

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.622(b),)	MM Docket No. 01-306
Table of Allotments,)	RM-10152
Digital Television Broadcast Stations)	
(Hartford, Connecticut))	
)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Video Services Division

**REPLY COMMENTS OF
FOX TELEVISION STATIONS, INC.**

Fox Television Stations, Inc. ("Fox") replies to the Comments filed January 4, 2002 by Outlet Broadcasting, Inc., a wholly owned subsidiary of National Broadcasting Company, Inc. and licensee of NTSC television station WVIT, New Britain, Connecticut ("Outlet/NBC"), in opposition to the proposal to allot DTV channel 31 to WTIC-DT, Hartford, Connecticut.¹ As demonstrated below, the proposed allotment

¹ The Notice of Proposed Rulemaking to amend the DTV Table of Allotments specified that interested parties may file comments on or before December 17, 2001, and reply comments on or before January 2, 2002. See *Amendment of Section 73.622(b), Table of Allotments, Digital Broadcast Stations (Hartford, Connecticut)*, Notice of Proposed Rulemaking, MM Docket No. 01-306, RM-10152, DA-2468, para. 6 (rel. Oct. 26, 2001) ("*Hartford NPRM*"). Tribune Television Company, licensee of WTIC-DT, filed comments in support of the proposed allotment change on November 9, 2001. On December 17, 2001 and December 21, 2001, Outlet/NBC filed consent motions requesting an extension of the last day for filing comments to December 21, 2001 and January 4, 2002, respectively. Under the timetable established by the Commission in the Notice of Proposed Rulemaking, reply comments were due 15 days after the deadline for filing comments. In keeping with this original timetable for filing reply comments, Fox is filing its Reply within 15 days of the filing date of Outlet/NBC's Comments in opposition.

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modification fully complies with Section 73.623(c)(2) of the Commission's rules, 47 C.F.R. § 73.623(c)(2).

I. Consistent with the Commission's Rounding Tolerances, the Proposed Allotment Causes 0.0% New Interference to NTSC Station WVIT, New Britain, Connecticut.

In the Notice of Proposed Rulemaking, the Commission found that DTV channel 31 could be substituted for DTV channel 5 at Hartford, Connecticut, as proposed, consistent with the Commission's rules.² The proposed allotment is premised on the collocation of WTIC-DT, channel 31, and WEDH-DT, channel 32, Hartford, Connecticut, at a transmitter site on Rattlesnake Mountain to eliminate the slightly more than de minimis interference to the allotted facilities of WEDH-DT that would otherwise occur. Although the channel change will cause slightly more than de minimis interference to WFXT-DT, Boston, Massachusetts, this station has agreed to accept the additional interference.³ Nonetheless, Outlet/NBC argues that the proposal should not be adopted because interference may be received by a population so tiny that it is ignored due to rounding under the Commission's rules.

Outlet/NBC contends that a rounding-down procedure may not be used in interference calculations for stations that are already subject to more than 10% cumulative interference.⁴ On the contrary, the Commission's DTV Additional Processing Guidelines expressly provide a general rule for rounding tolerances in determining compliance with the interference criteria: "Determinations of compliance with the rules

² See *Hartford NPRM*, para. 3.

³ See *id.*

⁴ See *Outlet/NBC Comments* at 2.

will be based on the Commission's implementation of the [Longley-Rice propagation model] software, *with the result rounded to the nearest tenth of a percent.*"⁵

Citing an "illustrative" example from the DTV Additional Processing Guidelines, Outlet/NBC contends that rounding-down is permitted only when determining compliance with the 2% *de minimis* interference rule.⁶ The cited example, however, immediately follows the statement of the general rule, quoted above but omitted by Outlet/NBC, that rounding may be used to demonstrate compliance with the interference rules.

Nothing in the example limits the general rule as to rounding. The example merely indicates that it is appropriate to round 2.04% to 2.0% in the case, for example, of a station that already receives interference to 8.0% of its population because the resulting cumulative interference would not be "in excess" of 10.0%.⁷ The example does not even address, much less indicate that rounding may not be used in, the case of a

⁵ Public Notice, "Additional Application Processing Guidelines for Digital Television (DTV)," Aug. 10, 1998, at 8 (emphasis added) ("DTV Additional Processing Guidelines").

⁶ See Outlet/NBC Comments at 3. The example cited by Outlet/NBC reads: "Thus, for example, interference to 2.04% of a station's population will be considered *de minimis* unless it exceeds the 10% threshold." See Outlet/NBC Comments at 3 (quoting DTV Additional Processing Guidelines at 8).

⁷ Section 73.623 of the Commission's rules provides that a DTV modification must "not result in more than an additional 2 percent" interference to the population served by another station (the so-called "2% *de minimis* interference rule"), provided that:

no new interference may be caused to any station that already experiences interference to 10 percent or more of its population *or that would result in a station receiving interference in excess of 10 percent of its population.*

47 C.F.R. §73.623(c)(2) (emphasis added).

station that already experiences interference to 10% or more of its service area population.⁸

Nor is there any basis for Outlet/NBC's argument that rounding is inappropriate in light of the Commission's "masking" policy.⁹ Nothing in the DTV Additional Processing Guidelines quoted above suggests that rounding should be used only in limited circumstances. Outlet/NBC itself indicates that it is not arguing for change in the Commission's masking policies.¹⁰ Accordingly, Outlet/NBC's interference calculations that include "masked" interference are irrelevant, and its attack on the Commission's rounding procedures is without merit. Moreover, any miniscule impairment to WVIT's NTSC coverage attributable to rounding tolerances will be only temporary because DTV-to-NTSC interference will cease once the DTV transition is complete.

