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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)
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)
Amendment of Section 73.606(b),)
Table of Allotments,)
Television Broadcast Stations.)
(Green Bay, Wisconsin))
)
)
To: Chief, Video Services Division

MM Docket No. 01-325
RM-10136

COMMENTS IN OPPOSITION TO PROPOSED RULEMAKING

Television Wisconsin, Inc. ("WISC"), licensee of WISC-DT (Channel 50; NTSC Channel 3), Madison, Wisconsin (FRN: 0002-7155-63), by counsel, hereby submits its Comments opposing the FCC's proposed amendment to the Television Table of Allotments to change the allotment for NTSC Channel 44 at Green Bay, Wisconsin to Channel 50.¹

The Commission's proposed rule change responds to a Petition for Rulemaking filed by Green Bay 44, L.L.C. ("Green Bay 44") pursuant to a *Public Notice* inviting applicants for new analog television stations to submit modification requests eliminating technical conflicts with DTV stations.² Green Bay 44, the applicant for a new television station on NTSC (analog) Channel 44 at Green Bay, seeks to substitute Channel 50 for the existing NTSC Channel 44 allotment at Green Bay.

Green Bay 44's proposed NTSC Channel 50 allotment at Green Bay interferes with WISC's authorized facilities. WISC holds a permit authorizing construction of DTV Channel 50

¹ *Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations (Green Bay, Wisconsin), Notice of Proposed Rulemaking*, MM Docket No. 01-325, DA 01-2753, released November 30, 2001 ("NPRM").

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at Madison, Wisconsin at “maximized” parameters, with a maximum effective radiated power of 603 kilowatts and radiation center height above average terrain of 466 meters.³ As demonstrated in the attached Engineering Exhibit, the proposed channel change will cause a 0.8% increase in interference to WISC’s maximized facilities, which were proposed October 27, 1999 and granted October 31, 2000.⁴

As discussed in the *Public Notice*, “[p]etitions to *change* the channel of an existing allotment must protect DTV stations as provided in Section 73.623 (c) [of the Commission’s Rules], but without any allowance to create *de minimis* interference as defined in 73.623 (c)(5).”⁵ To account for rounding and calculation tolerances, the Commission has interpreted Section 73.623(c) to permit up to a 0.5% reduction in the population served by the affected station.⁶ Thus, Green Bay 44’s proposal may not exceed this 0.5% interference standard with respect to WISC. Green Bay 44 may not take advantage of the 2.0% interference standard Section 73.623(c)(2) affords to DTV applicants.⁷

Green Bay 44 demonstrates that its proposal would cause a permissible 0.4% increase in interference to the initial allotment for WISC-DT. This showing is inadequate because it fails to consider increased interference to WISC’s authorized facilities. The *Public Notice* specifies that the “DTV Stations” requiring protection “include[] authorizations, applications, allotments and

² Public Notice, “Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations,” DA 99-2605, released November 22, 1999 (“*Public Notice*”).

³ FCC File No. BPCDT-19991027ABG. WISC currently operates the station pursuant to Special Temporary Authority with an effective radiated power of 380 kilowatts. See Letter from H. John Morgan, Assistant Chief, Video Services Division, to Television Wisconsin, Inc., 1800-DOB, released September 6, 2001.

⁴ Engineering Exhibit at 1.

⁵ *Public Notice* at 5.

⁶ 47 C.F.R. § 73.623(c); Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, 24 C.R. 727 (2001) at ¶ 16; *Public Notice*, “Additional Application Processing Guidelines for Digital Television,” released August 10, 1998, at 4.

⁷ *Id.*

proposals.”⁸ Furthermore, Section 73.622 (f)(5) of the Rules provides that maximized facilities should be used to determine interference protection where the coverage area of a DTV station extends beyond the coverage area established in the initial DTV allotment.⁹ Accordingly, Green Bay 44’s proposal must protect the maximized facilities WISC proposed on October 27, 1999 using the 0.5% interference standard.

