment of Section 73.606 _____)
Table of Allotments _____)
Television Broadcast Stations _____)
(Meridian, ID) _____)
_____)

MM Docket No. _____

RM No. _____

To: Chief, Allocations Branch

AMENDMENT TO PETITION FOR RULE MAKING

Meridian 20 L.L.C.(M20), by its counsel, hereby amends its pending petition for rule making for a new television allotment for Meridian, ID by substituting NTSC channel 57 for NTSC channel 26 requested in M20's original petition. Thus, M20 proposes to amend Section 73.606 of the Commission's rules as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Meridian, ID	--	57

I. Background

M20 is filing this amendment to its petition for rule making pursuant to the Commission's Public Notice, 14 FCC Rcd 19559 (1999) ("Window Notice") announcing the opening of a window for the filing of, among other things, amendments to pending petitions for rule making that had sought to amend the TV Table of Allotments to add a new NTSC television allotment. M20 had sought allotment of NTSC channel 26 for Beaumont's first local television service. The Commission cannot go forward with that proposal because the Commission has allocated digital

No. of Copies rec'd 0 + 4
List ABCDE

channel 26 to Meridian. As a result, under the Window Notice, M20 was afforded the opportunity to amend its pending petition for rule making to specify a new channel.

M20 has identified NTSC channel 57 for an allotment to Meridian, ID. The attached Engineering Statement of Keith J. Leitch of WES, Inc. shows that the proposed allotment protects NTSC channels under 73.623(c). The Engineering Statement also shows that the proposed allocation meets the minimum distance separation requirements to any other NTSC stations and is free of interference to all Class A stations. Finally, the allocation does not cause any interference to any digital stations.

II. The Public Interest Compels Grant of This Petition

M20 seeks to change its proposal for a new allotment to Meridian, ID, consistent with the Window Notice, so that an additional service to a population of 390,203 persons can be made available. Allotment of NTSC channel 57 will promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient, and equitable distribution of television broadcast stations among the various states and communities. See *National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing goal of Communications Act to “secure the maximum benefits of radio to all the people of the United States”); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to “secure local means of expression”).

In addition, grant of M20’s petition will foster the emergence of a new national television network by establishing an outlet in television market (125). In the past, the Commission has relied on these public interest objectives in making new allotments. In Docket No. 13340, Interim Policy on VHF Television Channel Assignments, 21 RR 1695 (1961), recon. denied, 21 RR 1710a (1961) (“Interim Policy”), the Commission instituted a rule making proceeding in an effort

to find a means of alleviating the need for additional channel assignments in the larger television markets in order to foster the development of a nationwide competitive television system.

The Commission concluded that the most efficient means of accomplishing its objective would be to permit, under limited circumstances, channel assignments at substandard spacings.

Since this Application is fully spaced it should be considered more favorably in light of the aforementioned practice. The short-spaced allotments were authorized subject to the requirement that the new stations provide protection to the existing short-spaced stations to assure that they would not receive interference in excess of the amount they otherwise would receive from a co-channel station operating with maximum facilities at full distance separation. The Commission designated ten markets in which such a “squeeze in” procedure would be considered. Many of these proposals, as well as those which arose out of the Commission’s Interim Policy, involved a third commercial VHF allotment in a market that was designed to provide an additional broadcast outlet which was critical to the establishment of a third competitive network. See, e.g., Grand Rapids, Michigan, 21 RR 1737 (1961) (Commission assigned a second VHF channel to Grand Rapids and a third to the Grand Rapids-Kalamazoo market),¹ Rochester, New York, 21 RR 1748a (1961)(same).

Similarly, in the VHF Drop-In Proceeding, 81 FCC 2d 233 (1980), the Commission granted requests for waiver of Section §73.610 to permit the allotment of new short-spaced VHF assignments to Charleston, West Virginia; Johnstown, Pennsylvania; Salt Lake City, Utah; and Knoxville, Tennessee. Each short-spaced allotment was subject to the condition that the new

¹ In Grand Rapids, the Commission allotted Channel 13 to Grand Rapids, which required the substitution of Channel 9 for Channel 13 at Cadillac, Michigan, and the substitution of channel 7 for a Channel 9 allotment at Alpena, Michigan. Id. at 1745. The Commission’s action was designed to alleviate the “critical shortage of competitively comparable facilities in major markets.

station provide equivalent protection to the existing station to which it was short-spaced. Id. at 234.

In granting the waiver requests, the Commission recognized that the four VHF drop-ins represented a significant departure from Commission precedent.² Nevertheless, the Commission concluded that the new VHF allotments would serve important public interest objectives such as providing new local service, the promotion of additional networks, and increased competition in advertising markets. The Commission found these to be substantial contributions to the public interest. Id. at 253. Moreover, on reconsideration, the Commission observed that application of the distance separation rules would achieve a result contrary to the public interest by preventing new and needed television services, and that a waiver of the rules would not undermine the policy behind them as set forth in the Sixth Report and Order in Docket Nos. 8736 et. al., Amendment of Section 3.606 of the Commission's Rules and Regulations, 41 FCC 148 (1952) ("Sixth Report and Order").

