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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In re:

Amendment of Section 73.622	)	
Table of Allotments DTV	)	MM Docket No.
Broadcast Stations	)	
Hobbs, New Mexico	)	

To: Chief, Allocations Branch
Policy and Rules Division

PETITION FOR RULEMAKING

Eastern New Mexico University ("ENMU"), by its counsel and pursuant to Section 1.420 of the Commission's Rules, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.622 of its Rules to allot Channel *47 as a new DTV channel at Hobbs, New Mexico, and to reserve it for noncommercial educational use. Such an allotment would serve the public interest by providing the city of Hobbs with its first local noncommercial educational digital television channel and the surrounding areas with high quality public television programming.[1] ENMU commits to apply for DTV Channel *47 at Hobbs, if allotted and reserved for noncommercial use.

Background

ENMU is a public institution of higher education in the state of New Mexico. In furtherance of its educational mandate, ENMU offers programs at its Portales, New Mexico campus, and also by interactive distance education, public broadcast television, a university center in Ruidoso, New Mexico, and a branch/community college in Roswell, New Mexico.

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[1] The FCC allotted one commercial DTV channel at Hobbs, New Mexico – a paired DTV Channel for NTSC Station KHFT(TV).

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ENMU operates a Broadcast Center which houses three 100,000 watt stations: KENW(TV) and KENW-FM in Portales, and KMTH(FM), Maljamar, New Mexico. ENMU also operates a network of TV translator stations which rebroadcast the signal of Station KENW-TV in order to extend its programming throughout the eastern portion of the state of New Mexico. In addition, ENMU offers Instructional Television Fixed Service, providing college level classes via closed-circuit cable TV to locations in Clovis, Cannon Air Force Base, Hobbs, Roswell, and Ruidoso.

ENMU's noncommercial educational television and radio network provides high quality educational, informational and cultural programming, including children's programming, to the eastern regions of New Mexico. ENMU has been providing public TV service since 1974. ENMU now hopes to further its educational mission by providing the only noncommercial educational TV programming service based in the Hobbs area. Most importantly, the addition of the Hobbs DTV station allotment proposed herein would eliminate noncommercial educational DTV station white area in portions of New Mexico by providing the first noncommercial educational digital television to Hobbs, New Mexico. As noted in the attached Engineering Statement, while Hobbs is presently within the predicted noncommercial Grade B contour of just one station, KENW(TV), it is outside of the DTV threshold contour of the permitted KENW-DT facilities. *See also* Figures 5-8 to the Engineering Statement.

Prior to the completion of the DTV transition, the proposed new station at Hobbs will provide the first noncommercial educational TV service to 13,196 persons in an area of 7,320 square kilometers (*see* Engineering Statement at page 2). Post-DTV transition, the proposed Hobbs allotment would represent the only noncommercial educational DTV service for 75,133 persons in an area of 22,590 square kilometers. *Id.*

The proposed allotment would also eliminate noncommercial educational television gray area by providing only the second noncommercial educational TV service to Hobbs, New Mexico. Prior to completion of the DTV transition, the new Hobbs station would provide a second local noncommercial TV service to 61,698 persons in an area of 14,162 square kilometers. *Id.* Post-transition, the Hobbs allotment would represent a second noncommercial TV service for 23,606 persons in an area of 6,405 square kilometers. *Id.*

In support of this petition, ENMU submits the following:

The Allotment of DTV Channel *47 to Hobbs, New Mexico Satisfies Technical and Regulatory Requirements

The present proposal satisfies the minimum geographic spacing requirements with regard to all other DTV stations, DTV allotments, and analog TV stations, including Mexican DTV stations and allotments (*see* Engineering Statement at 1). The reference coordinates for the proposed site are N. 32°-45'-20"; W. 103°-11'-09" (NAD27).

In addition, as the attached engineering statement demonstrates, this request is in compliance with the community coverage requirements of Section 73.625(a), assuming a power/height combination of no more than 1,000 kw/365 m HAAT. Accordingly, the allotment of DTV Channel *47 at Hobbs complies with the requirements of Section 73.623 of the Commission's Rules.