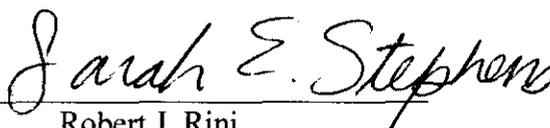
As demonstrated herein, Green Bay 44’s proposal causes a 0.8% decrease in the population served by WISC-DT’s existing maximized authorization. WISC has not agreed to accept this interference. As a consequence, the Commission’s proposed change in the Table of Allotments fails to meet the standards set forth in the *Public Notice* and the Commission’s Rules.

WHEREFORE, for the reasons set forth above, WISC strongly opposes the Commission’s proposal to change the allotment for NTSC Channel 44, Green Bay, Wisconsin, to Channel 50. WISC respectfully urges the Commission to dismiss Green Bay 44’s Petition for Rulemaking and terminate this proceeding without change in the Television Table of Allotments.

Respectfully submitted,

TELEVISION WISCONSIN, INC.

By:



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Sarah E. Stephens

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January 18, 2002

⁸ *Public Notice* at 5; see also *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, 14 FCC Rcd 1348 (1998) at ¶ 40.

⁹ 47 C.F.R. § 73.622(f)(2).

**Station WISC-DT
DTV Channel 50
Madison, Wisconsin**

**Engineering Exhibit
in Support of Comments to
MM Docket 01-325
New NTSC Channel 50
Allotment for Green Bay, Wisconsin**

January 16, 2002

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HE **HAMMETT & EDISON, INC.**
CONSULTING ENGINEERS
SAN FRANCISCO

**Station WISC-DT • DTV Channel 50 • Madison, Wisconsin
Engineering Exhibit in Support of Comments to MM Docket 01-325**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Television Wisconsin, Inc., licensee of Station WISC-TV, NTSC Channel 3, Madison, Wisconsin, and permittee of Station WISC-DT, DTV Channel 50, Madison, Wisconsin, to prepare this engineering exhibit in support of comments to MM Docket 01-325 concerning substituting NTSC Channel 50 for NTSC Channel 44 at Green Bay, Wisconsin.

Background Information

The Green Bay 44, L.L.C. ("GB44") petition for rulemaking, as amended, proposes to build a new NTSC TV station operating at 2,000 kW peak visual effective radiated power ("ERP") using a directional antenna ("DA") at 44° 30' 48" N, 88° 00' 24" W, NAD27, with a center-of-radiation height of 573 meters AMSL/339 meters HAAT. The attached Figure 1 shows the proposed DA pattern.

Proposed NTSC Channel 50 Would Fail To Protect WISC-DT

As shown by the attached OET-69 interference study, Figure 2, the proposed NTSC Channel 50 facilities would cause a 0.4% increase in interference to the WISC-DT allotment. Under the FCC's 0.5% "*de minimis*" policy, this would be acceptable, because when rounded to the nearest integer percent the interference becomes zero. However, and also as shown by the attached Figure 2, the proposed NTSC Channel 50 facilities would cause an impermissible 0.8% interference to the permitted, non-checklist, "maximized" WISC-DT facilities.*

Because even limited facilities of 2,000 kW (DA) at 339 meters HAAT would cause impermissible interference to WISC-DT, it follows that class maximum NTSC facilities of 5,000 kW omnidirectional at 610 meters HAAT would also not be permitted. Thus, the proposed allotment could never be an NTSC allotment in the conventional sense, allowing the use of maximum height (610 meters) and power (5,000 kW) facilities, but would always require a significant restriction in order to protect WISC-DT. Indeed, for the proposed site, height, and DA pattern, the main-beam peak visual ERP would have to be reduced to a mere 48.5 kW in order to protect WISC-DT.

* The engineering exhibit submitted by GB44 as part of its July 14, 2000, Petition for Rulemaking studied the WISC-DT allotment. However, on October 31, 2000, WISC-DT was granted its CP for non-checklist, "maximized," DTV facilities. Pursuant to Page 4 of the August 10, 1998, *Additional Application Processing Guidelines for Digital Television (DTV)*, non-checklist applications, CPs, and licenses must also be protected.

