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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))	MM Docket No. 00-180
Table of Allotments,)	RM-9956
Digital Television Broadcast Stations)	
(Fort Meyers, Florida))	
)	

To: Chief, Video Services Division
Mass Media Bureau

COMMENTS OF COX BROADCASTING, INC.

Cox Broadcasting, Inc. ("Cox"), parent company of the licensee of WFTV(TV), Orlando, Florida, by its attorneys, hereby respectfully submits these comments in response to the above-captioned *Notice of Proposed Rule Making* ("Notice") adopted by the Commission on September 29, 2000. The *Notice* seeks responses regarding the petition of Fort Myers Broadcasting Company ("FMBC")¹ to amend Section 73.622(b), the DTV Table of Allotments, by substituting Channel 9 in lieu of Channel 53 for the paired DTV allocation for its licensed station WINK-TV. WFTV(TV)'s co-channel analog operations on Channel 9 would be short-spaced to the proposed WINK-DT.

¹ Petition for Rulemaking, *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations*, RM-9956 (filed May 1, 2000) ("Petition").

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USA/DOE

FMBC is seeking a new DTV channel to permit WINK-DT to move inside the core and reduce its construction and operating costs.² Cox recognizes the benefits that the proposed DTV channel change would bring to FMBC, and appreciates broadcasters' efforts, such as these, to facilitate the implementation of digital television. However, when such efforts would create increased costs and burdens for viewers and other broadcasters, it is contrary to the public interest to permit the mere financial concerns of a single station to justify a proposed channel change. This is especially the case, such as here, where the proposal fails to demonstrate that other, less troublesome in-core allotments are available. Moreover, while moving WINK-DT into the core is a laudable aspiration, the station is under no fear of losing protected service at its out-of-core channel and can easily switch to permanent DTV operations on its in-core analog Channel 11 after the close of the transition.

WINK-DT's proposed site would be 210.8 km from WFTV(TV)'s co-channel analog facilities. If this were a proposal for a new DTV station, WINK-DT would fail the Commission's minimum spacing requirements by 62.8 km.³ Accordingly, Cox is understandably concerned about WINK-DT's impact on regular, long-standing viewers of WFTV(TV) and urges the Commission to scrutinize the proposed channel change. Although WINK-DT's proposal may satisfy the Commission's calculation of *de minimis* interference levels, as shown in the attached Engineering Statement (Attachment A), the proposal has the potential to decrease the quality of WFTV(TV) service now being received by 269,526 persons (representing 10.76% of the station's service population). This is due to the already high levels of NTSC interference

² *Id.* at 1.

³ 47 U.S.C. § 73.623(d).

being received by WFTV(TV). Cox's concern is exacerbated by the recent accounts of interference to WOOD(TV) in Grand Rapids, Michigan apparently caused by superior near and over-the-water DTV signal propagation.⁴ Cox finds FMBC's stated rationale for the proposed channel change to be insufficient to justify the potential for adverse impact and accordingly asks the Commission to reject the proposal. At a minimum, if the Commission determines that amending the DTV Table is in the public interest and actual interference is found to exceed *de minimis* levels, FMBC should be placed on notice that the Commission will require WINK-DT to reduce its service area or take other steps to not exceed permissible interference levels.

Cox anticipates that WFTV will select its traditional analog Channel 9 as the station's permanent channel for use after the close of the DTV transition. As demonstrated in the Engineering Statement, WFTV-DT operations on channel 9 would cause increased interference of 4.43% to co-channel operations of WINK-DT. Furthermore, WFTV would be precluded from maximizing service on Channel 9 if WINK also selects that channel for permanent operation. It would be unreasonable to deprive WFTV of the full use of its long-time traditional channel simply to improve FMBC's financial prospects. Accordingly, if the Commission determines that WINK-DT's proposed channel change is in the public interest, the station's use of Channel 9 should strictly be conditioned on it abandoning the channel at the close of the DTV transition and switching its DTV operations to its traditional analog channel as quickly as possible.

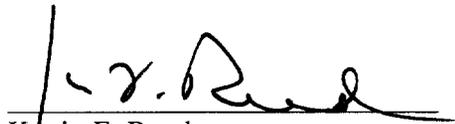
THEREFORE, for the foregoing reasons, Cox respectfully requests that the Commission reject the changes proposed in the *Notice*. FMBC's stated justification for the proposed channel

⁴ Glen Dickson, Lake-Effect DTV Hits Michigan; Snowy Pictures, Not Skies, Plague WOOD-TV Viewers, BROADCASTING & CABLE, Oct. 2, 2000, at 44.

change is insufficient to overcome the potential adverse impact on viewers and other
broadcasters.

Respectfully Submitted,

COX BROADCASTING, INC.