Moreover, this proposal complies with Section 73.622(a) of the Commission's Rules with respect to the initiation of a rulemaking proceeding to add an unoccupied DTV channel to the Table of Allotments and to reserve that channel for noncommercial educational use only. As detailed above and in the attached Engineering Statement, this allotment would provide a first noncommercial educational TV service to 13,196 persons (pre-DTV transition), and 75,133 persons (post DTV-transition). The allotment would also provide a second noncommercial

educational service to 61,698 persons (pre-DTV transition) and 23,606 persons (post-DTV transition). Using only the more conservative pre-transition, first-service figure of 13,196 persons, this still represents more than 10% of the population of 111,933 persons within the Hobbs 41.8 dBu DTV threshold contour (*see* Engineering Statement at 1). The proposed allotment therefore complies with Section 73.622(a) of the Commission's Rules.

Allotment of DTV Channel *47 to Hobbs, New Mexico Would Provide the Hobbs Area with a Valuable Source of Noncommercial Educational Programming

At present, there is no noncommercial educational DTV allotment for Hobbs, New Mexico. The allotment of DTV Channel *47 to Hobbs would thus provide the city with its only noncommercial educational digital television facility. Moreover, as demonstrated above, the new DTV allotment in Hobbs would significantly reduce noncommercial educational digital television white area, and noncommercial educational television gray area, in furtherance of the Congressional mandate in Section 396 of the Communications Act.[2]

The Commission recognizes the value of local programming, especially with respect to noncommercial educational broadcasting. *See, e.g.*, Educational TV Assignment at Terre Haute, Indiana, 19 RR 2d 1850, 1853 (1970) ("We have repeatedly announced our policy to forward local programming in the broadcast services. Local programming is essential particularly in the field of education in that local programming can most effectively deal with the specific problems, needs, and interests in the community being served.")

[2] "It is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies." 47 U.S.C. § 396(a)(9).

DTV Channel *47 at Hobbs, New Mexico, Should Be Reserved for Noncommercial, Educational Use

The purpose of this petition is to allot a channel, for which ENMU intends to apply, to provide Hobbs with its first noncommercial educational DTV channel. Reservation of Channel *47 for noncommercial educational use would make possible the enhanced provision of noncommercial and educational programs in the area. Moreover, in accordance with the requirements of Section 73.622(a), the proposed allotment would provide a first noncommercial educational service to 13,196 persons (or 75,133 post-DTV transition) and a second noncommercial educational service to 61,698 persons (or 23,606 post-DTV transition).

Conclusion

For all of these reasons, ENMU requests that the Commission institute a rulemaking proceeding to amend Section 73.622 of its Rules to allot DTV Channel *47 to Hobbs, New Mexico, and to reserve it for noncommercial educational use.

Respectfully submitted,

EASTERN NEW MEXICO UNIVERSITY

By: Barry Persh

Todd D. Gray
Margaret L. Miller
Barry S. Persh

Attorneys for Petitioner

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1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

May 12, 2003

I, Duane W. Ryan, Director of Broadcasting for Eastern New Mexico University, hereby declare that the foregoing facts set forth in this Petition for Rulemaking to amend Section 73.622 of the Commission's Rules are true and correct to the best of my knowledge and belief. Eastern New Mexico University intends to apply for and prosecute an application for DTV Channel *47 at Hobbs, New Mexico, if allotted as a reserved noncommercial educational DTV channel.

By: Duane W. Ryan

Title: Director of Broadcasting

Date: 5/8/2003

kenw

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Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Regents of Eastern New Mexico University, licensee of TV Station KENW, NTSC Channel 3, Portales, New Mexico, and permittee of Station KENW-DT, DTV Channel 32, Portales, New Mexico, to prepare an engineering exhibit in support of a Petition for Rulemaking for an entirely new noncommercial DTV Channel 47 allotment for Hobbs, New Mexico.

U.S. Domestic Spacing Conditions

As shown by the table in the attached Figure 1, a new noncommercial full-service DTV allotment could be created for Hobbs, New Mexico, at 32° 45' 20" N, 103° 11' 09" W, NAD27 that would meet all spacing requirements. It is noted that presently Hobbs has one commercial DTV channel allotted to it, KHFT, Channel D16, but no noncommercial DTV channels.

Mexican Spacings

The proposed site is 287.2 kilometers from the U.S.-Mexico border. Since this is within 320 kilometers of the Mexican border, it is therefore subject to the 1983 U.S.-Mexico UHF Television Agreement. However, as shown by the attached Figure 2A, DTV Channel 47 at the proposed coordinates would be fully spaced to all Mexican NTSC allotments. Since the proposed site is greater than 275 kilometers from the U.S.-Mexico border, the proposal is not subject to the U.S.-Mexico DTV Memorandum of Understanding ("MOU"). Nevertheless, as shown by Figure 2B, DTV Channel 47 at the proposed coordinates would be fully spaced to all Mexican DTV stations and allotments. Therefore, there would be no basis for the Government of Mexico to object to a new DTV Channel 47 at Hobbs.

