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Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: GN Docket No. 01-74 /
Ex-Parte Disclosure
Section 1.1206 of the Rules

Dear Ms. Salas:

Please be advised that Peter C. Pappas, Executive Vice President for Government and Regulatory Affairs of Pappas Telecasting Companies, and Vincent J. Curtis, Jr., FCC Counsel, met with David L. Furth and Paul D'Ari of the Wireless Bureau and Richard Chessen of the Mass Media Bureau on October 25, 2001 at the offices of the Commission, 445 12th Street, S.W., Washington, D.C. to discuss pending applications and rule makings filed by Pappas Telecasting of America ("PTA"), an affiliate of Pappas Telecasting Companies, which are the subject of the Commission's on-going proceeding re "Reallocation and Service Rules for the 698-740 MHz Spectrum Band (Telecommunication Channels 52-59), GN Docket No. 01-74 (Channel 52-59 RM).

In particular, the rule makings and applications discussed were:

(1) Derby, Kansas: In July 1996, PTA petitioned the FCC to allocate Channel 46 to Derby, Kansas. An allotment to Derby will provide this community with its first local transmission service, which is a major goal of the Communications Act. It will also meet the second telecommunications priority established in the Sixth Report and Order, Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing a television station to every community.

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In July 2000, PTA amended its request to change the channel to Channel 59 pursuant to the Commission's Public Notice, 14 FCC Red 19559 (1999) ("Window Filing Notice"), because of a potential conflict with the allotment of DTV Channel 45 at Wichita, Kansas.

The Commission initially agreed with PTA and adopted a Notice of Proposed Rule Making (NPRM), DA-01-391, released February 20, 2001, proposing to allot Channel 59 to Derby. However, in the Notice of Proposed Rule Making relating to Channel 52-59, which was released on March 28, 2001, the Commission froze any further allocations or assignments relating to Channel 59, and it therefore became necessary for PTA to find a new channel. In response to the comment date established in the Derby NPRM, PTA suggested that either Channel 54 or Channel 58 would be an acceptable alternative to Channel 59. Both are in full compliance with the Commission's rules and involve no interference to either analog or DTV authorizations or allotments. In addition, the public interest policy goals set forth above certainly apply in this case.

(2) Owensboro, Kentucky: On July 22, 1996, PTA filed an application for a new television station on allocated Channel 48 at Owensboro. A mutually exclusive application was filed by South Central Communications Corporation (SCCC) on September 20, 1996. On January 30, 1997, PTA and SCCC filed a "Joint Request for Approval of Universal Settlement" whereby SCCC's application would be dismissed and PTA's application granted.

Despite earlier public statements that it would protect pending applications during the DTV allotment proceeding, the DTV table of allotments set forth in the Commission's Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, FCC 98-24 (released February 23, 1998), inserted a new DTV Channel 47 into Bowling Green, Kentucky, which caused the Channel 48 Owensboro application to be short-spaced. To overcome this problem, PTA and SCCC requested, in October 2000, to change the Owensboro allotment to Channel 47. In May of 2001, it was discovered that a maximization application filed by WAVE-DT, Channel 27, Louisville, Kentucky, prohibited consideration of the use of Channel 47 in Owensboro. This application was not discovered earlier because of problems with the Commission's data base. As a result, PTA and SCCC, subsequently requested, on May 25, 2001, that Channel 57 be substituted in the table for Channel 48.

The allotment of Channel 57, because of the pending settlement, would allow an immediate approval of the settlement and grant of the PTA application, resulting in new service to over 540,000 people. The proposal does not involve interference to any analog or DTV authorizations or allotments. Thus, there is a clear identified public interest in granting it.

(3) New Castle, Pennsylvania: PTA filed a Petition for Rule Making in July 1996 to allocate Channel 56 to New Castle, Pennsylvania. At the time, it met all spacing requirements. Because of the adoption of the DTV table of allotments, several potential problems arose. In an

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amended filing on July 17, 2000, PTA addressed each of these potential problems.

First, there was a +7 oscillation taboo relative to Channel 48, Jeanette, Pennsylvania. The engineering statement filed with PTA's amendment showed that the interference, if existing at all, would be minimal to New Castle not Jeanette. Also, it was shown that because of improvement in the manufacturing of receivers since the taboo was initially established, there would be no actual interference and, in fact, the Commission has waived short-spaced proposals such as New Castle on many other occasions (See, Letter dated May 31, 1996 from Barbara A. Kreisman, Chief, Video Services Division, Mass Media Bureau to Montgomery County Media Network, Inc. (Reply Ref: 1800OE-1DOB).

