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Federal Communications Commission DA 01-246

Before the
Federal Communications Commission
2001 FEB -5 P 3:18
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.622(b),	)	MM Docket No. 00-162
Table of Allotments,	)	RM-9948
Digital Television Broadcast Stations.	)	
(Fresno, California)	)	

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REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 1, 2001 **Released: February 2, 2001**

By the Chief, Video Services Division:

1. At the request of Ackerley Broadcasting of Fresno, LLC ("Ackerley"), the successor-in-interest to Fisher Broadcasting-Fresno ("Fisher"), licensee of station KGPE(TV) [formerly KJEO(TV)], NTSC channel 47, Fresno, California, the Commission has before it the Notice of Proposed Rule Making, 15 FCC Rcd 17148 (2000), proposing the substitution of DTV channel 34 for station KGPE(TV)'s assigned DTV channel 14.[1] Ackerley filed untimely comments supporting the allotment of channel 34 to Fresno.[2] No other comments were received.

2. Ackerley filed comments stating its intention to apply for DTV channel 34. Ackerley states the public interest will be served by the adopting the channel substitution since operation on DTV channel 34 would cause a maximum of 0.3% interference population increase to co-channel station KPST-DT, while operation on DTV channel 14 would result in a 1.1% interference population increase to the licensed operation of co-channel NTSC TV station KDTV. Ackerley also notes the allotment of channel 34 is necessary to avoid the possibility of unintentional interference to land-mobile operations in the vicinity. Ackerley submits that because channel 14 is located just above the band of frequencies utilized primarily by land-mobile operations, maximizing KGPE's DTV operations with its current allotment may be problematic.

3. We believe the public interest would be served by the proposed substitution of DTV 34 for DTV channel 14 since it could eliminate potential interference to land-mobile operations. DTV channel 34 can be allotted to Fresno, California, as proposed, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (37-04-14 N. and 119-25-31W.). In addition, we find that this channel is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial

[1] Ackerley is now the licensee of station KGPE(TV), pursuant to the Commission's grant of the application for transfer of control on June 30, 2000, from Fisher to Ackerley.

[2] Although untimely filed, we will consider Ackerley's comments in light of the fact that acceptance of Ackerley's expression of interest would not require the denial or dismissal of another timely filed proposal for use of the spectrum.

DTV allotments under Section 73.623(c)(2) for Station KGPE(TV) with the following specifications:

State & City	DTV Channel	DTV power (kW)	Antenna HAAT (m)	DTV Service Pop. (thous.)
CA Fresno	34	330	597	1248

4. Accordingly, pursuant to the authority contained 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 ORDERED, That effective March 19, 2001, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Fresno, California	7, 9, 16, 34 *40

5. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, Ackerley Broadcasting of Fresno, LLC shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV Channel 34 in lieu of DTV Channel 14 for station KGPE(TV).

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

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