Coverage of Hobbs

As shown by the attached Figure 3, a maximum power (1,000 kW effective radiated power ("ERP") omni-directional DTV station with an effective height of 1,485.3 m AMSL, 365 meters HAAT, would completely encompass Hobbs within its F(50,90) 48.7 dBu dipole-adjusted City Grade contour, thus meeting the requirement of Section 73.623(d)(1) of the FCC Rules. An OET-69 coverage study for the proposed allotment, attached as Figure 4, shows a terrain-limited, interference-limited area of 31,518.4 square kilometers and 117,118 persons (intentionally still 1990 Census); these figures are therefore proposed for the "baseline" area and population for the proposed Hobbs DTV Channel 47 allotment.

As shown by the attached Figure 5, Hobbs is presently within the predicted noncommercial Grade B contour of just KENW. Therefore, the proposed allotment would represent Hobbs's second noncommercial service, because Hobbs would be outside of the DTV threshold contour of the permitted KENW-DT facilities, as shown by the attached Figure 6. The proposed allotment would also represent Hobbs's first local noncommercial digital television service.

New NonCommercial Service

As shown by the attached Figures 7 and 8, the proposed allocation at Hobbs would provide first local noncommercial service to an area of 7,320 square kilometers encompassing 13,196 persons during the pre-DTV transition period. There are 111,933 persons calculated to be within the Hobbs 41.8 dBu DTV threshold contour; therefore, new service is provided to greater than 10% of the total population served as required by FCC Rules. This analysis presumes that both DTV and NTSC operations will be providing local noncommercial service during the pre-transition period. Post-DTV transition, first local noncommercial service would be provided to an area of 22,590 square kilometers encompassing 75,133 persons.

Second local noncommercial service would be provided to 14,162 square kilometers and 61,698 persons during the pre-DTV transition period, and to 6,405 square kilometers and 23,606 persons during the post-DTV transition period

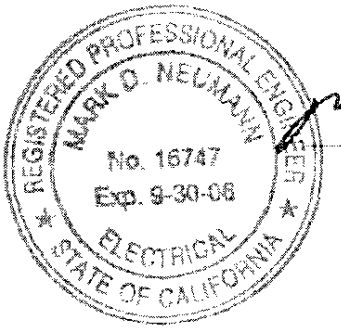
Summary

A noncommercial DTV Channel 47 allotment for Hobbs, New Mexico, would constitute that community's first noncommercial DTV allotment, would provide first local non-commercial service to 13,196 persons and second local non-commercial service to 61,698 persons, would be fully spaced to all other stations, both U.S. and Mexican, and would therefore be in the public interest.

List of Figures

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

1. Summary of spacing conditions
2. Maps showing Mexican DTV and NTSC allocation conditions
3. City Grade coverage map
4. OET-69 coverage study and coverage map
5. Map showing Grade B contours of other NCETV stations
6. Map showing KENW-DT coverage.
7. Map showing Pre-DTV transition new service.
8. Map showing Post-DTV transition new service.



Mark D. Neumann, P.E.