By: 
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Dated: November 22, 2000

CERTIFICATE OF SERVICE

I, Sandra Dallas, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 22nd day of November, 2000, the foregoing "COMMENTS OF COX BROADCASTING, INC." was served via first class mail (except where hand delivery is noted by an asterisk) to the following:

Joseph A. Belisle
Leibowitz & Associates, P.A.
One SE 3rd Avenue, Suite 1450
Miami, Florida 33131
(*Fort Meyers Broadcasting Company*)

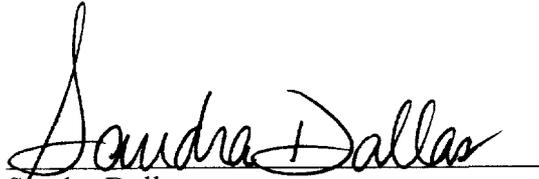

Sandra Dallas

EXHIBIT A

Engineering Statement

**ENGINEERING STATEMENT
IN SUPPORT OF COMMENTS OF
COX BROADCASTING, INC.
IN RESPONSE TO THE
NOTICE OF PROPOSED RULE MAKING
MASS MEDIA DOCKET NUMBER 00-180
AMENDMENT OF SECTION 73.622(b),
TABLE OF ALLOTMENTS,
DIGITAL TELEVISION BROADCAST STATIONS
FORT MYERS, FLORIDA**

INTRODUCTION

This engineering statement was prepared on behalf of Cox Broadcasting, Inc. (Cox), parent of the licensee of commercial television station WFTV, Orlando, Florida, in response to the Notice of Proposed Rule Making in Mass Media Docket Number 00-180 (Notice).¹ As requested by Fort Myers Broadcasting Company (FMBC) in its Petition for Rule Making, the Notice proposes to substitute DTV channel 9 for DTV channel 53 at Fort Myers for use by FMBC's station WINK-DT. This statement shows that use of DTV channel 9 at Fort Myers by WINK-DT will preclude the use of DTV channel 9 at Orlando by WFTV-DT at the end of the transition period unless

¹ Notice of Proposed Rule Making, *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fort Myers, Florida)*, MM Docket No. 00-18-, RM-9956, released October 2, 2000.

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WFTV-DT operates with reduced power and/or antenna height or utilizes a directional antenna and suppresses radiation in the direction of WINK-DT. Further, while the FMBC proposal may appear to have *de minimis* impact on WFTV's licensed analog operation, WFTV is predicted to receive increased interference over a much larger area when existing NTSC interference is ignored.

WFTV, Orlando, Florida, is licensed (FCC File No. BLCT-19991028AAY) to operate on NTSC channel 9 using peak visual effective radiated power (ERP) of 316 kilowatts (kW) and antenna radiation center height above average terrain of 479 meters. The licensed WFTV site is located at geographic coordinates 28° 36' 07" North Latitude, 81° 05' 37" West Longitude referenced to the 1927 North American Datum (NAD 27).

The WFTV-DT construction permit, as modified (FCC File No. BMPCDT-19991018ABA), authorizes operation on DTV channel 39 using ERP of 1000 kilowatts and antenna radiation center HAAT of 484 meters. The authorized WFTV-DT site is located in Christmas, Florida, at geographic coordinates 28° 34' 07" North Latitude, 81° 03' 16" West Longitude (NAD 27).

The authorized WFTV-DT site is located 5.3 kilometers southeast of the licensed WFTV site.

In its petition, FMBC proposes to operate WINK-DT on DTV channel 9 with ERP of 20 kW and antenna radiation center HAAT of 431 meters. The reference coordinates for the proposed DTV channel 9 allotment at Fort Myers are 26° 48' 01" North Latitude, 81° 45' 47" West Longitude (NAD 27).

DISCUSSION

PRECLUSIONARY EFFECT OF ALLOTING DTV CHANNEL 9 AT FORT MYERS, FLORIDA

Interference studies made using the FCC FORTRAN Longley-Rice (FLR) model show that operation DTV channel 9 at the authorized WFTV-DT site with maximum facilities would cause increased interference of 4.43 percent to the proposed DTV channel 9 operation of WINK-DT. This increase in interference exceeds the FCC's two percent criterion for *de minimis* impact. To reduce the increase in interference to the maximum

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permissible under Section 73.623(c)(2) of the FCC Rules, Cox would be forced to limit radiation in the direction of WINK-DT by reducing power and/or antenna height or by using a directional antenna. VHF directional antennas are difficult to realize, and implementation of VHF directional antennas is typically limited to panel-type antenna designs. Consequently, it is extremely unlikely that a directional antenna could be deployed at WFTV-DT that would limit the interference increase to WINK-DT to *de minimis* levels while allowing WFTV-DT to provide the best possible DTV service to the southwest portion of the Orlando-Daytona Beach-Melbourne Florida, Designated Market Area (DMA).