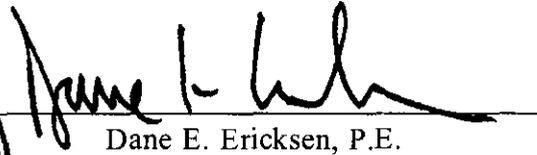
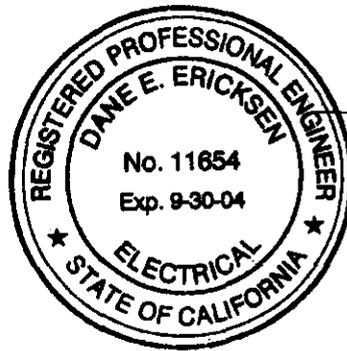
Station WISC-DT • DTV Channel 50 • Madison, Wisconsin
Engineering Exhibit in Support of Comments to MM Docket 01-325

List of Figures

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. Proposed NTSC Channel 50 directional antenna pattern
2. OET-69 interference study for proposed NTSC Channel 50 facilities.

January 16, 2002

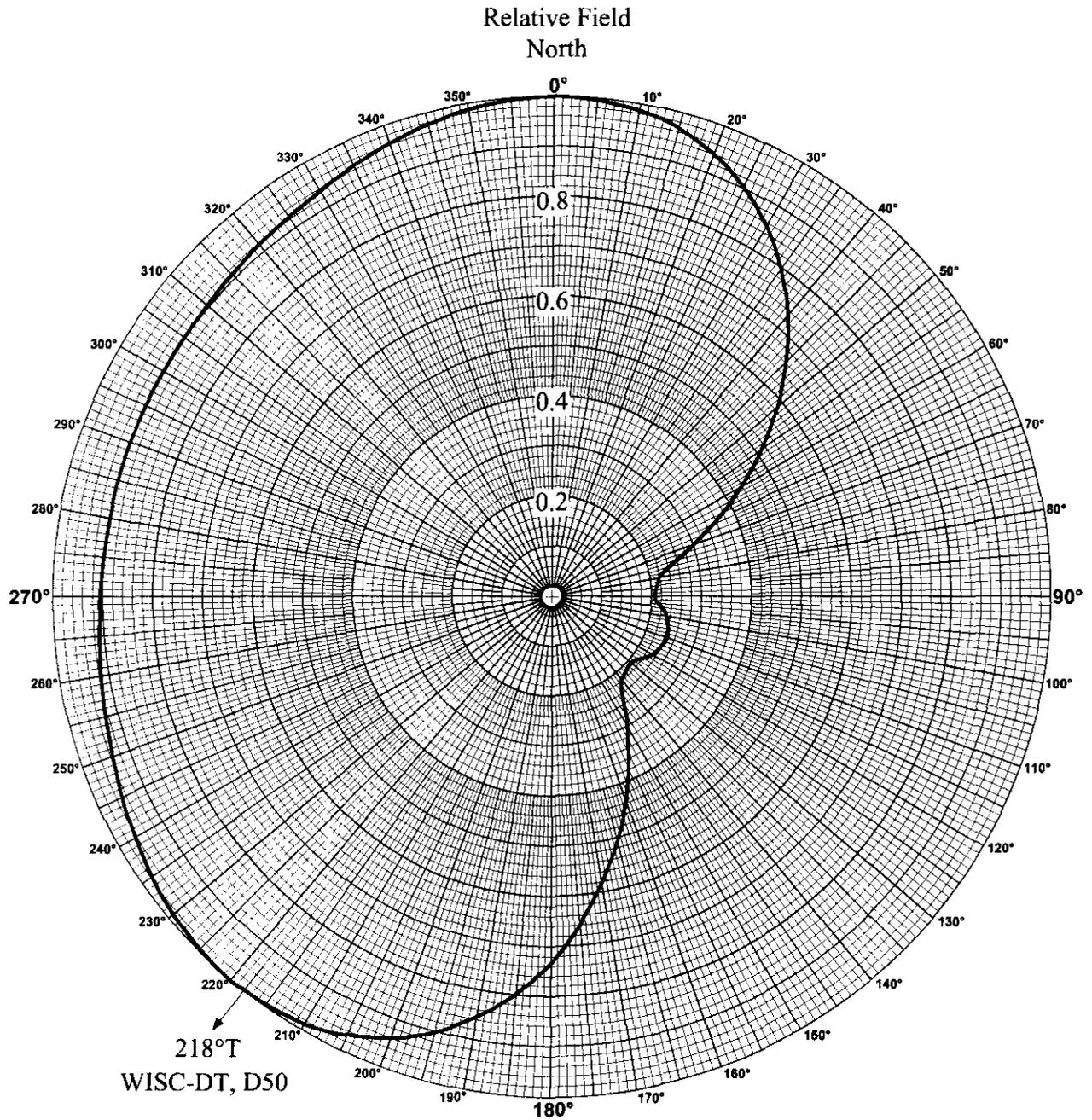
A handwritten signature in black ink, appearing to read "Dane E. Ericksen", written over a horizontal line.

