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November 3, 2000

ARTHUR B. GOODKIND
202-457-1815

Internet Address:
agoodkin@hklaw.com

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Ms. Salas:

Transmitted herewith, on behalf of Eagle Communications, Inc., are an original and four copies of its "Petition for Rule Making to Change DTV Channel Allotment for Television Station KTVM-DT, Butte, Montana."

In the event there are any questions concerning this matter, please contact the undersigned.

Sincerely,

Arthur B. Goodkind

Arthur B. Goodkind

Enclosure

cc(w/enc.): John Morgan, FCC
Pam Blumenthal, Esq.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:	)
	)
Modification of DTV Channel	)
Allotment for Television	)
Station KTVM-DT,	)
Butte, Montana	)

TO: Mass Media Bureau

PETITION FOR RULE MAKING TO CHANGE DTV CHANNEL ALLOTMENT
FOR TELEVISION STATION KTVM-DT, BUTTE, MONTANA

Eagle Communications, Inc. ("Eagle"), licensee of television station KTVM(TV) Butte, Montana, by its attorneys, hereby requests that the Commission initiate proceedings to amend Section 73.622 of its Rules and Appendix B to its Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Reports and Orders in MM Docket Number 87-268 to substitute Channel 33 for Channel 2 as the DTV transition channel to be paired with television station KTVM(TV). The operating parameters requested for KTVM-DT on Channel 33, a maximum effective radiated power of 1,000 kw at an antenna height of 576 meters above average terrain, are discussed in further detail in the attached Engineering Statement of Jules Cohen, P.E. (Attachment A hereto).

As explained in Mr. Cohen's Engineering Statement and in the "Declaration of C. J. Cannaliato" (Attachment B hereto), impulse noise originating from old power lines with degraded connections and from irrigation pumps has seriously degraded the reception of Station KTVM(TV)'s Channel 6 NTSC operation in many locations throughout its service area. Indeed, in several areas KTVM has found it necessary to utilize translator and LPTV stations rebroadcasting its signal to provide acceptable reception to viewers. Such interference from impulse noise tends to be more serious at lower television broadcast frequencies and is therefore anticipated to be an even more serious problem for DTV transmissions on KTVM-DT's allotted Channel 2 than is presently the case on its NTSC Channel 6.

As shown in Mr. Cohen's attached Engineering Statement, Channel 33 may be substituted for Channel 2 as the DTV channel allotment for KTVM-DT without causing or receiving any interference to or from any other existing or proposed full service television station or Class A LPTV station. As further shown in Mr. Cohen's Engineering Statement, a Channel 33 allotment will enable KTVM-DT to comply fully with the principal city coverage requirements of Section 73.625(a) of the Commission's Rules.

Accordingly, Eagle requests that the Commission initiate proceedings to amend Section 73.622(b) of the Rules as set forth in this petition.[1]

Respectfully submitted,

EAGLE COMMUNICATIONS, INC.

By: _____
Arthur B. Goodkind

HOLLAND & KNIGHT LLP
2100 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20037
(202) 457-1815

November 3, 2000

[1] Pursuant to Section 1.401(e) of the Rules, a draft "Notice of Proposed Rule Making" is Attachment C hereto.

[DRAFT NOTICE OF PROPOSED RULE MAKING, SUBMITTED PURSUANT TO SECTION 1.401(e) OF THE COMMISSION'S RULES]

Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.622(b),	)	MM Docket No. RM
Table of Allotments, Digital	)	
Television Broadcast Stations	)	
(Butte, Montana)	)	

NOTICE OF PROPOSED RULE MAKING

Adopted: **Released:**

Comment Date:

By the Chief, Video Services Division:

1. The Commission has before it a petition for rule making filed by Eagle Communications, Inc. ("Petitioner"), licensee of NTSC television station KTVM(TV), Butte, Montana. Petition requests the substitution of Channel 33 for Channel 2 for use by KTVM-DT, with an effective radiated power of ___ kw and an antenna height of ___ meters above average terrain.

2. In support of its request, Petitioner states that its presently allotted DTV frequency, Channel 2, will be subject to severe impulse noise problem originating from old and degraded power lines and from irrigation pumps. It is anticipated that impulse noise would severely degrade off-air reception of KTVM-DT.

