

DOCKET FILE COPY ORIGINAL

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP  
901 FIFTEENTH STREET, N.W.  
WASHINGTON, D.C. 20005-2327

RM-10455

425 PARK AVENUE  
NEW YORK, NY 10022-3598  
(212) 836-8000  
FAX (212) 836-8689

(202) 682-3500  
FAX (202) 682-3580

NINE QUEEN'S ROAD CENTRAL  
HONG KONG  
852-2845-8989  
FAX 852-2845-3682

1999 AVENUE OF THE STARS  
LOS ANGELES, CA 90067-6048  
(310) 788-1000  
FAX (310) 788-1200

WRITER'S DIRECT DIAL NUMBER

April 27, 2000

RECEIVED  
APR 27 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: FCC File Nos. BPCT-960920KY/BPCT-960920KU

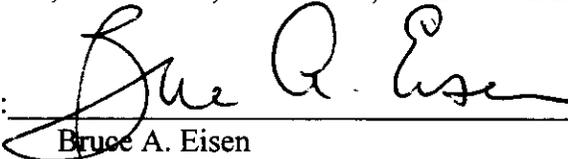
Dear Ms. Salas:

On behalf of Western Broadcasting Company, L.L.C., there is transmitted herewith and filed an original and four copies of its "Petition for Rulemaking" in the above-referenced matter.

Should there be any questions concerning the enclosure, kindly communicate directly with the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By:   
Bruce A. Eisen

Enclosure

# Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED  
APR 27 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the matter of: )  
)  
PRIME BROADCASTING COMPANY )  
)  
NYN, L.L.C. )  
)  
WESTERN BROADCASTING COMPANY, L.L.C. )  
)  
For a Construction Permit )  
for TV Broadcast Station at )  
Presque Isle, Maine )

BPCT-960920KY  
BPCT-960920KU

TO: Chief, Video Services Division

## PETITION FOR RULEMAKING

Western Broadcasting Company, L.L.C. ("Western"), by its attorneys, hereby submits its petition for rulemaking in response to the Mass Media Bureau's Public Notice, DA 99-2605, released November 22, 1999, which announced a window filing opportunity to allow certain applicants for new analog (NTSC) television stations to modify their requests, or to address the technical conflicts with digital television stations and to thereby move from Channel 60-69 to an appropriate television channel.<sup>1</sup>

---

<sup>1</sup> By Public Notice, DA 00-536, released March 9, 2000, the Bureau extended the closure of the window from March 17, 2000 to July 15, 2000. The purpose of this extension was, inter alia, to allow additional time for applicants moving to channels below Channel 60 to consider the rules adopted in the new Class A television service announced in Establishment of a Class A Television Service, MM Docket No. 99-292, Order and Notice of Proposed Rulemaking, FCC 00-16, released January 13, 2000. On March 31, 2000, the Commission released its Report and Order in MM Docket No. 00-10, thereby establishing a Class A television service and promulgating new rules for that service.

Originally, there were two applicants for Television Channel 62 at Presque Isle: Prime Broadcasting Company (BPCT-960920KY) (“Prime”) and NYN, L.L.C. (BPCT-960920KU) (“NYN”). The applications were filed September 20, 1996 and proposed full service NTSC television operations. The applications complied with the deadline for filing new applications for analog stations on vacant allotments as set forth in the Commission’s Sixth Further Notice of Proposed Rulemaking, 11 FCC Rcd 10968 (1996). On January 30, 1998, the two Presque Isle applicants and Western filed a Joint Request for Approval of Settlement Agreement (“Joint Request”) in order to resolve the mutually-exclusive proceeding through Western’s status as a “white knight.” The settlement Agreement provided that NYN would dismiss its application and that Prime’s application would be amended to substitute Western’s ownership for its present ownership. Prime’s amendment to implement the settlement agreement was also filed with the Joint Request. This procedure fully complied with Proposals to Reform the Commission’s Competitive Hearing Process to Expedite the Resolution of Cases, FCC 97-397, par. 26, released November 26, 1997.<sup>2</sup> The November 22, 1999, Public Notice does not state that “white knight” settlements can be utilized to resolve the pending Channel 60-69 NTSC proceedings. However, since the settlement underlying this particular case was submitted at a time when “white knight” settlements were fully compliant with Commission procedures, the instant petition for rulemaking is effectively a supplement to the originally filed Joint Request and can be processed together with the earlier filing.

---

<sup>2</sup> A copy of the Joint Request is attached for convenience.

The Commission's November 22 Public Notice specifically addressed the agency's desire to encourage settlements among mutually-exclusive applicants and noted that reimbursement limits would be waived during the "special window filing opportunity." Hence, this petition for rulemaking seeks the assignment of Channel 47 at Presque Isle as a substitution for Channel 62 and reaffirms the pending Joint Request. Any application filed on Channel 62 will be subject to dismissal in light of the Report and Order in ET Docket No. 97-157, 12 FCC Rcd 22953 (1998).

The attached technical exhibit supports the substitution of Channel 47 for Channel 62 at Presque Isle. It concludes that the substitution can be accomplished so that Channel 47 is allotted to Presque Isle in full compliance with the principal community coverage requirements of Section 73.685(a) of the Commission's Rules, and that operation on Channel 47 from the proposed reference coordinates will be permissible with a directional maximum effective radiated power of 1000 kW and an HAAT of 86 meters. Furthermore, the technical narrative recites that minimum separation requirements will be met as well as interference criteria regarding DTV allotments and authorized DTV facilities as provided in Section 73.623(c) of the rules. A request for coordination with Canada pursuant to the Canadian DTV Transition Allotment Plan is also included as is a justification for waiver of Section 73.685(e), relating to the utilization of a directional antenna in accordance with the decision in MCC Communications, 4 FCC Rcd 2079 (1989). It is respectfully submitted that this petition conforms with all pertinent legal and technical requirements for a change in the subject NTSC allotment channel. Moreover, Western fully intends to timely file an appropriate application if this petition is granted and to promptly build its proposed station on Channel 47 if the application is approved.

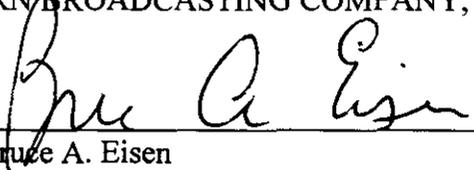
In light of the foregoing, the Commission should now approve the long-pending Joint Request, dismiss NYN's application, and grant Western's application pursuant to the modification of the NTSC allotment at Presque Isle as follows:

<u>City</u>	<u>Present</u>	<u>Channel No.</u>	<u>Proposed</u>
Presque Isle, Maine	8, * 10, 62		8, *10, 47

Respectfully submitted,

WESTERN BROADCASTING COMPANY, L.L.C.

By: \_\_\_\_\_

  
Bruce A. Eisen  
Its Attorney

KAYE, SCHOLER, FIERMAN,  
HAYS & HANDLER, LLP  
901 15th Street, N.W.  
Suite 1100  
Washington, D.C. 20005  
(202) 682-3500

April 27, 2000

TECHNICAL EXHIBIT  
PREPARED IN SUPPORT OF  
PETITION FOR RULE MAKING TO  
MODIFY THE NTSC ALLOTMENT TABLE  
CHANNEL 47  
PRESQUE ISLE, MAINE

Technical Narrative

Pursuant to a January 30, 1998 joint request for approval of settlement agreement, Western Broadcasting Company, L.L.C. is a "white knight" formed to settle and buy out the other applicants for a new TV station on channel 62 at Presque Isle, Maine. Pursuant to the joint request, Western Broadcasting Company, L.L.C. will assume the application of Prime Broadcasting Company as set forth in the settlement agreement and the January 30, 1998 amendment filed by Prime Broadcasting Company. Therefore, this technical narrative and associated exhibits have been prepared on behalf of Western Broadcasting Company, L.L.C. in support of a Petition for Rule Making to modify the NTSC TV allotment at Presque Isle, Maine by the proposed substitution of channel 47 for channel 62.

