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March 8, 2002

Via Hand Delivery

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, D.C. 20554

MAR 8 2002  
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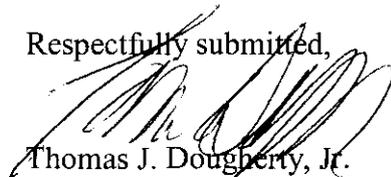
Re: MASS MEDIA BUREAU, VIDEO SERVICES DIVISION  
Amendment to Joint Petition for Rule Making to Change the Television  
Table of Allotments (Digital and NTSC) for Fairmont, WV

Dear Mr. Caton:

Transmitted herewith, on behalf of Davis Television Fairmont, LLC and Marri Broadcasting, L.P., are an original and four copies of the above-referenced Amendment to their Joint Petition for Rule Making.

Please contact the undersigned if you having any questions concerning this Amendment.

Respectfully submitted,



Thomas J. Dougherty, Jr.  
Counsel for Marri Broadcasting, L.P.

cc (w/encl.): Dennis P. Corbett, Esq.

cc (w/encl.): Dennis P. Corbett, Esq. 014  
MAR 8 2002

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

RECEIVED  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of: )  
)  
Amendment of Section 73.606(b) ) RE \_\_\_\_\_  
Television Table of Allotments )  
(Fairmont, West Virginia) )  
)  
Amendment of Section 73.622(b) )  
Television Table of Allotments )  
(Fairmont, West Virginia) )

TO: CHIEF, VIDEO SERVICES DIVISION

**AMENDMENT TO JOINT PETITION FOR RULE MAKING**

Davis Television Fairmont, LLC and Marri Broadcasting, L.P. (the "Petitioners"), who are mutually exclusive applicants for a construction permit for a new television station at Fairmont, West Virginia, on Channel 55, pursuant to the provisions of Section 1.401 of the Commission's Rules, and pursuant to the Commission's Public Notice, DA 02-270, released February 6, 2002 (the "February 6 Notice") hereby amend their Joint Petition for Rule Making, filed July 17, 2000 with respect to the above-captioned matter (the "Joint Petition"). By this amendment, the Petitioners' propose that the Bureau delete the allocation in Section 73.606(b) of NTSC Channel 66 to Fairmont, WV and add Channel 55 to Section 73.622(b), the Digital Television Table of Allotments.

The Joint Petition requests the Bureau to amend Section 73.606(b) of the Commission's Rules by substituting NTSC Channel 55 for Channel 66. The Joint Petition was filed pursuant to

the Commission's Public Notice, DA 99-2605, released November 22, 1999 as extended by Public Notice, DA 00-536, released March 9, 2000.

This Amendment is being filed in response to the Commission's opening of a filing window (the "Filing Window") between January 22 and March 8, 2002 within which pending NTSC applicants, such as Petitioners, for new full-service NTSC television stations on Channels 52-59 have been given an opportunity to seek substitute allotments in light of the Commission's reallocation of Channels 52-59 to new flexible uses. This proposal of a DTV Channel 55 is permitted by the February 6 Notice. See February 6 Notice.

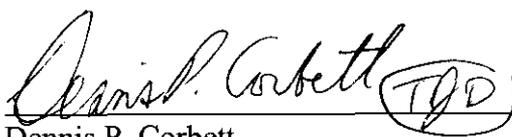
The Engineering Statement of Kevin T. Fisher (the "Engineering Statement"), attached hereto as Exhibit A, establishes that Petitioners' proposal is in full accord with all applicable coverage and allocation criteria set forth in the Commission's Rules, including those set forth in Section 73.622 and the spacing and interference requirements set forth in Section 73.623.

If the Petition, as amended hereby, is granted, Petitioners will timely file amendments to their applications for Channel 66 specifying operation on Channel 55 DTV and, if granted, will adhere to all applicable Commission standards for the construction and operation of the facility.