This amendment also showed that minor short-spacings would occur with the DTV Channel 57 allotment at Steubenville, Ohio and Channel 48 DTV allotment for Pittsburgh, Pennsylvania. Despite the short-spacings, however, it was shown that there would be no interference to Channel 48 and less than 0.5% interference to Channel 57 – a negligible and acceptable amount. Thus, there are no impediments to approval of that allotment to New Castle.

Moreover, the allotment of Channel 56 will provide a first local transmission service and a new service to over 3.3 million people. Again, this allotment would clearly serve the public interest.

(4) Boynton Beach, Florida: On July 22, 1996, PTA filed a Petition for Rule Making to allocate Channel 15 to Boynton Beach. As proposed, the station would provide a first local transmission service and new service to over 4.1 million people. Because the adoption of the DTV Table of Allotments resulted in a number of non-correctable short-spacings, PTA amended its petition on July 2000, requesting that the Commission allocate DTV Channel 57 to Boynton Beach in lieu of analog Channel 15.

PTA demonstrated that it looked very carefully into the opportunity to find an in-core analog channel but that none was apparently workable. PTA, therefore, agreed to accept and file for a construction permit for a DTV stand alone on Channel 57. The only "apparent" technical glitch is a short-spacing to the analog allotment of Channel 59 to Stuart, Florida. As the Commission's record shows, however, the Commission has granted a construction permit for DTV Channel 59 at Stuart, rendering technically impossible an analog operation on the channel in that community. There are no other technical issues.

Moreover, it is submitted that the Window Filing Notice issued by the Mass Media Bureau in November, 1999 (14 FCC Rc'd at 19563), relying on the Commission's Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Order, 14 FCC Rc'd 1348 (1998) (Second M&O) (which allowed parties to go directly to DTV), provided that "persons with pending rule making petitions for Channels 2-59 shall amend their petitions

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[within the window] to specify a different channel below Channel 60 if their requested channel is in conflict with a DTV station." This PTA has done.

In addition to the public interest goals listed above, allotting Channel 57 as a DTV operation would clearly advance the goal of DTV transition.

(5) Charleston, West Virginia: On July 22, 1996, PTA filed an application for a construction permit for a new television station to operate on Channel 23, which was an allotted channel. As a result of the adoption of the DTV table, the Channel 23 proposal would cause interference to DTV allotments on Channel 26 in Ashland, Kentucky and a co-channel DTV allotment at Huntington, West Virginia. Accordingly, pursuant to the Window Filing Notice, supra, PTA, on July 14, 2000, filed a Petition for Rule Making requesting the allotment of Channel 55 to Charleston, West Virginia, in lieu of Channel 23. That proposal met the interference requirements as to both analog and DTV operations.

Two other proponents, Grant Telecasting, Inc. who originally filed for Channel 50 at Ashland, Kentucky, and Davis Telecommunications Fairmont, LLC, who filed for Channel 66, Fairmont, West Virginia, both in 1996, also have now proposed to change their requests to Channel 55. As a result, the three proposals are, therefore, mx'd, assuming their changes are acceptable.

PTA has raised the issue of allowing it to modify its pending application on Channel 23 and its rule making proposal for Channel 55 to request assignment of DTV Channel 54. That would not only eliminate the mx'd situation with Davis and Grant but also provide a new service to over 1.5 million people. Further, by going directly to DTV, this proposal will advance the DTV transition.

PTA recognizes that the Commission faces the ultimate need to clear the Channel 52-59 frequencies for commercial wireless use. As a practical matter, the items listed above will have very little impact on the goal of channel clearance. Not only are these – and similarly situated applications and rule makings – small in number, but more importantly the large number of existing incumbents make it highly unlikely that they will be able to clear these frequencies prior to transition. Thus, the granting of these pending rule makings and applications will be of little relevancy to the goal of clearance.

From a timing aspect, these changes, with proper direction from the Commission, can be finalized in a relatively short time frame.

Pappas Telecasting Companies is an experienced broadcasting company and is currently the largest privately held broadcast television group in the United States. It currently has affiliation connections with Fox, the WB Television Network and Azteca America, the emerging

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Spanish language television network.

PTA intends to affiliate with the WB in New Castle, Boynton Beach and Charleston, and will explore other affiliation arrangements, perhaps with Azteca America, for Derby and Owensboro. In any event, the Company will employ these stations in a manner that best serves their respective communities, relying upon its deep roots as an experienced broadcaster going back to the early days of UHF Television, when it put KMPH (TV) on the air in 1971 as an independent station in Visalia, California.

Respectfully submitted,

Vincent J. Curtis, Jr.
Counsel to Pappas Telecasting Companies

VJC/st
cc: Paul D'Ari, via e-mail
David Furth, via e-mail
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