In the FCC Public Notice entitled "Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations", released on November 22, 1999 (DA 99-2605), the FCC announced a filing window opportunity for applicants with certain pending application and allotment petitions for new analog (NTSC) TV stations. Included in the list of pending requests permitted to file during this window period are pending applications for new full-service NTSC television stations on channels 60-69. Specifically, petitions for rule making seeking a new channel below channel 60 are permitted for applicants with pending applications for new full-service NTSC television stations on channels 60-69.

Currently, Prime Broadcasting Company's pending application (BPCT-960920KY) is for operation on NTSC channel 62 at Presque Isle, Maine and is, therefore, considered eligible

for the filing window. The pending Prime Broadcasting Company application proposes operation on TV channel 62 with a directional antenna maximum effective radiated power (ERP) of 1000 kilowatts and an HAAT of 86 meters. This instant petition for rulemaking proposes to substitute NTSC channel 47 for the channel 62 NTSC allotment at Presque Isle.

NTSC channel 47 can be substituted for NTSC channel 62 and allotted to Presque Isle, Maine in compliance with the principle community coverage requirements of section 73.685(a) at the following reference coordinates, Latitude 46° 45' 12", Longitude 68° 10' 28".<sup>1</sup> Operation on channel 47 from the proposed site appears permissible with a directional maximum effective radiated power (ERP) of 1000 kilowatts and an HAAT of 86 meters.

It is believed that the proposed transmitter site would meet the Commission's minimum separation requirements applicable to NTSC operation on channel 47 specified in Section 73.610. The proposed channel 47 operation also complies with the FCC's interference criterion with respect to DTV allotments and authorized DTV facilities provided in Section 73.623(c). Also, it is believed that the proposal will not adversely impact the Canadian DTV Transition Allotment Plan. It is requested that the instant proposal be coordinated with Canada. Therefore, it is proposed to modify the NTSC allotment at Presque Isle with the following specifications:

State & City	NTSC Channel	NTSC ERP (kW)	NTSC Antenna HAAT (m)
ME, Presque Isle	47	1000 (DA)	86

It is proposed to amend the NTSC Table of Allotments, Section 73.606(b) of the Commission's Rules, as follows:

<sup>1</sup> The proposed transmitter site and facilities proposed herein are the same transmitter site and facilities specified in Prime Broadcasting Company's pending application, BPCT-960920KY.

<u>City</u>	<u>Present</u>	<u>Channel No.</u>	<u>Proposed</u>
Presque Isle, Maine	8, *10, 62		8, *10, 47

It is proposed to allot NTSC UHF channel 47 at Latitude 46° 45' 12", Longitude 68° 10' 28". The channel 47 facility proposes operation with an antenna radiation center height above mean sea level (RCAMSL) of 281 meters, an antenna radiation center height above average terrain of 86 meters, and a directional antenna maximum ERP of 1000 kilowatts.

Figure 1 provides the technical parameters for the proposed operation, including a tabulation and graph of the directional antenna horizontal plane radiation pattern. It is noted that the proposed directional antenna has a maximum-to-minimum ratio of 20 dB, which is only 5 dB greater than the 15 dB maximum-to-minimum ratio specified in Section 73.685(e). The FCC has previously granted waiver of Section 73.685(e) with suppression ratios as high as 34 dB, or more than 14 dB greater than proposed herein.<sup>2</sup> Furthermore, the proposed antenna design will permit optimum service to the most populous portions of the coverage area, including the community of license (Presque Isle). In addition, the proposed antenna design is not used for interference protection to either NTSC or DTV assignments. Therefore, it is believed that justification exists for waiver of Section 73.685(e), if necessary.

Figure 2 is a separation study toward other domestic NTSC and DTV allotments as well as current Canadian NTSC allotments based on a 50 kilometer "buffer". As indicated, the allotment reference point is fully-spaced to all other NTSC stations or allotments except towards a vacant domestic noncommercial NTSC channel 46 allotment at Fort Kent, Maine and a vacant Canadian NTSC channel 47 allotment at Fredericton, New Brunswick. The vacant domestic noncommercial NTSC channel 46 allotment at Fort Kent is considered to be "deleted" pursuant to paragraph 112 of the 6<sup>th</sup> Report and Order in MM Docket NO. 87-268

<sup>2</sup> See Memorandum Opinion and Order, Modification of Facilities of Station KPOM-TV, 66 RR 2d 149, 4 FCC Rcd 2079, (March 2, 1989).

(FCC 97-115). Furthermore, the vacant Canadian NTSC channel 47 allotment at Fredericton was also "deleted" based on the Canadian DTV transition Allotment Plan (April 1999).<sup>3</sup>

With respect to domestic DTV allotments, the minimum distance separation requirements applicable to "new" DTV allotments contained in Section 73.623(d) provide an indication of which DTV stations have the potential of receiving interference from the proposed channel 47 NTSC operation. As indicated on Sheet 2 of Figure 2, there were no DTV allotments located within the required separation plus a 50 km buffer. Furthermore, interference calculations made in accordance with the procedures adopted in the FCC's Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders in MM Docket No. 87-268 and outlined in OET Bulletin No. 69 indicate that the proposed channel 47 operation would not cause prohibited interference to any domestic DTV allotments. Therefore, the proposed operation is in full compliance with the FCC's interference criterion with respect to pertinent domestic DTV allotments.<sup>4</sup>

Figure 3 is a separation study based on the Canadian DTV transition Allotment Plan (April 1999). The required separations towards Canadian DTV allotments were based on the separations applicable to NTSC Class C allotments<sup>5</sup> contained in Table D.3.7 of the Canadian document entitled "Digital Television, Service Considerations and Allotment Principles" (prepared by JTCAB Ad Hoc Group on DTV Planning Parameters, January 1997). The required separations towards Canadian NTSC allotments shown on Figure 3 were based on the separations applicable to NTSC stations operating with standard parameters

---

<sup>3</sup> See page 95 of the allotment table included as part of the Canadian DTV Transition Allotment Plan.

<sup>4</sup> The du Treil, Lundin & Rackley, Inc. DTV interference analysis program is based on the program and procedures outlined by the FCC in the Sixth Report and Order; subsequent Memorandum Opinion and Order; and FCC OET Bulletin No. 69. A nominal grid size resolution of 2 km was employed. An Alpha based processor computer system was employed. The results have been found to be in very close agreement with the results of the FCC implementation of OET Bulletin No. 69.

<sup>5</sup> NTSC Class C stations operate with "standard" parameters consisting of an ERP of 1000 kW and an HAAT of 300 meters.

contained in paragraph 3.3.2 and Table I of the US-Canadian TV Agreement (January 5, 1994).