Therefore, for the reasons set forth above, the rule making proceeding requested by Petitioners originally should be amended to propose the amendment of Section 73.606(b) and Section 73.622(b) of the Commission's Rules to delete the NTSC allocation for Fairmont, WV and add Channel 55 at Fairmont, WV to the Digital Television Table of Allotments.

Respectfully submitted,

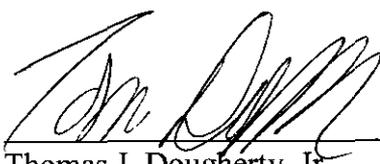
**DAVIS TELEVISION FAIRMONT, LLC**

By:   
Dennis P. Corbett

Leventhal, Senter & Lerman, P.L.L.C.  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006-1809  
202-429-8970

Its Attorneys

**MARRI BROADCASTING, L.P.**

By:   
Thomas J. Dougherty, Jr.

Gardner, Carton & Douglas  
1301 K Street, N.W., Suite 900 East  
Washington, D.C. 20005  
(202) 408-7100  
(202) 289-1504

Its Attorneys

March 8, 2002

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of MARRI BROADCASTING, LP, ("Marri"), applicant for a new television station on NTSC Channel 66, Fairmont, West Virginia (BPCT-19960926KS), in support of its Petition for Rulemaking to change operation to digital Channel 55 so as to permit a grant of its application.

Channel 66 was originally allotted to Fairmont, but the Commission has since reclaimed that spectrum for auction to future wireless communications providers, thereby requiring the use of an alternative channel in this community. The Fairmont applicants then proposed NTSC operation on Channel 55 in BPRM-20000717ACJ, but the Commission has subsequently barred the analog use of channels outside the core, thus requiring the instant submission. It is now proposed to utilize Channel 55 for digital television operation in Fairmont.

Figure 1 is an allocation study showing that, at a proposed allotment site, all NTSC separation criteria would be met with an operation on DTV Channel 55. It is important to note that there are pending Petitions for Rulemaking for Channel 55 in Charleston, West Virginia, and Ashland, Kentucky, although each specify operation as an analog television station. As such, those petitions cannot be granted for the same reasons that NTSC Channel 55 cannot be granted in Fairmont. Therefore, those petitions will ultimately be dismissed and can be ignored with regard to interference from the facility proposed herein.

With respect to interference to digital facilities, even though the spacing requirement would be met with respect to all such facilities except WGPT-DT, Channel 54 in

Oakland, Maryland, we are directed by the FCC to establish that the interference to any affected station is less than 2.0 percent. Figure 2 is a portion of FCC Form 301, which describes the facility we have specified for the allotment site. Figure 3 provides Longley-Rice interference data based on the Commission's OET Bulletin No. 69. The software utilizes a 2-square kilometer cell size, calculates signal strength at 1.0 kilometer increments along each radial studied, and employs the 2000 U.S. Census to count population within cells. In addition, the program does not attribute interference to the proposed facility in cells within the protected contour of the station of interest where interference from another source (other than the proposed DTV Channel 55 facility in Fairmont) already is predicted to exist (also known as "masking"). The study includes all analog and digital facilities that could be affected by operation of the proposed facility. As shown in Figure 3, operating the station as proposed herein would limit interference as required under the Commission's *de minimis* interference Rules, Section 73.623(c)(2). In addition, this facility would place a 48 dbμ contour over the entirety of Fairmont, as shown in Figure 4.

Thus, it is established that DTV Channel 55, operating as specified herein, would meet all NTSC spacing requirements, would provide the required Longley-Rice interference protection to all analog and digital stations, and would serve its city of license as required.