3. In order to avoid this problem, Petitioner requests that the Commission initiate proceedings to substitute Channel 33 for Channel 2 as its transitional DTV channel. Petitioner has submitted engineering materials demonstrating that the proposed substitution would be consistent with the requirements of Section 73.623 of the Rules in that (1) the principal city coverage requirements of Section 73.625(a) of the Rules would be met and (2) no NTSC or DTV station would receive interference from a KTVM-DT Channel 2 operation in excess of the de minimis standard established in Section 73.623(c)(2) of the Rules.

4. We believe that Petitioner's proposal warrants consideration since it would avoid serious potential interference with land mobile operations and because the proposal complies with the criteria set forth in Section 73.623 of the Rules. We therefore propose to modify Section 73.622(b) as requested by Petitioner.

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

City	Present Channel No.	Proposed Channel No.
Butte, Montana	2, 15, 19c	15, 19c, 33

The Commission's authority to institute rule making 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.

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:

Arthur B. Goodkind
Holland & Knight LLP
2100 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20037
(202) 457-1815

The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Allotments, Section 73.606(b) of the Commission's Rules. See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981. The Regulatory Flexibility Act of 1980 would also not apply to rule making proceedings to amend the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules.

For further information concerning this proceeding, contact _____, Mass Media Bureau, (202) 418-1600. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited is 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 comments 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.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Services Division
Mass Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. it should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the Petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Center (Room CY-A257) at its headquarters, 445 12th Street, SW, Washington, D.C.

Attachment A

Jules Cohen, P.E.
Consulting Engineer

ORIGINAL

ENGINEERING STATEMENT
PREPARED ON BEHALF OF EAGLE COMMUNICATIONS, INC.
KTVM-DT, BUTTE, MONTANA

This statement was prepared on behalf of Eagle Communications, Inc. ("Eagle") in support of a petition to change the digital channel assignment of KTVM-DT, Butte, Montana, from 2 to 33. Eagle is the licensee of KTVM(TV), Butte, Montana, operating on channel 6. The experience of KTVM, as detailed in an accompanying Declaration of C.J. Cannaliato, is that impulse noise interference is a serious problem on NTSC channel 6. The identified sources of the interference are power lines and irrigation pumps. The local power company has acknowledged that power lines are an originator of the interference but the sources are so widespread that correction would constitute an intolerable economic burden.

In consideration of the magnitude of the interference to channel 6, the inescapable conclusion is that interference would be greater on the lower frequency channel 2. To avoid the problem of interference, the use of channel 33 is proposed in lieu of 2. As will be shown below, channel 33 can be used at the KTVM site without causing to, or receiving interference from any other full service or Class A Low Power television station.

Operating parameters of KTVM-DT on channel 33 are proposed to include average effective radiated power of 1,000 kilowatts, with the radiation center of a nondirectional antenna at 39 meters above ground, 2,552 meters above mean sea level. Height above average terrain would be 576

meters. Location of the antenna would be the same as the FCC had specified for operation on channel 2. Geographic coordinates of the registered tower (ASR No.1000778) are: 46° 00′ 27″ North Latitude, 112° 26′ 30″ West Longitude.

Studies made in accordance with the requirements of Section 73.623(c) of the Commission rules demonstrate that the proposal satisfies the coverage and allocation criteria of the rules. The Butte community reference point is approximately seven kilometers west of the transmitter site. Antenna height above average terrain in the Butte direction is in excess of 800 meters. The f(50,90), 41 dBμ contour, calculated by prescribed FCC procedures, would extend more than 130 kilometers from the transmitter in a westerly direction, thus satisfying the community coverage requirement of Section 73.625(a).

A computer using an Alpha processor was employed in conjunction with the FCC's FLR software to perform allotment studies taking into account both NTSC and DTV allocation factors. The study indicated that only one full service television facility was potentially affected by KTVM-DT operating on channel 33 as proposed. That facility is a new NTSC station at Great Falls, Montana, proposed to operate on NTSC channel 26 with peak visual effective radiated power of 5,000 kilowatts and height above average terrain of 175 meters. Separation from the KTVM-DT site

to the proposed channel 26 site is approximately 192 kilometers. As expected at that distance, the FLR program showed no interference to the proposed Great Falls station.