As indicated on Figure 3, the proposed NTSC channel 47 operation at Presque Isle complies with the required separations towards all Canadian DTV and NTSC allotments with the exception of the channel 32 DTV allotment for CIMT-TV at Edmundston, New Brunswick, the channel 47 DTV allotment for CFER-TV at Rimouski, Quebec and the channel 54 DTV allotment for CBAT-TV at Bon Accord, New Brunswick. The actual separation with CIMT-TV, when "rounded" to the nearest whole kilometer, complies with the required separation and is, therefore, considered to be in substantial compliance with the separation requirement. In addition, based on the desired-to-undesired (D/U) ratio of -58 dB for this -15 channel UHF taboo (picture image) contained in Table B.4 of the Canadian document entitled "Digital Television, Service Considerations and Allotment Principles", predicted interference to CIMT-TV would only occur in the immediate vicinity of the proposed NTSC channel 47 transmitter site. The proposed NTSC channel 47 transmitter site is located more than 28 km from the closest point of the US-Canadian border. Therefore, interference is not expected to occur from the proposed NTSC channel 47 operation to CIMT-TV's channel 32 DTV operation within the Canadian border.

With respect to the short-spacing with CFER-TV on DTV channel 47, it may be necessary to coordinate the proposed NTSC channel 47 allotment at Presque Isle as a "limited facility" NTSC allotment. It is noted that the proposal complies with the separations applicable to NTSC Class B (limited parameter) allotments (182 km) contained in Table D.3.7 of the Canadian document entitled "Digital Television, Service Considerations and Allotment Principles". Class B parameters produce a protected contour distance of 45 km. Based on this criteria, an ERP of 25 kW and an HAAT of 300 meters, or equivalent higher ERP and lower HAAT, would be considered Class B facilities.

Finally, with respect to the short-spacing with CBAT-TV on DTV channel 54, it is noted that the minimum separation is based on the distance to the DTV protected contour

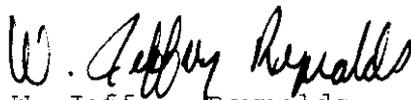
(89 km for Canadian VL Class) plus a "flex factor" of 8 km (89+8=97 km). Furthermore, based on the desired-to-undesired (D/U) ratio of -58 dB for this +7 channel UHF taboo (oscillator) contained in Table B.4 of the Canadian document entitled "Digital Television, Service Considerations and Allotment Principles", predicted interference to CBAT-TV from the proposed NTSC channel 47 operation would only occur in the immediate vicinity of the proposed NTSC channel 47 transmitter site. The proposed NTSC channel 47 transmitter site is located more than 28 km from the closest point of the US-Canadian border. Therefore, interference is not expected to occur from the proposed NTSC channel 47 operation to CBAT-TV' channel 54 DTV operation within the Canadian border.

Figure 4 is a map which depicts the City Grade (80 dBu), Grade A (74 dBu), and Grade B (64 dBu) contours for the proposed channel 47 NTSC operation. The city limits of Presque Isle (based on the 1990 Census data) are also shown. As indicated, all of Presque Isle is located within the predicted City Grade contour. Therefore, the proposed channel 47 NTSC allotment will comply with the FCC's city coverage requirements.

Finally, studies indicate the proposed operation on NTSC channel 47 at Presque Isle will not adversely impact any co-channel or pertinent adjacent channel Low Power TV (LPTV) stations.

Conclusion

Channel 47 can be substituted for the current channel 62 NTSC allotment at Presque Isle, in compliance with the domestic and international rules concerning NTSC allotment changes.

  
W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.  
201 Fletcher Avenue  
Sarasota, Florida 34237

January 25, 2000

TECHNICAL EXHIBIT  
PREPARED IN SUPPORT OF  
PETITION FOR RULE MAKING TO  
MODIFY THE NTSC ALLOTMENT TABLE  
CHANNEL 47  
PRESQUE ISLE, MAINE

Technical Parameters

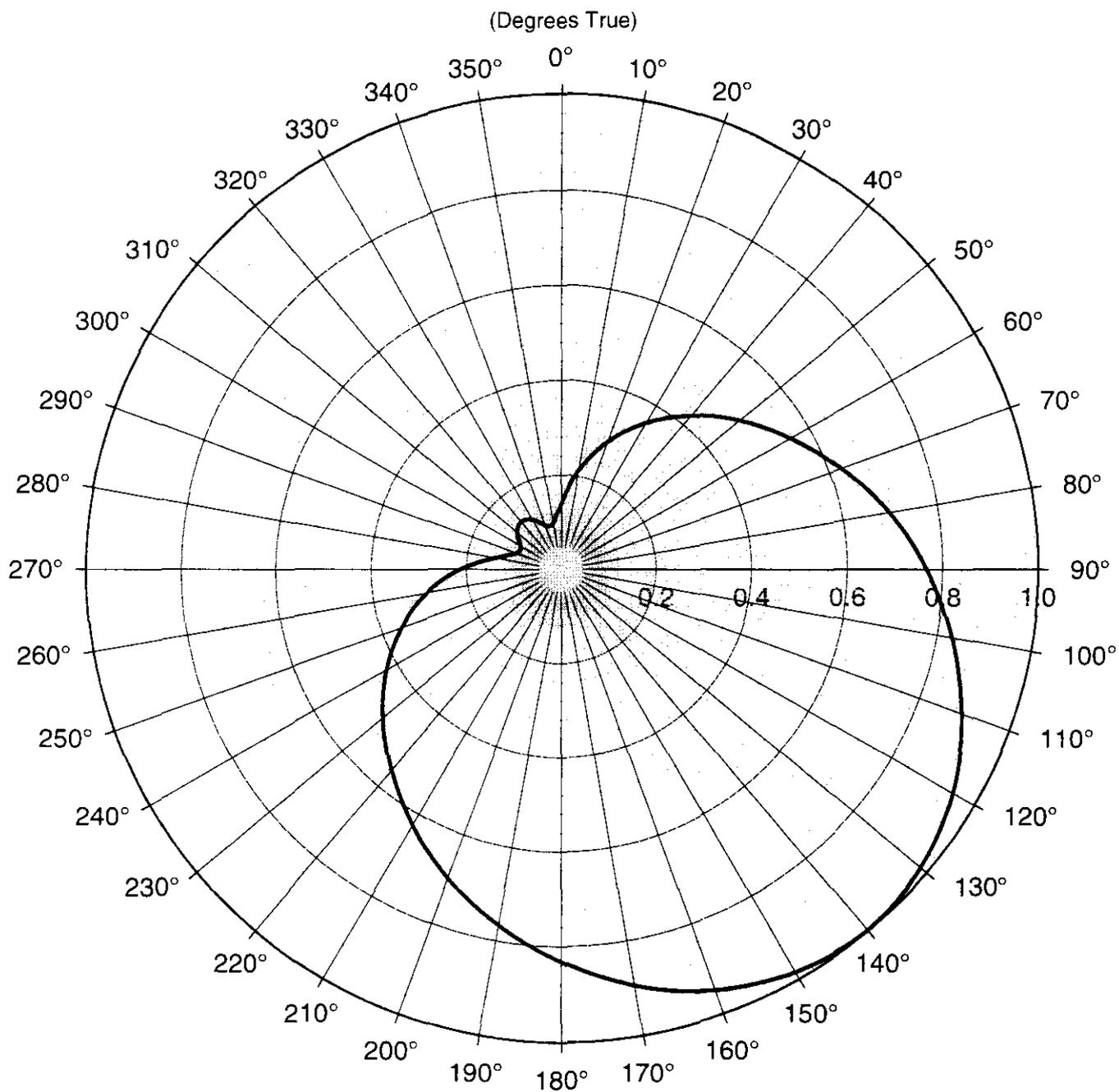
1. Facilities

<u>Call</u>	<u>City Name</u>	<u>State</u>	<u>Country</u>	<u>Channel</u>	<u>Offset</u>	<u>Facility</u>	<u>Status</u>		
NEW	PRESQUE ISLE	ME	A	47	+	TV	PRM		
<u>Latitude</u>	<u>Longitude</u>	<u>File Number</u>	<u>Docket No.</u>	<u>Last Updated</u>	<u>Cutoff</u>				
46-45-12.0	68-10-28.0								
<u>ERP-kW</u>	<u>HAAT-m</u>	<u>MaxHAAT-m</u>	<u>RCamsl-m</u>	<u>DA</u>	<u>BT</u>	<u>Pol</u>	<u>Ref-Az</u>	<u>Ant-Make</u>	<u>Ant-Type</u>
1000	86	125	281	Y	Y	H	0	AND	ODD960920KY
<u>Border</u>	<u>Zone</u>	<u>E/C</u>	<u>Applicant/Licensee</u>	<u>Name</u>	<u>TV Database</u>	<u>Date</u>			
C	2	C	PRIME BROADCASTING COMPANY						