\* \* \*

It is therefore requested that the FCC delete analog Channel 66 in Fairmont, West Virginia, by changing §73.606(b) of its Table of [NTSC] Allotments, as follows:

SMITH AND FISHER

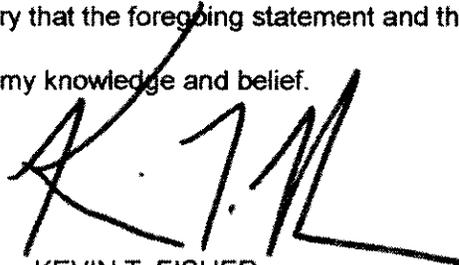
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<u>Community</u>	<u>Present Allotments</u>	<u>Proposed Allotments</u>
Fairmont, West Virginia	<u>66-</u>	

Further, we request that the Commission add Channel 55 in Fairmont, West Virginia, to §73.622(b), its Digital Television Table of Allotments, as follows:

<u>Community</u>	<u>Present Allotments</u>	<u>Proposed Allotments</u>
Fairmont, West Virginia		<u>55</u>

I declare under penalty of perjury that the foregoing statement and the attached exhibits are true and correct to the best of my knowledge and belief.



KEVIN T. FISHER

March 8, 2002

FIGURE 1

ALLOCATION STUDY  
 PROPOSED DTV STATION  
 CHANNEL 55 - FAIRMONT, WEST VIRGINIA

Smith and Fisher

PROPOSED TELEVISION STATION  
 CH. 55 DTV - FAIRMONT WV

REFERENCE  
 39 18 02 N  
 80 20 37 W

ZONE = 1 DTV

DISPLAY DATES  
 DATA 02-20-02  
 SEARCH 03-08-02

..... Channel 55 , 716 MHz .....

Call	Channel	Location	Dist	Azi	FCC	Margin
WGPT ALD	54	OAKLAND	MD 91.23	82.4	< 24.0 > 110.0	-18.77
WGPT-D CP	54	Oakland	MD 91.23	82.4	< 24.0 > 110.0	-18.77
WHAG-D CP	55	Hagerstown	MD 208.43	78.2	> 196.30	12.13
WHAGTV ALD	55	HAGERSTOWN	MD 208.43	78.2	> 196.30	12.13
WBNXTV CP	55-	Akron	OH 258.28	334.1	> 217.30	40.98
WBNXTV LI	55-	Akron	OH 258.28	334.1	> 217.30	40.98
WPCBTV LI	40+	Greensburg	PA 130.46	21.4	< 24.1 > 80.5	49.96
WPCBTV CP	40+	Greensburg	PA 130.46	21.4	< 24.1 > 80.5	49.96
WPGHTV LI	53+	Pittsburgh	PA 135.78	12.2	< 24.1 > 80.5	55.28
WPGHTV CP	53+	Pittsburgh	PA 135.78	12.2	< 24.1 > 80.5	55.28
WVPT LI	51-	Staunton	VA 154.61	144.4	< 24.1 > 80.5	74.11
WOWKTV ALD	54	HUNTINGTON	WV 184.32	241.9	< 24.0 > 110.0	74.32
WOWK-D AP	54	Huntington	WV 184.32	241.9	< 24.0 > 110.0	74.32

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX

1. Channel Number: DTV 55 Analog TV, if any --

2. Zone:  I  II  III

3. Antenna Location Coordinates: (NAD 27)  
39 ° 18 ' 02 "  N  S Latitude  
80 ° 20 ' 37 "  E  W Longitude

4. Antenna Structure Registration Number: 1034466  
 Not applicable  FAA Notification Filed with FAA

5. Antenna Location Site Elevation Above Mean Sea Level: 414.5 meters

6. Overall Tower Height Above Ground Level: 192.7 meters

7. Height of Radiation Center Above Ground Level: 187 meters

8. Height of Radiation Center Above Average Terrain: 241.8 meters

9. Maximum Effective Radiated Power (average power): 300 kW

10. Antenna Specifications:

Manufacturer	Model
Andrew	ATW16H3-HST1-55S

a.  Not Applicable

b. Electrical Beam Tilt: 0.5 degrees  Not Applicable

c. Mechanical Beam Tilt: \_\_\_\_\_ degrees toward azimuth \_\_\_\_\_ degrees True  Not Applicable