The public interest benefits that would result from a grant of M20's amended proposal are the same public interest objectives which the Commission sought to foster in the VHF Drop-In Proceedings and the Interim Policy, and yet unlike as in those proceedings, no waiver of the Commission's rules is required in order to grant M20's amended proposal here. The public interest fully supports a grant of M20's amended proposal.

III. Conclusion

... " 21 RR at 1745.

² Despite the Commission's Interim Policy, there had been no short-spaced VHF allotments in the continental United States prior to its decision in VHF Top 100 Markets. 81 FCC 2d at 239.

Wherefore, Meridian 20, L.L.C. respectfully requests that as proposed in this amendment to M20's original petition for rule making, the Commission initiate a rule making proceeding to amend Section 73.606 (b) of its rules, the television Table of Allotments to add an allotment for NTSC channel 57 for Meridian, ID.

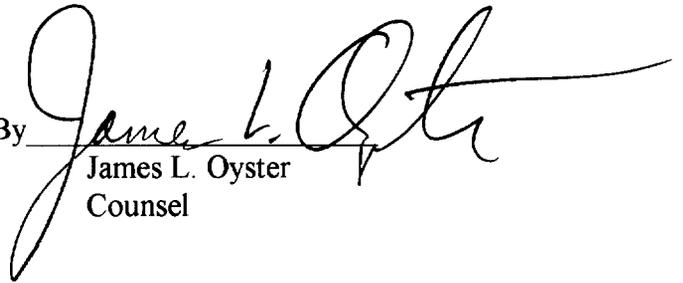
Respectfully submitted,

Law Offices
JAMES L. OYSTER
108 Oyster Lane
Castleton, Virginia 22716-9720

(540) 937-4800

July 17, 2000

Meridian 20, L.L.C.

By 
James L. Oyster
Counsel

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 MERIDIAN, ID
CHANNEL 26**

July 13, 2000

ENGINEERING STATEMENT

Wes, Inc.

DECLARATION

I, Keith J. Leitch declare and state that I am a Certified Broadcast Engineer, by the Society of Broadcast 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 Meridian 20, 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 13th day of July, 2000

Narrative Statement

I. GENERAL

This engineering report has been prepared on behalf of Meridian 20, L.L.C. in support of its request for a displacement channel (Channel 57 zero-offset) for its pending rule-making and contingent application for Channel 26 in Meridian, Idaho filed July 24, 1996.

II. ENGINEERING DISCUSSION

The applicant originally applied for a petition for rule-making to add Meridian, Idaho Channel 26 along with a contingent application for channel 26 in Meridian, Idaho. The applicant is precluded from going on channel 26 due to the assignment of digital Channel 26 in Boise, ID to KTVB.

The applicant proposes Meridian, Idaho city-center coordinates:

North Latitude: 43° 36' 44"
West Longitude: 116° 23' 26"

It is proposed to amend Section 73.606(b) of the Commission's rules, NTSC Table of Allotments, to allot Channel 57 (728-734 MHz) for the NTSC television operation of Meridian 20, L.L.C. As demonstrated below, the proposed Channel 57 NTSC operation at Meridian, Idaho will not cause any harmful interference to any other analog NTSC or DTV station or allotments exceeding the Commission's guidelines. As a maximum service facility, Meridian, Idaho Channel 57 would provide additional service to a population of 390,203 people.

Analog NTSC TV Allocation Situation

The attached Exhibit RM-2 demonstrates that Channel 57, Meridian, Idaho **is free of any short-spacings to all NTSC stations.**

Class A Situation

The applicant does not cause any interference to any protected Class A Stations. The applicant is free of all prohibited overlap to all protected Class A stations.

DTV Allocation Situation

The attached exhibit RM-1 lists all U.S. digital stations within 429 km of the proposed channel 57 in Meridian, Idaho. The applicant is fully spaced to all digital TV stations and allotments. The applicant does not cause any interference to any digital stations.

III. Summary

The applicant must change channel from NTSC Channel 26 in Meridian, Idaho to NTSC channel 57, because of digital channel 27 in Boise, Idaho. On channel 57, Meridian is fully spaced to all NTSC and Digital TV stations and will not cause any interference to any Digital or protected Class A stations.

**Exhibit RM-1
Meridian, ID**

July 13, 2000

by WES, Inc. Broadcast Consultants

Spacing study to Digital TV on channel 57

Study Location:
Meridian, ID Channel 57

NTSC Study Station, Transmitter Coordinates: 43-36-44 N 116-23-26 W

Study distance: 429 km

NTSC TO DTV STUDY RESULTS

City of License ST Chan Bearing Distance Req. Dist Diff.

Station is in the clear!

**Exhibit RM-2
Meridian, ID**

July 13, 2000

by WES, Inc. Broadcast Consultants

Spacing study to NTSC TV on Channel 57

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

Job title: Meridian, ID

Latitude: 43 36 44

Channel: 57

Longitude: 116 23 26

Database file name: tv000117.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.

-									

***** End of channel 57 study *****