Dane E. Ericksen, P.E.

Station WISC-DT • DTV Channel 50 • Madison, Wisconsin
Engineering Exhibit in Support of Comments to MM Docket 01-325

Proposed Directional Antenna Pattern for New NTSC Channel 50 TV Station
at Green Bay, Wisconsin

2,000 kW (DA) at 573 meters AMSL / 339 meters HAAT



**Station WISC-DT • DTV Channel 50 • Madison, Wisconsin
Engineering Exhibit in Support of Comments to MM Docket 01-325**

**OET-69 Interference Study for New Channel 50 NTSC TV Station
at Green Bay, Wisconsin**

Interference analysis
tvixstudy 2.3.13

Before case parameters:
(same as "Original" below)

After case parameters:

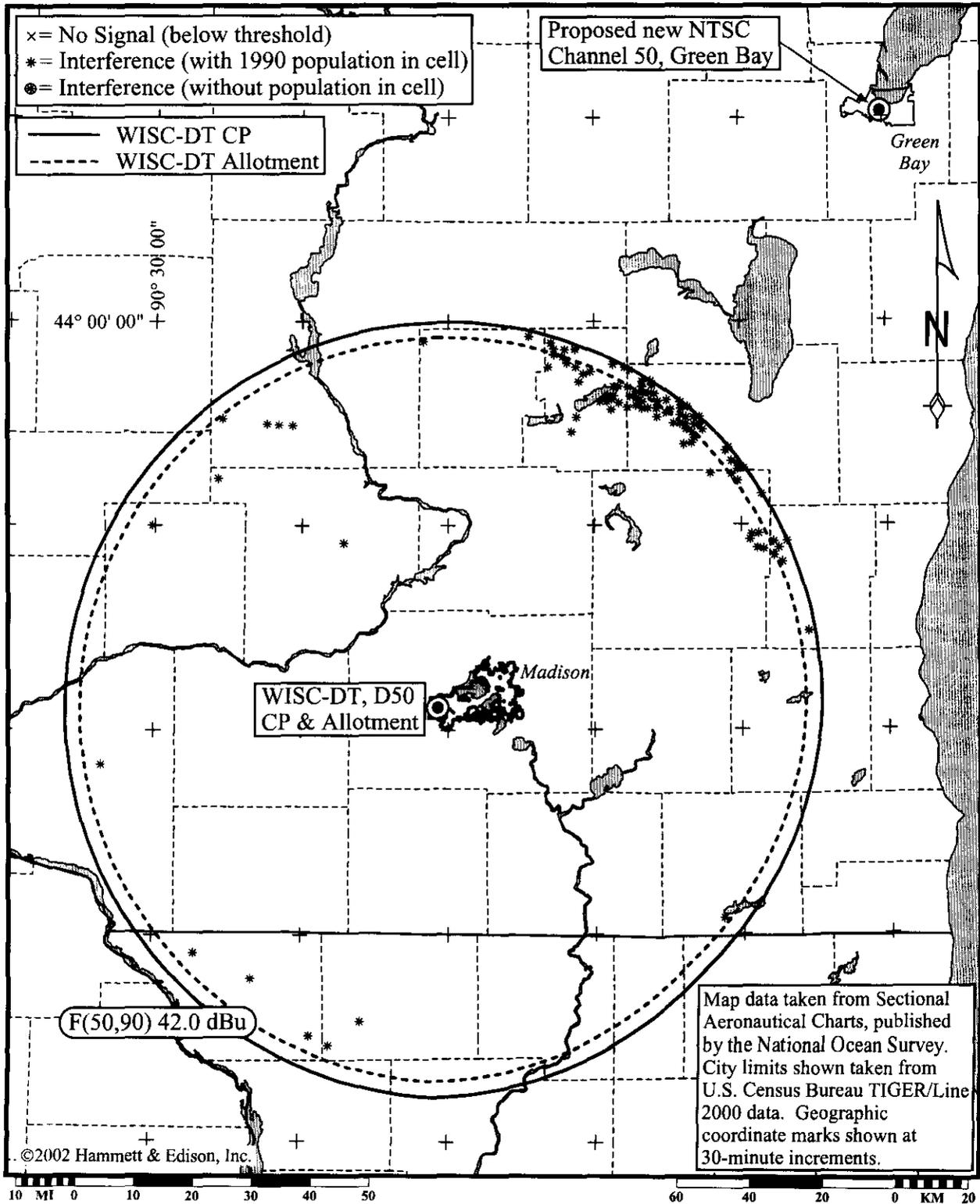
	--Modified-----	--Original-----
Station:	N50 960920YF APP	N44 960920YF APP
City:	GREENBAY, WI	GREENBAY, WI
Coordinates:	N 44-30-48.0	N 44-30-48.0
	W 88-00-24.0	W 88-00-24.0
Height AMSL:	573.0 m	573.0 m
Maximum ERP:	2000 kW	5000 kW
Azimuth pattern:	N50.GREEN_BAYaz.pat	omnidirectional
Orientation:	0.0	
Elevation pattern:	OET-69 generic	OET-69 generic
Service level:	65.0 dBu	64.5 dBu