2. Directional Antenna Data (Orientation 0° True)

[Horizontal plane polar graph attached as Sheet 2 of Figure 1].

<u>Bearing Relative</u>		<u>Bearing Relative</u>		<u>Bearing Relative</u>		<u>Bearing Relative</u>	
<u>Deg-Rel</u>	<u>Field</u>	<u>Deg-Rel</u>	<u>Field</u>	<u>Deg-Rel</u>	<u>Field</u>	<u>Deg-Rel</u>	<u>Field</u>
.0	.141	90.0	.767	180.0	.832	270.0	.212
10.0	.212	100.0	.832	190.0	.767	280.0	.141
20.0	.287	110.0	.895	200.0	.698	290.0	.101
30.0	.358	120.0	.949	210.0	.626	300.0	.100
40.0	.425	130.0	.985	220.0	.556	310.0	.122
50.0	.490	140.0	1.000	230.0	.490	320.0	.132
60.0	.556	150.0	.985	240.0	.425	330.0	.122
70.0	.626	160.0	.949	250.0	.358	340.0	.100
80.0	.698	170.0	.895	260.0	.287	350.0	.101



**DIRECTIONAL ANTENNA RADIATION PATTERN**  
(RELATIVE FIELD)  
NEW NTSC STATION  
PRESQUE ISLE, MAINE  
CH 47 1000 KW (MAX-DA) 86 M

du Treil, Lundin & Rackley, Inc. Sarasota, Florida





TECHNICAL EXHIBIT  
 PREPARED IN SUPPORT OF  
 PETITION FOR RULE MAKING TO  
 MODIFY THE NTSC ALLOTMENT TABLE  
 CHANNEL 47  
 PRESQUE ISLE, MAINE

**ALLOCATION STUDY**  
**CANADIAN DTV ALLOTMENT PLAN**

Job Title : Proposed Ch 47 Presque Isle, ME  
 FCC TV DB Date : 12/30/99  
 Coordinates : 46-45-12 68-10-28

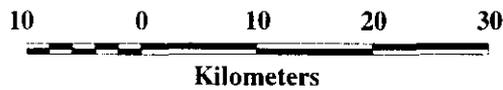
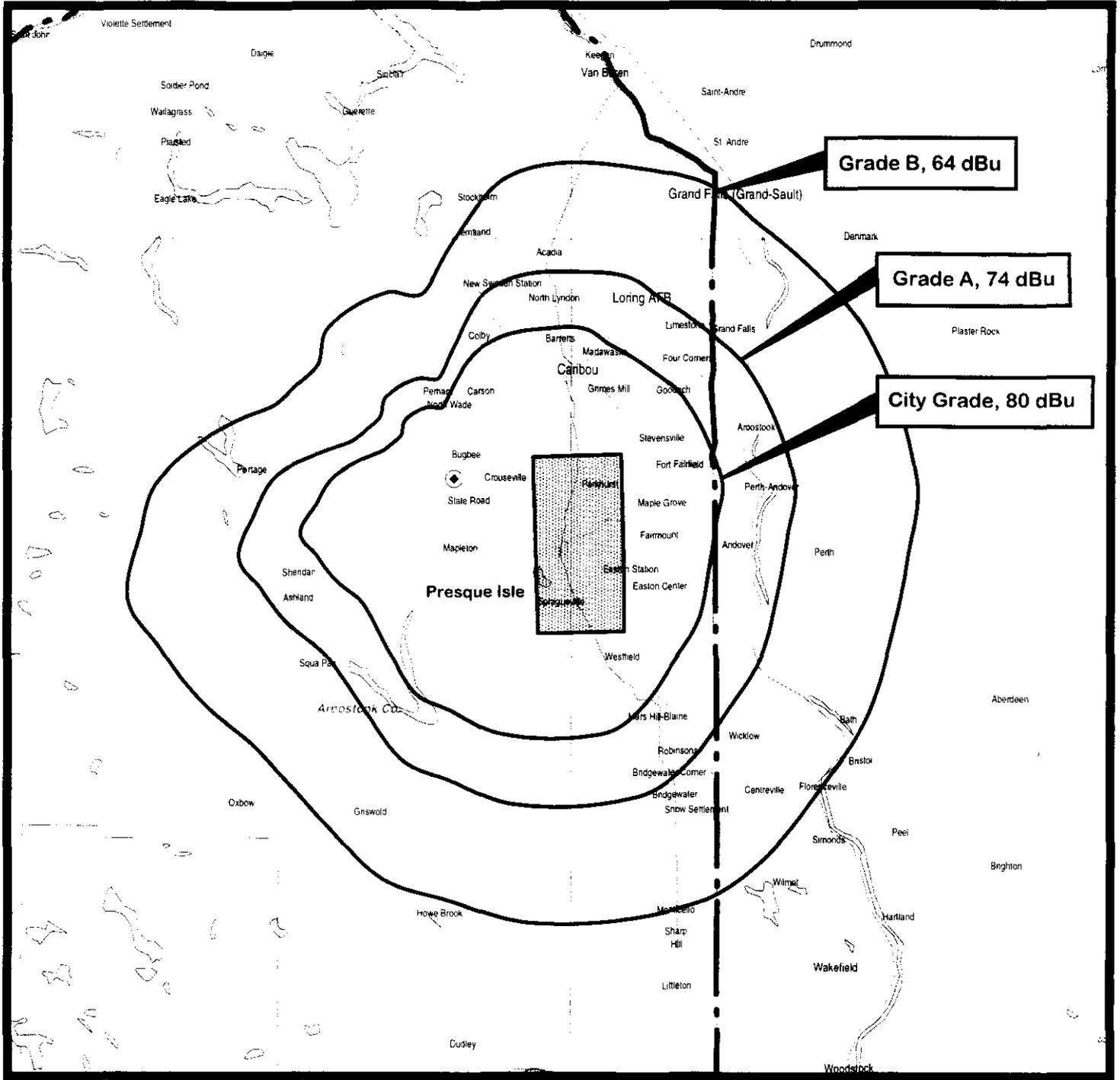
Call Status	City State	FCC File No.	Channel Zone	ERP(kw) HAAT(m)	Latitude Longitude	Bearing deg-True	Distance	
							Actual (km)	Required <sup>1</sup> (km)
CIMT-TV DTVC	EDMUNDSTON NB		32		47-23-22 68-19- 0	351.40	71.57 -0.43	72.0 <b>SHORT<sup>2</sup></b>
NTSCB	ST-LEONARD(18) NB		39		47-10- 0 67-55-59	21.62	49.48 19.48	30.0 CLEAR
NTSCA	BON ACCORD NB		43		46-39- 0 67-34-59	104.09	46.65 16.65	30.0 CLEAR
CFER-TV DTVVU	RIMOUSKI QU		47		48-28- 1 68-12-52	359.11	190.58 -62.42	253.0 <b>SHORT<sup>3</sup></b>
CH2695 DTVLP	JEMSEG NB		47		45-50-43 66- 3- 6	121.00	192.17 9.17	183.0 CLOSE
NTSCB	GRAND FALLS NB		49		47- 2-59 67-43-59	45.29	47.09 17.09	30.0 CLEAR
NTSCB	PERTH-ANDOVER(30) NB		50		46-43-59 67-41-59	93.35	36.33 6.33	30.0 CLOSE
CBAT-TV DTVVL	BON ACCORD NB		54		46-38-57 67-35-35	104.43	45.95 -51.05	97.0 <b>SHORT<sup>4</sup></b>