⁸ Nothing in the Commission's rules supports Outlet/NBC's contention that the 10% limit is "absolute" and not subject to rounding. *See* Outlet/NBC Comments at 3. The DTV Table of Allotments itself is subject to many exceptions, including WVIT, which receive cumulative interference affecting greater than 10% of their service area populations. Outlet/NBC's fear that WVIT may be subjected to further interference due to rounding is highly speculative at best. *See* Outlet/NBC Comments at 4.

⁹ Section 73.623(c) of the Commission's rules states that "interference to populations served is to be predicted based on the procedure set forth in *OET Bulletin No. 69, . . .*" 47 C.F.R. § 73.623(c)(2) (emphasis in original). In explaining how to calculate the presence or absence of interference, OET Bulletin No. 69 provides that "a DTV station does not cause interference to analog stations in places where there is no service because of a weak desired signal, or in places where interference from other analogue stations already exists." OET Bulletin No. 69 at 9. Fox's calculation of the WVIT population affected by predicted interference from the proposed DTV channel 31 allotment thus properly disregarded those service areas "masked" by pre-existing interference from other stations.

¹⁰ *See* Outlet/NBC Comments at 4.

II. The Proposed Allotment Complies with the DTV Processing Rules and Therefore Should Be Granted Expeditiously Without Any Condition that WTIC-DT Remain Substantially Co-located with WVIT.

Outlet also requests that the Commission require Tribune or any successor licensee of WTIC-DT to maintain a transmitter site substantially co-located with that of WVIT.¹¹ This request would remain in effect even if WVIT converts to digital operations on channel 30.

Outlet/NBC's speculation about potential interference from future changes in the WTIC-DT transmitter location provides no foundation for imposing a collocation condition on the allotment. The proposed allotment is premised on the collocation of WTIC-DT, channel 31, and WEDH-DT, channel 32, at a transmitter site on Rattlesnake Mountain at the specified coordinates (41-42-13 N. and 72-49-57 W.). To the extent Tribune or any future licensee of WTIC-DT desires to modify the station's facilities by moving the transmitter to a different location, the licensee must file a modification application demonstrating compliance with the 2% de minimis and 10% cumulative interference requirements set forth in section 73.623(c)(2).¹² The Commission's DTV interference criteria adequately protect all television stations -- including NTSC station WVIT -- from any impermissible incremental interference resulting from future DTV facility modifications. And, as Outlet/NBC itself recognizes, there are no adjacent channel interference concerns if WVIT converts to digital operations.¹³

¹¹ See Outlet/NBC Comments at 7.

¹² See 47 C.F.R. §§ 73.622(d)(2), 73.623(c).

¹³ See Outlet/NBC Comments at 7 (stating that co-location is required "if first adjacent-channel interference to WVIT's *analog* operation is to be minimized") (emphasis added).

The Commission therefore has no reason to condition the allotment change on a requirement that WTIC-DT remain substantially collocated with WVIT(TV). Fox agrees, however, that the Hartford DTV channel 31 allotment should be designated with a “c” to minimize the potential for interference to WVIT’s audio carrier, pursuant to section 73.622(g)(1) of the Commission’s rules, 47 C.F.R. § 73.622(g)(1).

As demonstrated in Fox’s Petition for Rulemaking, the proposed amendment of the DTV Table of Allotments to substitute DTV channel 31 for DTV channel 5 in Hartford serves the public interest by (1) increasing overall the number of persons able to receive interference-free television service, (2) enabling WTIC-DT to achieve greater service area replication, and (3) relieving short-spacing problems associated with the sub-optimum DTV channel 5 allotment in Hartford. Specifically, the proposed channel 31 allotment will result in a net gain of over 720,000 persons who will be able to receive interference-free television service in the congested northeastern United States and will enable WTIC-DT to replicate 88.9% of its NTSC service area, whereas the current channel 5 allocation will replicate only 86.5%. Outlet/NBC has offered no valid reasons for rejecting the proposed DTV channel 31 allotment, which would deny hundreds of thousands of people the ability to receive interference-free television.

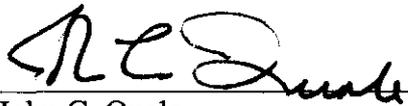
Conclusion

Because the proposed DTV channel 31 allotment in Hartford complies with the Commission’s incremental interference criteria and will result in a significant net gain in interference-free television service, the Commission should reject Outlet/NBC’s

unfounded theory regarding rounding tolerances and expeditiously grant the proposed channel 31 allotment, unburdened by any collocation condition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Katherine M. Kline, hereby certify that on this 22nd day of January, 2002, a copy of the preceding Reply Comments of Fox Television Stations, Inc. was served via first class mail on the following:

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