Protected station	BasePop 1000s	Before		After		
		IX Change 1000s	%Base	IX Change 1000s	%Base	%Chng
N36 WMVT LIC MILWAUKEE, WI	1,879	--	--	--	--	--
N36 WMVT CP MILWAUKEE, WI	2,053	--	--	--	--	--
N50 WPWR-TV LIC GARY, IN	8,335	--	--	--	--	--
N49 WJJA CP RACINE, WI	2,105	--	--	--	--	--
D50 KSTPDT allot ST. PAUL, MN	2,991	1	0.0	1	0.0	0.0
D50 WPBN-DT CP TRAVERSE CITY, MI	404	16	4.0	17	4.2	0.2
D50 WPBNDT allot TRAVERSE CITY, MI	404	2	0.5	2	0.5	0.0
D51 WLUK-DT CP GREEN BAY, WI	1,007	20	2.0	20	2.0	0.0
D51 WLUKDT allot GREEN BAY, WI	1,007	2	0.2	2	0.2	0.0
D50 WISC-DT CP MADISON, WI	1,315	-112	-8.5	-101	-7.7	0.8
D50 WISCDT allot MADISON, WI	1,315	-2	-0.2	2	0.2	0.4

Note: The results of the OET-69 algorithm are dependent on the use of computer databases, including terrain, population, and FCC engineering records. FCC Rules Section 0.434(e) specifically disclaims the accuracy of its databases, recommending the use of primary data sources (i.e., paper documents), which is not practical for DTV interference analyses. Further, while Hammett & Edison, Inc. endeavors to follow official releases and established precedents on the matter, FCC policy on DTV analysis methods is constantly changing. Thus, the results of OET-69 interference and coverage studies are subject to change and may differ from FCC results.

Station WISC-DT • DTV Channel 50 • Madison, Wisconsin
 Engineering Exhibit in Support of Comments to MM Docket 01-325

OET-69 Interference Study Map for
 WISC-DT, D50, Madison vs.
 New NTSC Channel 50 at Green Bay



CERTIFICATE OF SERVICE

I, Yvette Graves, a legal secretary with the law firm of Manatt, Phelps & Phillips, LLP, hereby certify that on this 18th day of January, 2002, copies of the foregoing "Comments in Opposition to Proposed Rulemaking" were hand delivered to the following persons at the Commission's hand-delivery receiving location, 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002:

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*Served via first class U.S. Mail, postage pre-paid.