<sup>1</sup> Minimum separations towards Canadian DTV allotments based on those applicable to NTSC Class C (standard parameters) allotments contained in Table D.3.7 of the Canadian document entitled "Digital Television, Service Considerations and Allotment Principles" (prepared by JTCAB Ad Hoc Group on DTV Planning Parameters, January 1997). Minimum separations towards Canadian NTSC allotments based on those applicable to NTSC stations operating with standard parameters contained in paragraph 3.3.2 and Table I of US-Canadian TV Agreement (January 5, 1994).

<sup>2</sup> This actual separation, when "rounded" to the nearest whole kilometer, complies with the required separation and is, therefore, considered to be in compliance with the separation requirement.

<sup>3</sup> It may be necessary to coordinate the proposed NTSC Channel 47 allotment at Presque Isle as a "limited facility" allotment with respect to CFER-TV's DTV channel 47 allotment at Rimouski, Quebec. It is noted that the proposal complies with the separations applicable to NTSC Class B (limited parameter) allotments (182 km).

<sup>4</sup> The minimum separation is based on the distance to the DTV protected contour (89 km for Canadian VL Class) plus a "flex factor" of 8 km. Based on the desired-to-undesired (D/U) ratio of -58 dB contained in Table B.4 of the Canadian document entitled "Digital Television, Service Considerations and Allotment Principles", predicted interference to CBAT-TV would only occur in the immediate vicinity of the proposed NTSC channel 47 transmitter site. The proposed NTSC channel 47 transmitter site is located more than 28 km from the closest point of the US-Canadian border. Therefore, interference is not expected to occur to CBAT-TV' channel 54 DTV operation within the Canadian border.



**PREDICTED COVERAGE CONTOURS  
NEW NTSC TV STATION  
PRESQUE ISLE, MAINE  
CH 47 1000 KW (MAX-DA) 86 M**

January 2000

du Treil, Lundin & Rackley, Inc. Sarasota, Florida

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

A NEW YORK LIMITED LIABILITY PARTNERSHIP

901 FIFTEENTH STREET, N.W.  
WASHINGTON, D.C. 20005-2327

425 PARK AVENUE  
NEW YORK, NY 10022-3598  
(212) 836-8000  
FAX (212) 836-8689

1999 AVENUE OF THE STARS  
LOS ANGELES, CA 90067-6048  
(310) 788-1000  
FAX (310) 788-1200

(202) 682-3500  
FAX (202) 682-3580

NINE QUEENS ROAD CENTRAL  
HONG KONG  
852-2845-8989  
FAX 852-2845-3682

WRITERS DIRECT DIAL NUMBER

January 30, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Application for Construction Permit  
for a TV Station at  
Presque Isle, Maine  
File Nos. BPCT-960920KY/BPCT-960920KU

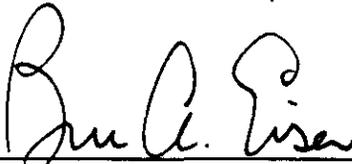
Dear Ms. Salas:

On behalf of Western Broadcasting Company, L.L.C., there is transmitted herewith an original and four copies of a "Joint Request for Approval of Settlement Agreement" for a construction permit for a new television broadcast station at Presque Isle, Maine.

Should there be any questions concerning the enclosure, kindly communicate directly with undersigned counsel.

Very truly yours,

KAYE, SCHOLER, FIERMAN,  
HAYS & HANDLER, LLP

By:   
Bruce A. Eisen

Enclosure

cc: David Silverman, Esq.  
David Oxenford, Esq.

Doc #12155964.DC

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

In re	)	
	)	
PRIME BROADCASTING COMPANY	)	BPCT-960920KY
	)	
NYN, L.L.C.	)	BPCT-960920KU
	)	
WESTERN BROADCASTING COMPANY, L.L.C.	)	
	)	
For a Construction Permit for TV	)	
Broadcast Station at	)	
Presque Isle, Maine	)	

TO: Chief, Video Services Division

**JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT**

Western Broadcasting Company, L.L.C. ("Western"), Prime Broadcasting Company ("Prime"), and NYN, L.L.C. ("NYN"), hereby jointly request, pursuant to Section 311(c) of the Communications Act, 47 U.S.C. § 311(c), and Section 73.3525 of the Commission's Rules, as well as the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997), that the Commission approve the attached Settlement Agreement. In support thereof, the following is shown:

1. The applicants have executed the attached Settlement Agreement. Prime and NYN are mutually-exclusive applicants for a construction permit for a new television broadcast station at Presque Isle, Maine. The Settlement Agreement provides that NYN will dismiss its application, and that Prime's application will be amended to substitute Western's ownership for its present ownership. Hence, it is requested that this proceeding be settled and terminated by virtue of Western's status as a "white knight".

2. The Commission has stated that in order to facilitate full-market settlements among pre-July 1 applicants, consistent with the Congressional policy underlying Section 309(1)(3), it would be inclined to waive its policy against "white knight" settlements involving the award of a permit to a non-applicant third party. See, Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, FCC 97-397, par. 26, released November 26, 1997. Prime and NYN filed their applications before July 1, 1997. Moreover, Western's reimbursement to Prime and NYN is in accordance with the Budget Act as well as Gonzales Broadcasting, Inc., 12 FCC Rcd 12253, 1255-56 (1997).

3. Western is fully qualified to become the permittee of Channel 62 at Presque Isle, Maine, or a replacement channel as the Commission subsequently authorizes for that community pursuant to Reallocation of Television Channels, ET Docket No. 97-157, released January 6, 1998. It is further noted that the Settlement Agreement provides for the dismissal of NYN's application and, through amendment, the substitution of Western's ownership for Prime's ownership. Hence, Western will adopt the engineering component included within Prime's FCC Form 301 application for Channel 62 at Presque Isle, Maine. Western has recertified reasonable assurance of the proposed antenna site, and has executed the relevant portions of FCC Form 301 pursuant to the amendment.

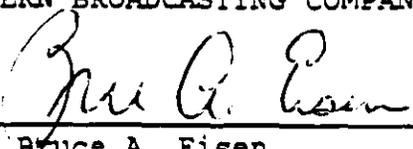
In light of the foregoing, the parties request that the Settlement Agreement be approved, that NYN's application be

dismissed with prejudice, and that the pending Prime application  
be granted as amended with Western's ownership.

Respectfully submitted,

WESTERN BROADCASTING COMPANY, L.L.C.