Attach as an Exhibit all data specified in 47 C.F.R. Section 73.625(c). Exhibit No.  
--

d. Polarization:  Horizontal  Circular  Elliptical

e. Directional Antenna Relative Field Values:  Not applicable (Nondirectional)  
 Rotation: \_\_\_\_\_°  No rotation

Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value
0	0.79	60	0.65	120	0.79	180	0.65	240	0.79	300	0.65
10	0.91	70	0.54	130	0.91	190	0.54	250	0.91	310	0.54
20	0.99	80	0.48	140	0.99	200	0.48	260	0.99	320	0.48
30	0.99	90	0.48	150	0.99	210	0.48	270	0.99	330	0.48
40	0.91	100	0.54	160	0.91	220	0.54	280	0.91	340	0.54
50	0.79	110	0.65	170	0.79	230	0.65	290	0.79	350	0.65
Additional Azimuths		25	1.00	145	1.00	265	1.00				

If a directional antenna is proposed, the requirements of 47 C.F.R. Section 73.625(c) must be satisfied. **Exhibit required.**

Exhibit No. --
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FIGURE 3

DE MINIMIS INTERFERENCE ANALYSIS  
 PROPOSED DTV STATION  
 CHANNEL 55 - FAIRMONT, WEST VIRGINIA

NTSC FACILITIES

Call	City of License	Ch.	Grade B Population F(50,50)	Interference Losses (Population)								
				NTSC Only	NTSC & DTV Without Proposed 55	Unmasked DTV	% <sup>1</sup>	NTSC & DTV With Proposed 55	Unmasked DTV	% <sup>1</sup>	Proposed 55 Contribution	% <sup>2</sup>
WBNX (Lic.)	Akron, OH	55	3,641,123	40,812	90,450	49,638	1.4	91,437	50,625	1.4	987	<0.1
WBNX	Akron, OH	55	3,519,065	23,663	107,548	83,885	2.4	107,828	84,165	2.4	280	<0.1

DTV FACILITIES

Call	City of License	Ch.	NTSC/DTV <sup>3</sup> Grade B Pop. Longley-Rice	Interference Losses (Population)								
				NTSC Only	NTSC & DTV Without Proposed 55	Unmasked DTV	% <sup>1</sup>	NTSC & DTV With Proposed 55	Unmasked DTV	% <sup>1</sup>	Proposed 55 Contribution	% <sup>2</sup>
WGPT-DT (Allot.)	Oakland, MD	54	151,298	4,171	6,845	2,674	1.8	7,437	3,266	2.2	592	0.4
WGPT-DT (CP)	Oakland, MD	54	222,867	15,578	16,761	1,183	0.5	19,745	4,167	1.8	2,984	1.3

<sup>1</sup> Cannot exceed 10%, under FCC *de minimis* interference standards.

<sup>2</sup> Cannot exceed 2%, under FCC *de minimis* interference standards.

<sup>3</sup> Larger of either NTSC Grade B population (with no DTV losses) or DTV Grade B population with all losses.

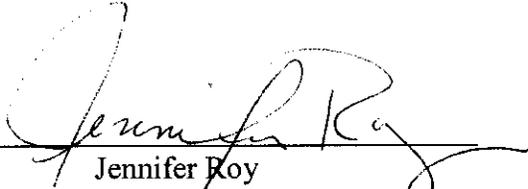


**CERTIFICATE OF SERVICE**

I, Jennifer Roy, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 8th day of March, 2002 caused a copy of the foregoing "**AMENDMENT TO PETITION FOR RULEMAKING**" to be either hand delivered to the following:

Ms. Pamela Blumenthal  
Video Services Division  
Mass Media Bureau  
445 12<sup>th</sup> Street, S.W – Suite 2-A762  
Washington, D.C. 20554

By:

  
Jennifer Roy