Cox expects to promptly begin DTV operation on channel 9 at the end of the transition period when NTSC operation ceases. By ceasing operation on the current WFTV-DT DTV channel 39 assignment at the end of the transition period, the FCC will be free to use channel 39 and other channels precluded from use by the WFTV-DT operation on channel 39 in the vicinity of Orlando at the earliest possible date. Even if FMBC ceases WINK-DT operation on channel 9 at the end of the transition period as it states in its petition, Cox will have to wait for FMBC to effect its change from

DTV channel 9 to DTV channel 11 at Fort Myers, before it can commence operation on DTV channel 9 at Orlando.

It appears that FMBC intends to select channel 11 for permanent use. Should the FCC ultimately decide that substitution of DTV channel 9 for DTV channel 53 at Fort Myers is in the public interest, the FCC should require WINK-DT to abandon DTV channel 9 for DTV channel 11 at the end of the transition period to assure the unimpaired use of DTV channel 9 at Orlando by WFTV-DT.

**A SUBSTANTIAL INCREASE IN INTERFERENCE
TO WFTV WILL RESULT FROM THE USE OF
DTV CHANNEL 9 AT FORT MEYERS**

Although the FLR predicts a *de minimis* increase in interference to the existing NTSC operation of WFTV, the actual predicted interference increase from FMBC's proposed DTV channel 9 operation is almost 11 percent. Specifically, the FLR model predicts new interference to 1.12 percent of the population within the WFTV Grade B contour or 28,055 persons. However, the FLR model predicts that another 9.64 percent of the

population (241,471 persons) within the WFTV Grade B contour will receive interference from the proposed WINK-DT channel 9 operation in addition to the NTSC interference already being received. Consequently, implementation of the FMBC proposal has the potential to decrease the quality of WFTV service now being received by 269,526 persons or 10.76 percent of the population within the WFTV Grade B Contour.

ENHANCED PROPAGATION

The FCC is aware that propagation along the Gulf Coast and in Florida (the so-called Zone III) often exceeds the average propagation assumption made by propagation prediction models. For this reason, Section 73.610 of the FCC Rules imposes greater minimum distance separations for cochannel stations operating in Zone III than in other parts of the country. Section 73.623(d) of the FCC Rules requires a minimum distance separation of 273.6 kilometers for cochannel VHF NTSC and DTV stations. The proposed reference coordinates for channel 9 at Fort Myers are only 210.3 kilometers from the licensed WFTV site. Thus, use of channel 9 at Fort Myers as a new allotment would not be possible under Section 73.623 of

the FCC Rules because the proposed reference coordinates for DTV channel 9 at Fort Myers are 63.3 kilometers short spaced to WFTV.

CONCLUSION

Use of DTV channel 9 at Fort Myers as proposed by FMBC will prevent WFTV-DT from operating on DTV channel 9 at Orlando with maximum facilities at the end of the transition period. Because use of DTV channel 9 at Orlando would increase interference to the DTV channel 9 operation of WINK-DT proposed by FMBC at Fort Myers, Cox would be required to limit radiation toward WINK-DT by operating with less than maximum facilities or by use of an undesirable directional antenna system that will provide decreased signal strength to the southwest portion of the Orlando-Daytona Beach-Melbourne, Florida, DMA.

Without placing a condition requiring WINK-DT to cease using DTV channel 9 at the end of the transition period, there would be no requirement for WINK-DT to revert to channel 11, the current WINK-TV NTSC channel assignment. Consequently, to eliminate the preclusive effect

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on the use of channel 9 by WFTV-DT caused by the use of DTV channel 9 at Fort Myers, the FCC should require WINK-DT to revert to operation on channel 11 at the end of the transition period if the FCC grants the FMBC petition.

Finally, the interference increase to WFTV caused by the use of DTV channel 9 at Fort Myers could be significantly greater than predicted due to the better than average propagation often experienced in Florida. Implementation of the FMBC proposal has the potential to increase interference to an estimated 269,526 persons or 10.76 percent of the population within the WFTV Grade B Contour.

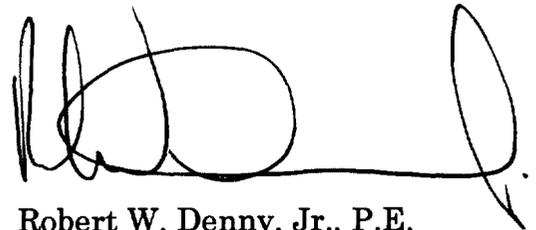
Despite the fact that the exiting WINK-DT channel assignment is outside the core, WINK-DT should be able to revert to the current WINK-TV NTSC channel 11 assignment at the end of the transition period. By denying the FMBC petition, the FCC will prevent additional interference to WFTV

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and allow WFTV-DT to make a prompt transition from channel 39 to
channel 9 at the end of the transition period.



Robert W. Denny, Jr., P.E.

November 22, 2000