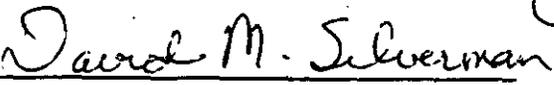
By:

  
Bruce A. Eisen

KAYE, SCHOLER, FIERMAN,  
HAYS & HANDLER, LLP  
901 15th Street, N.W. # 1100  
Washington, D.C. 20005  
Telephone: (202) 682-3538

PRIME BROADCASTING COMPANY

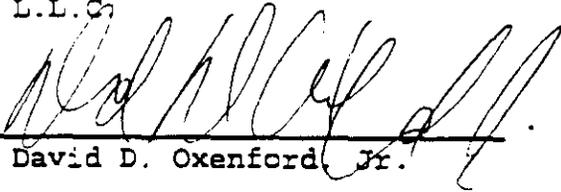
By:

 Bae  
David M. Silverman

COLE, RAYWID & BRAVERMAN, L.L.P.  
1919 Pennsylvania Ave, N.W.  
Suite 200  
Washington, D.C. 20006  
Telephone: (202) 659-9750

NYN, L.L.C.

By:

  
David D. Oxenford, Jr.

FISHER, WAYLAND, COOPER,  
LEADER & ZARAGOZA, L.L.P.  
2001 Pennsylvania Ave, N.W. #400  
Washington, D.C. 20006  
Telephone: (202) 775-3546

January 29, 1998

**SETTLEMENT AGREEMENT**

THIS AGREEMENT is made and entered into as of the 21 day of January, 1998, by and among Western Broadcasting Company, L.L.C., a Wyoming limited liability company ("Buyer"), Prime Broadcasting Company, a Texas general partnership ("Prime"), and NYN, L.L.C., a New York limited liability company ("NYN") (jointly called "Applicant Sellers").

**WITNESSETH:**

WHEREAS, Applicant Sellers have pending before the Federal Communications Commission ("Commission") applications, respectively, FCC File Nos. BPCT-960920KY and BPCT-960920KU, for a construction permit for a new television broadcast station to operate on Channel 62 at Presque Isle, Maine (the "Station"); and

WHEREAS, Applicant Sellers are willing to dismiss their applications in return for payment by Buyer of certain consideration as set forth herein and contingent upon the events set forth below; and

WHEREAS, the parties to this Agreement desire to avoid the time and expense likely to be incurred absent a settlement as well as to permit the earlier provision of a new television broadcast service to the Presque Isle, Maine viewing area; and

WHEREAS, the parties to this Agreement believe that the public interest would be served by the earlier institution of a new television service at Presque Isle, Maine by simplification of the pending proceeding before the Commission; and

WHEREAS, the parties hereto, under penalty of perjury, state that they did not file their respective applications for purposes of reaching a settlement, and that the consideration provided for by this Agreement is the only consideration to which the parties have agreed; and

WHEREAS, the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997), provides for the settlement of proceedings such as this in the manner contemplated herein; and

WHEREAS, the Report and Order in Reallocation of Television Channels 60-69, the 746-806 Band (ET Docket No. 97-157), released January 6, 1998, may prevent the Commission from granting a construction permit on Channel 62 at Presque Isle, Maine; and

WHEREAS, it is uncertain whether or not any appropriate analog television channel can be allotted to Presque Isle, Maine.

NOW, THEREFORE, in consideration of their mutual representations and promises, hereinafter set forth, the parties agree as follows:

1. Commission Consent. This Agreement is entered into subject to approval by the Commission.

2. Joint Request for Approval of Agreement. Within five (5) days after execution of this Agreement, but in any event before January 30, 1998, the parties hereto agree to file with the Commission a joint request for approval of this Agreement ("Joint Request"), together with an amended application to propose Buyer as applicant for a construction permit for the Station ("Buyer's Application"). The Joint Request and Buyer's Application shall be accompanied by executed copies of this Agreement as well as any supporting documentation as required by the Commission's Rules. The Joint Request shall ask the Commission to issue one order (a) approving this Agreement, (b) dismissing the application of NYN, and (c) granting Prime's application as amended.

3. Dismissal and Amendment of Applicant Sellers' Applications. Concurrently with the filing of the Joint Request, NYN agrees to request dismissal with prejudice of its pending application and Prime agrees to amend its application proposing Buyer as owner, both requests contingent upon the approval of this Agreement and contingent upon a grant of the Buyer's Application.

4. Consideration. In consideration of the execution and delivery of this Agreement by Applicant Sellers, and the dismissal and/or amendment of their applications for the Station, as contemplated herein, Buyer shall, upon the happening of certain conditions, pay to Applicant Sellers the aggregate amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) as follows:

(a) Concurrently with the execution of this Agreement, Buyer shall pay to each Applicant Seller the amount of Six Thousand Two Hundred Fifty Dollars (\$6,250.00);

(b) Within ten (10) days after a final grant of an application for a construction permit for the Station or a suitable replacement channel to Buyer, Buyer shall pay to Applicant Sellers the aggregate amount of One Hundred Twelve Thousand Five Hundred Dollars (\$112,500.00) (the "Final Payment"), said payment to be made by bank cashier's check. For purposes of this Settlement Agreement, the Commission's grant of a construction permit shall be final as defined in paragraph 5 herein.

5. Denial by Commission. If the Commission shall not approve this Agreement, and/or the Buyer's Application, and such denial shall have become a "Final Order" (as defined below), the

applications of the Applicant Sellers for a construction permit for the Station shall be returned to their position prior to the execution of this Agreement, and this Agreement shall be of no further force and effect; provided that nothing in this Section 5 shall require the Applicant Sellers to refund to Buyer amounts paid to them under Section 4(a). For purposes of this Agreement, a "final grant" or a "final Order" shall be a grant or an order of the Commission that has not been stayed, reversed or suspended, and as to which the time for filing a request for administrative or judicial review, or for instituting administrative review sua sponte, shall have expired without any such filing having been made or notice of such review having been issued; or, in the event of such filing or review, as to which such filing or review shall have been disposed of favorably to the Commission grant or order and the time for seeking further relief with respect thereto shall have expired without any request for such relief having been filed.

6. Cooperation. If, within ten (10) days after the one year anniversary date of this Settlement Agreement, the Commission has not granted to Buyer a construction permit and such construction permit has become final, then upon payment by Buyer to each Applicant Seller in the amount of Six Thousand Two

Hundred Fifty Dollars (\$6,250.00), this Settlement Agreement may be extended for an additional six (6) month period. If the Buyer's Application has not been granted and become final by the end of such extension period, then this Agreement may be extended for an additional six (6) month period upon payment by Buyer to each Applicant Seller in the further amount of Six Thousand Two Hundred Fifty Dollars (\$6,250.00). If the Buyer's Application has not been granted and become final by the end of the second extension period, this Agreement shall terminate and the Applicant Sellers will return to their positions prior to the execution of this Agreement. All parties hereto agrees to cooperate with the others and with the Commission by expeditiously providing to the others or the Commission any additional information which reasonably may be required, and by doing all other acts reasonably necessary to effectuate the objectives of this Agreement. It is further understood, intended and agreed that, absent a specific requirement of, or request from the Commission or a court order, none of the parties hereto shall take any voluntary action, make any voluntary statement or do any other voluntary thing relating to this Agreement or the transactions contemplated hereby that would have the foreseeable effect of preventing the consummation of the parties' intentions.

7. Warranties. Each party represents that except for required Commission consent it has full legal authority to enter into, execute and perform its obligations under the terms of this Agreement without limitation.