The interference analysis was extended to Class A Low Power television stations. Considering co-channel, adjacent channels and "taboo" channels, only two facilities were found within 250 kilometers (300 kilometers in the co-channel case). K26DE, Bozeman, Montana, is approximately 100 kilometers from the KTVM site and K25CL, Pablo/Ronan, Montana, is approximately 212 kilometers from the KTVM site. At such distances, the N-7 and N-8 stations cannot be affected adversely.

The FLR analysis of the proposed KTVM-DT operation shows a population of 127,866 persons within the noise-limited contour and not affected by terrain losses. This constitutes a 92.7 percent match with the KTVM NTSC channel 6 Grade B coverage not affected by terrain losses. The DTV/NTSC area match is 80.2 percent. The channel 33 operation would not receive interference from any full service NTSC or DTV operation.

The conclusion of the study is that channel 33 is a suitable replacement for channel 2 at Butte and will avoid the problem of impulse noise interference prevalent in the Butte vicinity in the low VHF band.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on November 2, 2000.

Jules Cohen, P.E.

Declaration of C.J. Cannaliato

I am employed as the Director of Engineering for Eagle Communications, Inc., licensee of KTVM-TV, channel 6 from Butte, MT. I was employed by Eagle Communications in this capacity from September 1983 until July 1995 and then rehired in October 1999. I have more than thirteen years of experience working for this organization, much of that time working specifically with KTVM-TV.

KTVM-TV operates on analog TV channel 6 with an ERP of 100 Kilowatts, the maximum allowed. My experiences in checking the coverage of this station has shown that impulse noise originating from power lines and irrigation pumps is a serious problem in many locations. The power lines are quite old and the connections have oxidized over the years and now generate noise which severely degrades the off-air reception of KTVM-TV.

I would like to cite three specific situations concerning reception problems in the KTVM TV coverage area: Dillon, MT (Beaverhead County), Bozeman, MT (Gallatin, County) and Ennis, MT (Madison County).

In the case of Dillon, MT, complaints to the Montana Power Company regarding impulse noise were so numerous that in the summer of 1990, a representative of the Montana Power Company approached me as to the feasibility and cost of installing a translator station as an alternative way to provide service to the community of Dillon. We did a site survey and measured the KTVM-TV signal to be 56 dbu which is 9 db more than that of a Grade B signal but the video was seriously impaired by the electrical impulse noise. We determined that the only way to improve the signal to this community was to feed a translator via microwave. In August, 1990, the Montana Power Company agreed to fund 50% of the cost of that project and K51DW was licensed (fed by microwave station WMU807) and constructed.

The same problem existed in Bozeman, Montana and a microwave fed translator rebroadcasting KTVM-TV was again the only practical solution. In November, 1992, a translator license was granted to Eagle Communications, Inc. for K42BZ to serve the community of Bozeman, MT (fed by microwave station WLP241). This translator (later converted to an LPTV license) was required because of impulse noise problems with over the air reception of KTVM TV, despite the fact that this community is totally within the Grade B contour of KTVM TV.

While the community of Ennis, MT has a translator to serve it, the translator is fed by KTVM TV directly as no microwave path exists to serve this community. In this situation we attempted to improve the received signal by stacking antennas. This resulted in an improvement in signal but it also increased the impulse noise. We also attempted to "phase cancel" the noise, but this was not possible because the impulse noise was originating from many locations. The problem in Ennis has never been solved and viewers have become unhappily resigned to impaired TV signals.

I am concerned that this noise problem will create a worse situation with digital broadcasting. KTVM TV has been assigned channel 2 for its digital operation and it is safe to assume that impulse noise problems which currently exist on TV channel 6 will probably be worse on TV

channel 2. Indeed, impulse noise may not only impair reception of DTV signals on channel 2, it may make DTV reception impossible or inconsistent.

I declare under penalty of perjury that the statement above is true.

C.J. Cannaliato 10-30-00

C.J. Cannaliato Date