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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))
of the Commission's Rules,)
DTV Table of Allotments)
(Albany, New York))

MM Docket No.
RM No.

To: Chief, Video Services Division

COMMENTS ON PETITION FOR RECONSIDERATION

On September 27, 2001, Clear Channel Broadcasting Licenses, Inc., licensee of NTSC station WXXA-TV, Channel 23, Albany, New York ("WXXA"), filed a petition for reconsideration asking the Commission to reconsider its dismissal of WXXA's petition for rule making requesting DTV Channel 7 at Albany in lieu of its assigned Channel 4. In dismissing the petition, the Commission cited the objectionable interference to NTSC station WWNY-TV, Channel 7, Carthage, New York ("WWNY"). See Letter From Clay C. Pendarvis, Chief, Television Branch, Video Services Division, Mass Media Bureau, Federal Communications Commission, to Elizabeth E. Goldin, Clear Channel Broadcasting Licenses, Inc., Wiley, Rein & Fielding (Aug. 28, 2001). Vermont ETV, Inc., licensee of noncommercial educational television station WVER(TV) (NTSC Ch. *28), Rutland, Vermont ("WVER"), files these comments with respect to WXXA's petition for reconsideration.

On April 27, 2000, WVER filed a petition for rule making requesting that the Commission promptly commence a rule making proceeding to amend Section 73.622(b), the DTV Table of Allotments ("DTV Table"), to substitute Channel *7 for Channel *56 as the reserved noncommercial educational ("NCE") DTV channel assigned to WVER ("Petition for

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Rule Making”). The Petition for Rule Making was mutually exclusive with WXXA’s petition for rule making requesting Channel 7 in Albany, New York. WVER has filed concurrently with these comments an amendment to the Petition for Rule Making to request, in the alternative, that the Commission amend the DTV Table to substitute Channel *9 for Channel *56 as WVER’s assigned NCE DTV channel. This would resolve the mutual exclusivity with WXXA, allowing WVER to operate digital facilities on Channel *9 in Rutland, Vermont, and WXXA to operate digital facilities on Channel 7 in Albany, New York.¹

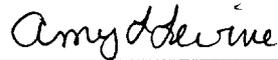
As shown in the amended engineering study WVER submitted with the amendment to its Petition for Rule Making, DTV Channel *9 can be substituted for WVER’s existing Channel *56, allotted to Rutland, Vermont, and assigned to WVER in compliance with Section 73.623 of the Commission’s rules. While Canadian coordination will be necessary because Rutland, Vermont, is located within 400 kilometers of the U.S.-Canadian border, an interference study included in the amended engineering study demonstrates that WVER’s proposed operations on Channel *9 would not cause interference to anyone served by a Canadian station and so would be fully consistent with the recently-adopted Letter of Understanding. The proposed Channel *9 DTV allotment/assignment would have reference coordinates at WVER’s current site in Castleton, Vermont (43-39-32 N, 73-06-25 W) and would operate at a height of 411 m HAAT, with a power of 30 kW ERP. Changing WVER’s DTV allotment/assignment from Channel *56 to Channel *9 would serve the public interest and would clear the way for grant of WXXA’s proposal.

¹ As noted in the amendment, if for any reason the Commission determines that, despite WVER’s engineering analysis, Channel *9 is not a suitable allotment for WVER, WVER asks that the Commission give it Channel *7 in Rutland, Vermont, instead.

While WVER would be satisfied with Channel *7, it supports WXXA's petition because it will enable both broadcasters to have the most suitable channel and provide the best DTV service to their respective communities. WVER has been working cooperatively with WXXA to resolve the problems with WXXA's original petition for rulemaking because it desires to resolve this mutual exclusivity and ensure that each party ends up with a workable and satisfactory DTV allotment. Therefore, to the extent that the mutual exclusivity can be resolved and both petitions granted by allotting Channel 7 to Albany, New York, and assigning it to WXXA while allotting Channel *9 to Rutland, Vermont, and assigning it to WVER, WVER supports WXXA's proposal.

For the foregoing reasons, Vermont ETV, Inc. supports WXXA's request for reconsideration.

Respectfully submitted,



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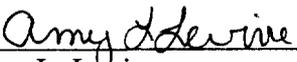
October 9, 2001

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of October, 2001, a copy of the foregoing Comments on Petition for Reconsideration was served via first-class mail, postage prepaid on the following:

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