8. Remedies in Default. In the event of a default by any of the parties, the defaulting party shall pay the costs and expenses, including but not limited to, reasonable attorney's fees incurred by the other parties, in successfully prosecuting a suit against the defaulting party based on any breach of this Agreement, through and including all post-judgments and appellate proceedings. In the event that Buyer defaults in the payment of the Final Payment, in addition to any other remedies which may be available to Applicant Sellers, Buyer shall cooperate with Applicant Sellers in filing with the Commission an application for consent to assignment of license or permit for the Station to Applicant Sellers, the consideration for which assignment shall be the payment by Applicant Sellers of the filing fee for said application. Buyer shall be entitled to no additional consideration for the assignment of the Station license or permit to Applicant Sellers in the event of such a default in meeting the Final Payment.

9. Waiver. Failure of any party to complain of any act or omission on the part of another party in breach of this Agreement, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by any party at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of any provision of the Agreement or a consent to any subsequent breach of the same or any other provision hereof.

10. Notice. Any notice, demand or request required or permitted to be given under the provisions of the Agreement shall be deemed effective if made in writing (including telecommunications) and delivered to the recipient's address or facsimile telephone number set forth below by any of the following means: (a) hand delivery, (b) registered or certified mail, postage prepaid, (c) Federal Express, Express Mail or like courier service, or (d) facsimile or other wire transmission with request for assurance of receipt in a manner typical with respect to communications of that type. Notice made in accordance with this section shall be deemed delivered upon receipt. Notice address:

to: Western Broadcasting Company, L.L.C.  
P. O. Box 163061  
Austin, Texas 78716  
ATTN: Timothy Timmerman, Esq.  
Telephone: (512) 306-0500  
Facsimile: (512) 306-0502

cc (which shall not constitute notice to):

Bruce A. Eisen, Esq.  
Kaye, Scholer, Fierman, Hays & Handler, LLP  
901 15th Street, N.W.  
Suite 1100  
Washington, D.C. 20554  
Telephone: (202) 682-3538  
Facsimile: (202) 682-3538

to: Prime Broadcasting Company  
600 Congress Avenue, Suite 3000  
Austin, Texas 78701  
ATTN: M. Surendra N. Naidoo  
Telephone: (512) 505-5565  
Facsimile: (512) 320-4081

cc (which shall not constitute notice to):

David Silverman, Esq.  
Cole Raywid & Braverman, L.L.P.  
1919 Pennsylvania Ave, N.W.  
Suite 200  
Washington, D.C. 20006  
Telephone (202) 659-9750  
Facsimile (202) 452-0067

to: NYN, L.L.C.  
29 Church Street  
Burlington, Vermont 05401  
ATTN: Steven R. Schuyler  
Telephone (802) 660-0036  
Facsimile (802) 660-2701

cc (which shall not constitute notice to):

David D. Oxenford, Jr. Esq.  
Fisher, Wayland, Cooper, Leader  
& Zaragoza, L.L.P.  
2001 Pennsylvania Ave, N.W.  
Suite 400  
Washington, D.C. 20006  
Telephone: (202) 775-3546  
Facsimile: (202) 296-6518

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia.

12. Benefit. This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors, heirs, legal representatives and assigns.

13. Entire Agreement. This Agreement is the only agreement between the parties and contains all of the terms and conditions agreed upon with respect to the subject matter hereof.

14. Counterparts. This Agreement may be executed in one or more counterparts, and all so executed shall constitute one Agreement, binding on the parties hereto, notwithstanding that the parties are not signatory to the same original or the same counterpart. By signing this Agreement, the parties hereto

warrant one to another and to the Commission, under penalty of perjury, that they did not file the respective applications with the intention of reaching or carrying out a settlement agreement.

IN WITNESS WHEREOF, the undersigned has executed this Settlement Agreement on the day and date specified above.

WESTERN BROADCASTING COMPANY, L.L.C.

By: \_\_\_\_\_

PRIME BROADCASTING COMPANY

By: \_\_\_\_\_

NYN, L.L.C.

By: \_\_\_\_\_

warrant one to another and to the Commission, under penalty of perjury, that they did not file the respective applications with the intention of reaching or carrying out a settlement agreement.

IN WITNESS WHEREOF, the undersigned has executed this Settlement Agreement on the day and date specified above.

WESTERN BROADCASTING COMPANY, L.L.C.

By: \_\_\_\_\_

PRIME BROADCASTING COMPANY

By: *[Handwritten Signature]*

NYN, L.L.C.

By: \_\_\_\_\_

warrant one to another and to the Commission, under penalty of perjury, that they did not file the respective applications with the intention of reaching or carrying out a settlement agreement.

IN WITNESS WHEREOF, the undersigned has executed this Settlement Agreement on the day and date specified above.

WESTERN BROADCASTING COMPANY, L.L.C.

By: \_\_\_\_\_

PRIME BROADCASTING COMPANY

By: \_\_\_\_\_

NYN, L.L.C.

By: Steven R. Schuyler

00100000000000000000

\*\* TOTAL PAGE 03 \*\*

JAN 29 15:13 NO.002 P.03

ID:8026602701

WINN-TV

\*\* TOTAL PAGE 04 \*\*

January 30, 1958

Magalic Roman Salas  
Secretary  
Federal Communications Commission  
2919 M Street, N.W.  
Washington, D.C. 20554

Re: Presque Isle, Maine  
File No. BDCR-968920RY

Dear Mr. Salas:

On behalf of Prime Broadcasting Company, applicant for a construction permit to build a new television station at Presque Isle, Maine, this is to request amendment of its application pursuant to a Settlement Agreement executed by Presque Isle mutually-exclusive applicants, Prime Broadcasting Company and WYN, I.L.C. and Western Broadcasting Company, I.L.C.

Respectfully submitted,



# GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

January 30, 1998

Mr. Bruce Eisen  
Keye, Scholer, Fieman, Hays & Handler  
901 15th Street, NW  
Suite 1100  
Washington, DC 20005

RE: New Television Application  
Presque Isle, Maine

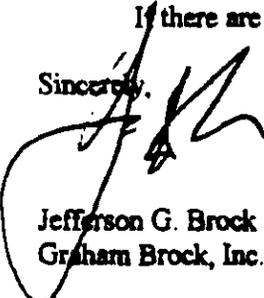
Dear Bruce:

On behalf of Western Broadcasting Company, I have reviewed an application I prepared on behalf of Prime Broadcasting Company for a new television station on Channel 62 at Presque Isle, Maine. The application was prepared on September 18, 1996. It is my understanding that Western Broadcasting Company is the successor of interest to the application of Prime Broadcasting Company. As such, I have reviewed the application I prepared in 1996 to determine whether the information contained in that application remains valid.

Based on a review of the proposed transmitter site and the requisite spacing requirements for UHF television stations, I find the application prepared in September 1996 is still valid. In addition, the Federal Aviation Administration has already issued a Determination of No Hazard for the proposed tower site. Therefore, we see no reason why the application, as prepared, will not meet the Commission's engineering requirements for issuance of a construction permit.

If there are any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

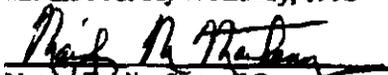


Jefferson G. Brock  
Graham Brock, Inc.

JGB/mm

cc: Western Broadcasting Company

Sworn to and subscribed before me  
this the 30th day of January, 1998



Notary Public, State of Georgia

My Commission Expires: September 12, 1999

FOR  
FCC  
USE  
ONLY

# FCC 301

## APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY  
FILE NO.

### Section I - GENERAL INFORMATION

1. APPLICANT NAME (Last, First, Middle Initial) Western Broadcasting Company, L.L.C.			
MAILING ADDRESS (Line 1) (Maximum 35 characters) P. O. Box 163061			
MAILING ADDRESS (Line 2) (Maximum 35 characters)			
CITY Austin	STATE OR COUNTRY (if foreign address) TX	ZIP CODE 78716	
TELEPHONE NUMBER (include area code) (512) 306-0500	CALL LETTERS	OTHER FCC IDENTIFIER (IF APPLICABLE)	
2. A. Is a fee submitted with this application? <span style="float:right"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>			
B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1113) and go to Question 3.			
<input type="checkbox"/> Governmental Entity <input type="checkbox"/> Noncommercial educational licensee <input checked="" type="checkbox"/> Other (Please explain): Amendment to existing application in order to implement the Settlement Agreement pursuant to Balanced Budget Act of 1997			
C. If Yes, provide the following information:			
Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).			
(A)	(B)	(C)	FOR FCC USE ONLY
(1) FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A) \$	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.			
(A)	(B)	(C)	FOR FCC USE ONLY
(2)		\$	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.		TOTAL AMOUNT REMITTED WITH THIS APPLICATION \$	FOR FCC USE ONLY
<input type="text"/>		<input type="text"/>	<input type="text"/>

**Section I - GENERAL INFORMATION (Page 2)**

3. This application is for: (check one box)

AM                       FM                       TV

(b) Channel No. or Frequency 62
------------------------------------

(b) Principal Community	City	State
	Presque Isle	Maine

(c) Check one of the following boxes:

- Application for NEW station
- MAJOR change in licensed facilities; call sign: \_\_\_\_\_
- MINOR change in licensed facilities; call sign: \_\_\_\_\_
- MAJOR modification of construction permit; call sign: \_\_\_\_\_  
File No. of construction permit; call sign: \_\_\_\_\_
- MINOR modification of construction permit; call sign: \_\_\_\_\_  
File No. of construction permit; call sign: \_\_\_\_\_
- AMENDMENT to pending application: Application File Number: \_\_\_\_\_ BPCT-960920K

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

4. Is this application mutually exclusive with a renewal application?  Yes  No

If Yes, state:

Call letters	Community of License	
	City	State

**Section II - LEGAL QUALIFICATIONS**

Name of Applicant

Western Broadcasting Company, L.L.C.

1. Applicant is: (check one box below)

- Individual
- General partnership
- For-profit corporation
- Other
- Limited partnership
- Not-for-profit corporation

2. If the applicant is an unincorporated association or a legal entity other than an individual, partnership, or corporation, describe in an Exhibit the nature of the applicant.

Exhibit No.  
1

NOTE: The terms "applicant," "parties to this application," and "non-party equity owners in the applicant" are defined in the instructions for Section II of this form. Complete information as to each "party to this application" and "non-party equity owner in the applicant" is required. If the applicant considers that to furnish complete information would pose an unreasonable burden, it may request that the Commission waive the strict terms of this requirement with appropriate justification.

3. If the applicant is not an individual, provide the date and place of filing of the applicant's enabling charter (e.g., a limited partnership must identify its certificate of limited partnership and a corporation must identify its articles of incorporation by date and place of filing):

Date January 26, 1998 Place Secretary of State (Cheyenne, WY)

In the event there is no requirement that the enabling charter be filed with the state, the applicant shall include the enabling charter in the applicant's public inspection file. If, in the case of a partnership, the enabling charter does not include the partnership agreement itself, the applicant shall include a copy of the agreement in the applicant's public inspection file.

4. Are there any documents, instruments, contracts or understandings (written or oral), other than instruments identified in response to Question 3, above, relating to future ownership interests in the applicant, including but not limited to, stock pledges or other forms of security, insulated limited partnership shares, nonvoting stock interests, beneficial stock ownership interests, options, rights of first refusal, warrants, or debentures?

Yes  No

If Yes, submit as an Exhibit all such written documents, instruments, contracts, or understandings, and provide the particulars of any oral agreement.

Exhibit No.

5. Complete, if applicable, the following certifications: N/A

(a) Applicant certifies that no limited partner will be involved in any material respect in the management or operation of the proposed station.

Yes  No

If No, applicant must complete Question 6 below with respect to all limited partners actively involved in the media activities of the partnership.

(b) Does any investment company (as defined in 15 U.S.C. Section 80 a-3), insurance company, or trust department of any bank have an aggregated holding of greater than 5% but less than 10% of the outstanding votes of the applicant?

Yes  No

If Yes, applicant certifies that the entity holding such interests exercises no influence or control over the applicant, directly or indirectly, and has no representatives among the officers and directors of the applicant.

Yes  No

**Section II - LEGAL QUALIFICATIONS (Page 2)**

6. List the applicant, parties to the application and non-party equity owners in the applicant. Use one column for each individual or entity. Attach additional pages if necessary.

(Read carefully - The numbered items below refer to line numbers in the following table.)

- a. Name and residence of the applicant and, if applicable, its officers, directors, stockholders, or partners (if other than individual also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners.
- b. Citizenship.
- c. Office or directorship held.
- d. Number of shares or nature of partnership interests.
- e. Number of votes.
- f. Percentage of votes.

NOTE: Radio applicants ONLY: Radio applicants need not respond to subparts g and h of the table. Instead, proceed and respond to Questions 7, 8 and 9, Section II below.

- g. Other existing attributable interests in any broadcast station, including the nature and size of such interests.
- h. All other ownership interests of 5% or more (whether or not attributable), as well as any corporate officership or directorship, in broadcast, cable, or newspaper entities in the same market or with overlapping signals in the same broadcast service, as described in 47 C.F.R. Section 73.3555 and 76.501, including the nature and size of such interests and the positions held.

a.	Western Broadcasting Company, L.L.C. P.O. Box 163061 Austin, TX 78716	Timothy T. Timmerman 4903 Whitethorn Ct. Austin, TX 78746	Sitra, Inc. 1501 42nd Street #375-10 Des Moines, Iowa 50266
b.	Wyoming limited liability company	U.S.	Iowa corporation
c.		President	--
d.		1/3	1/3
e.		33 1/3	33 1/3
f.		33 1/3%	33 1/3%
g.		None	None
h.		None	None

**Section II - LEGAL QUALIFICATIONS (Page 2)**

6. List the applicant, parties to the application and non-party equity owners in the applicant. Use one column for each individual or entity. Attach additional pages if necessary.

(Read carefully - The numbered items below refer to line numbers in the following table.)

- a. Name and residence of the applicant and, if applicable, its officers, directors, stockholders, or partners (if other than individual also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners.
- b. Citizenship.
- c. Office or directorship held.
- d. Number of shares or nature of partnership interests.
- e. Number of votes.
- f. Percentage of votes.

NOTE: Radio applicants ONLY: Radio applicants need not respond to subparts g and h of the table. Instead, proceed and respond to Questions 7, 8 and 9, Section II below.

- g. Other existing attributable interests in any broadcast station, including the nature and size of such interests.
- h. All other ownership interests of 5% or more (whether or not attributable), as well as any corporate officership or directorship, in broadcast, cable, or newspaper entities in the same market or with overlapping signals in the same broadcast service, as described in 47 C.F.R. Section 73.3555 and 76.501, including the nature and size of such interests and the positions held.

a.	Alliance Trust 107 W. Wisteria McAllen, TX 78504		
b.	Texas Trust		
c.	--		
d.	1/3		
e.	33 1/3		
f.	33 1/3%		
g.	None		
h.	None		