May 2, 2003

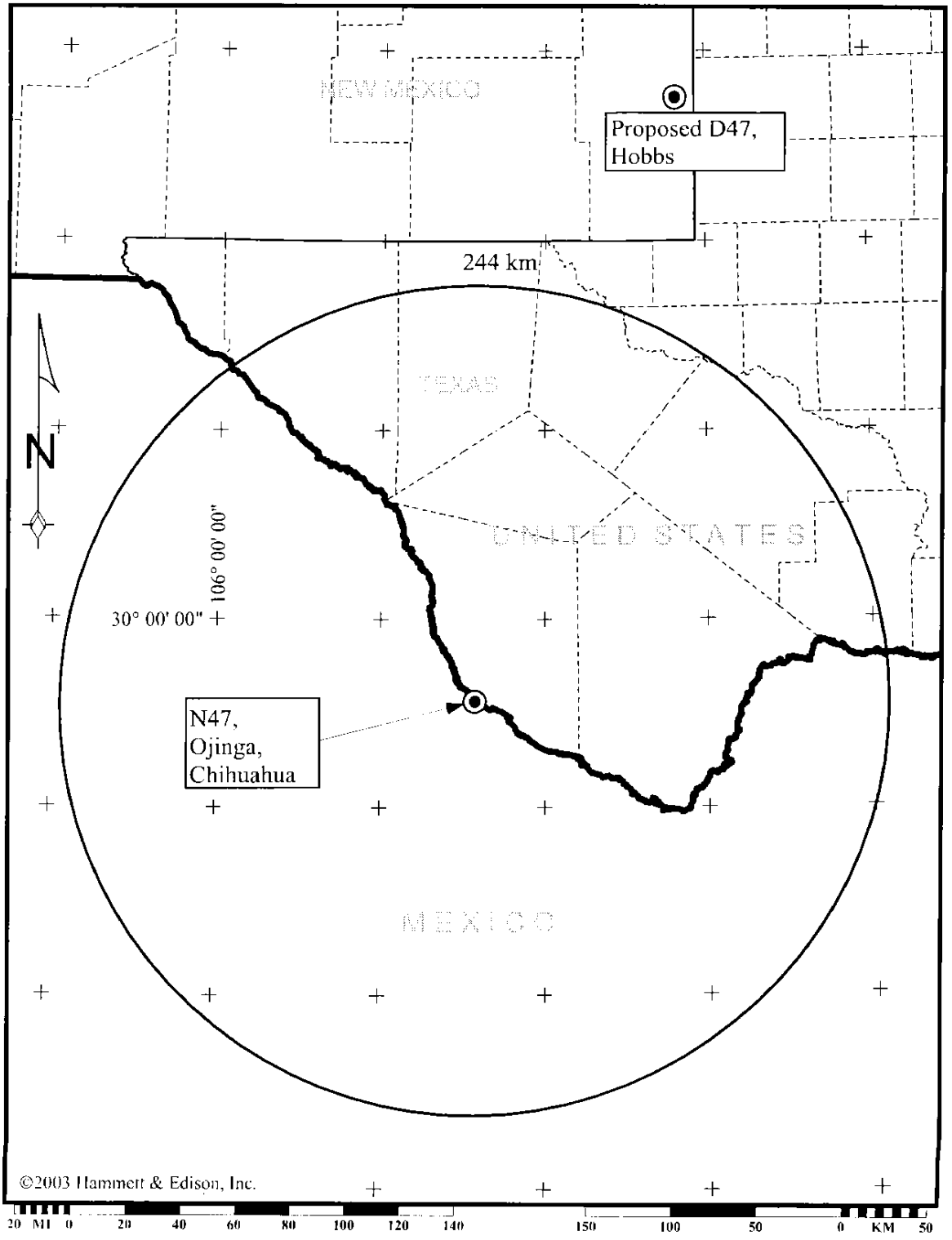
Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

U.S. Domestic Allocation Conditions

Callsign	Channel	Status	City of License	Actual Distance	Required Distance
KJTV-CA	32A	LIC	Lubbock, TX	147.9 km	96.6 km
KKGD-LP	33		Roswell, NM	143.7	96.6
KXTX-TV	39	LIC	Dallas, TX	581.8	96.6
K40FJ	40A	CP	Midland, TX	140.3	96.6
K40FJ	40A	LIC	Midland, TX	140.3	96.6
KGLR-LP	40A	LIC	Lubbock, TX	150.6	96.6
KIDT-LP	43A	LIC	Stamford, TX	303.1	96.6
KIDT-LP	44A	CP	Stamford, TX	303.1	96.6
DKTDA	45		Lawton, OK	487.2	96.6
KXTQ-LP	46A	LIC	Lubbock, TX	147.9	106.0
KXTQ-LP	46A	CP	Lubbock, TX	147.9	106.0
KTYO-DT	D47	CP	Las Cruces, NM	318.2	223.7
KTYO-DT	D47	Alloc	Las Cruces, NM	318.2	223.7
KTYO	48	LIC	Las Cruces, NM	318.2	106.0
KBVO-CA	49A	LIC	Austin, TX	577.0	96.6
KASY-TV	50	LIC	Albuquerque, NM	406.6	96.6
KRYT-LP	51A	CPM	San Antonio, TX	544.7	96.6
KIDZ-LP	54A	LIC	Abilene, TX	325.9	96.6
KLDT	55	LIC	Lake Dallas, TX	579.4	96.6

Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

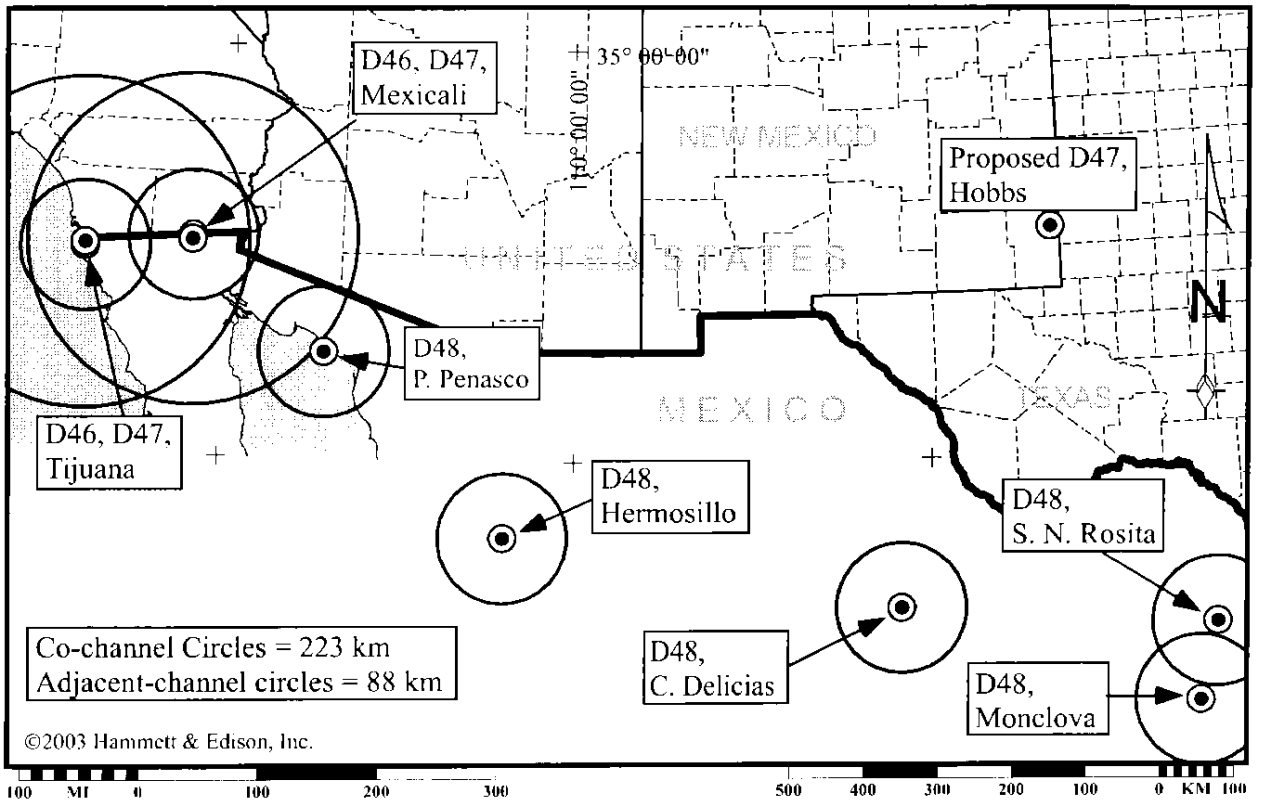
Mexican NTSC Allocation Conditions



Albers equal area map projection. County and state lines shown taken from 2000 U.S. Census Bureau TIGER data. Geographic coordinate marks shown at 1-degree increments.

Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

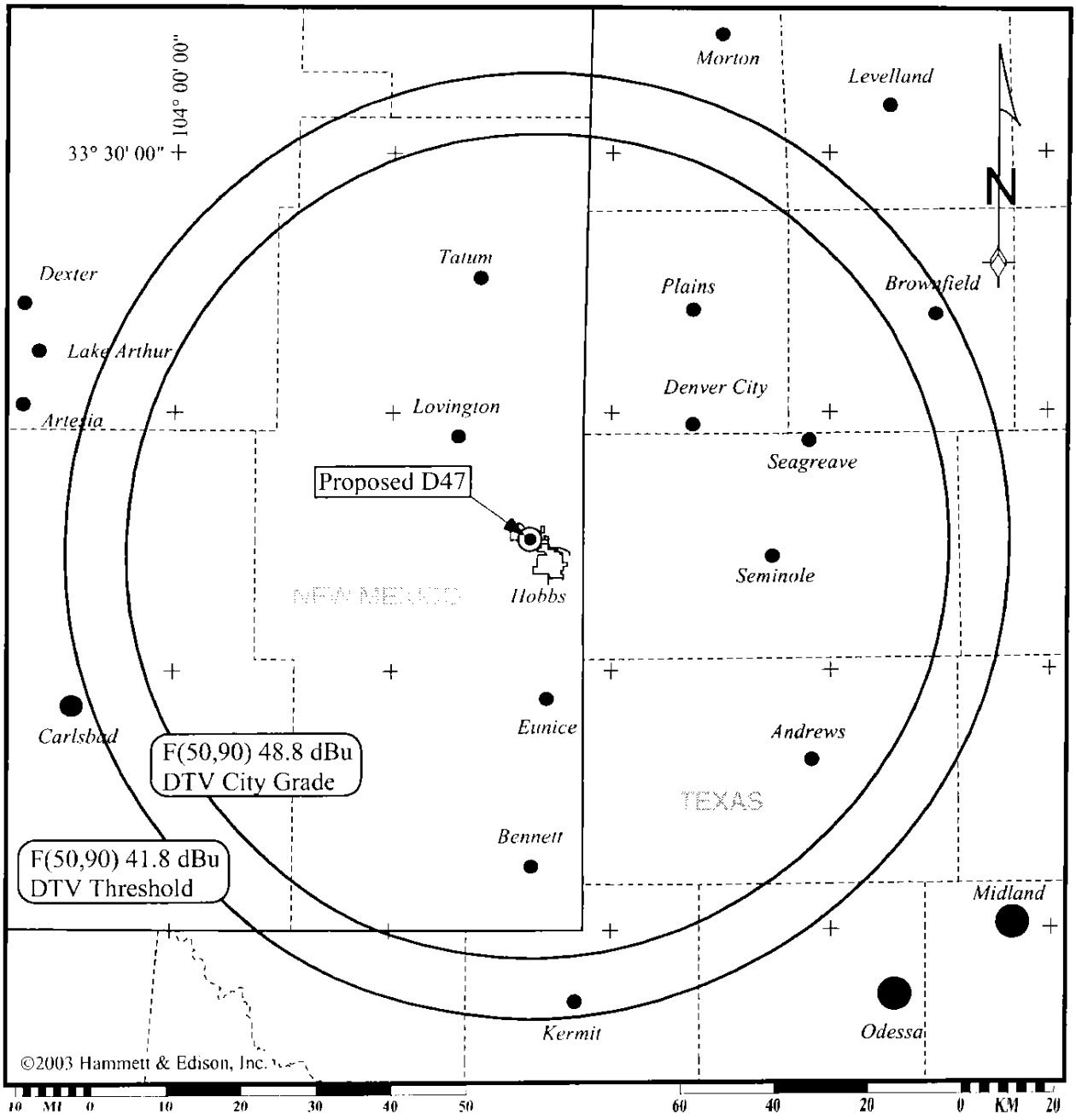
Mexican DTV Allocation Conditions



Azimuthal equidistant map projection. Map data taken from Sectional Aeronautical Charts, published by the National Ocean Survey. County and state lines shown taken from 2000 U.S. Census Bureau TIGER data. Geographic coordinate marks shown at 5-degree increments.

Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

FCC Contours for Proposed Allotment
1,000 kW ERP Omnidirectional
COR=366.7 m AGL, 1485.3 m AMSL, 365 m HAAT
32° 45' 20" N, 103° 11' 09" W, NAD 27



Contour	Area	Population (2000 Census)
DTV Threshold	32,199.0 sq km	111,933 persons
DTV City Grade	24,447.2	91,022

Lambert conformal conic map projection. City limits shown taken from 2000 U.S. Census Bureau TIGER data. Geographic coordinate marks shown at 30-second increments.

Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

OET-69 Coverage Study

Coverage analysis
tvcovstudy 2.3.15

Station parameters:

	--Proposed DTV Allotment---
Station:	Proposed D47 NCEDT Allotment
City:	Hobbs, NM
Coordinates:	N 32-45-20.0
	W 103-11-09.0
Height AMSL:	1485.3 m
Maximum ERP:	1000 kW
Azimuth pattern:	omnidirectional
Orientation:	
Elevation pattern:	OET-69 generic
Service level:	41.7 dBu

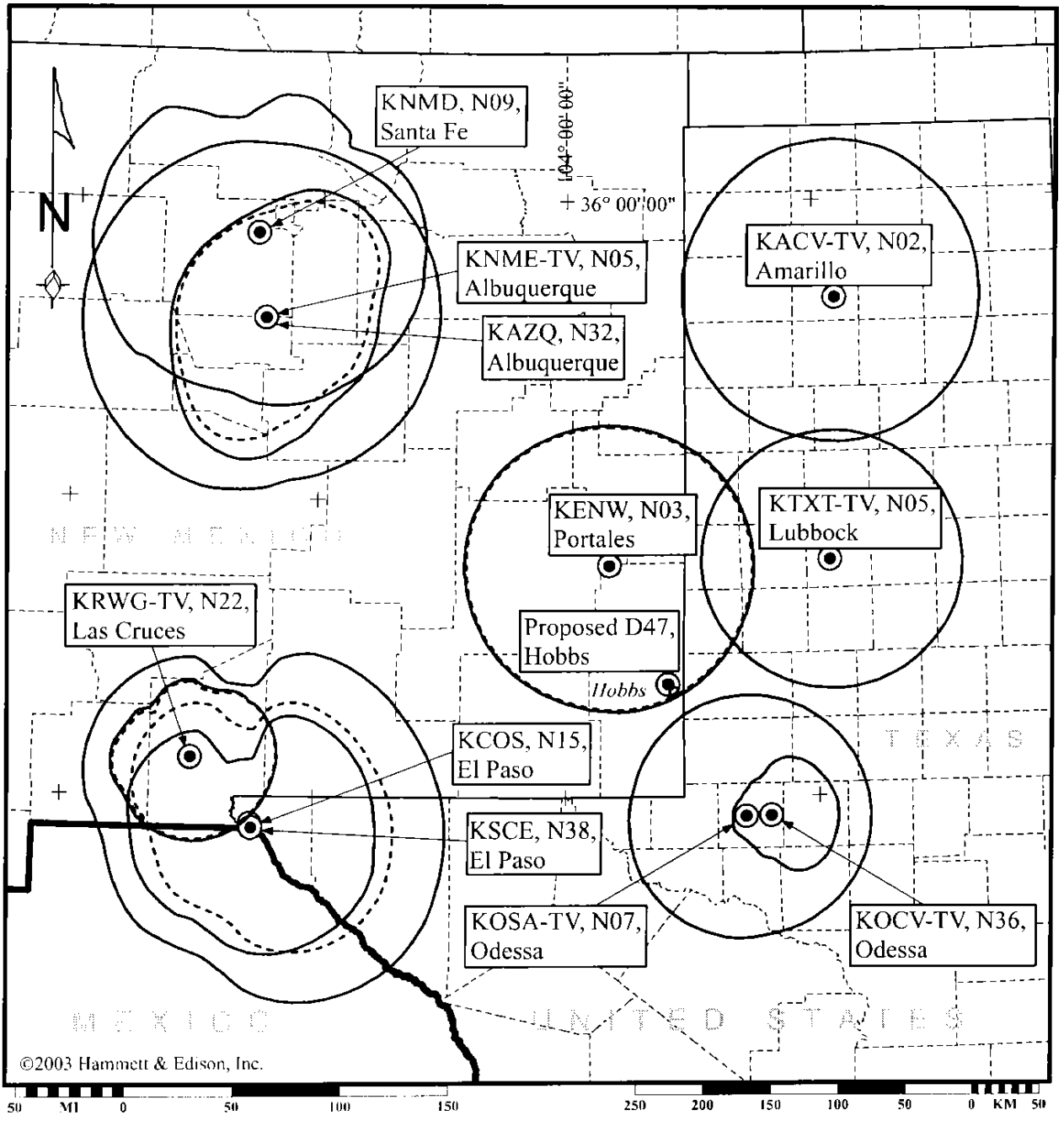
	Total IX		Unique IX	
Interfering station	Area,km2	Population	Area,km2	Population
D47 KTYODT allot LAS CRUCES, NM	0.0	0	0.0	0

Service conditions	Area,km2	Population
Noise-limited service	32252.8	117,265
Terrain-limited service	31518.4	117,118
Interference-free service	31518.4	117,118
Longley-Rice errors	549.8	346

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.

Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

NTSC NonCommercial Educational
Grade B TV Coverages



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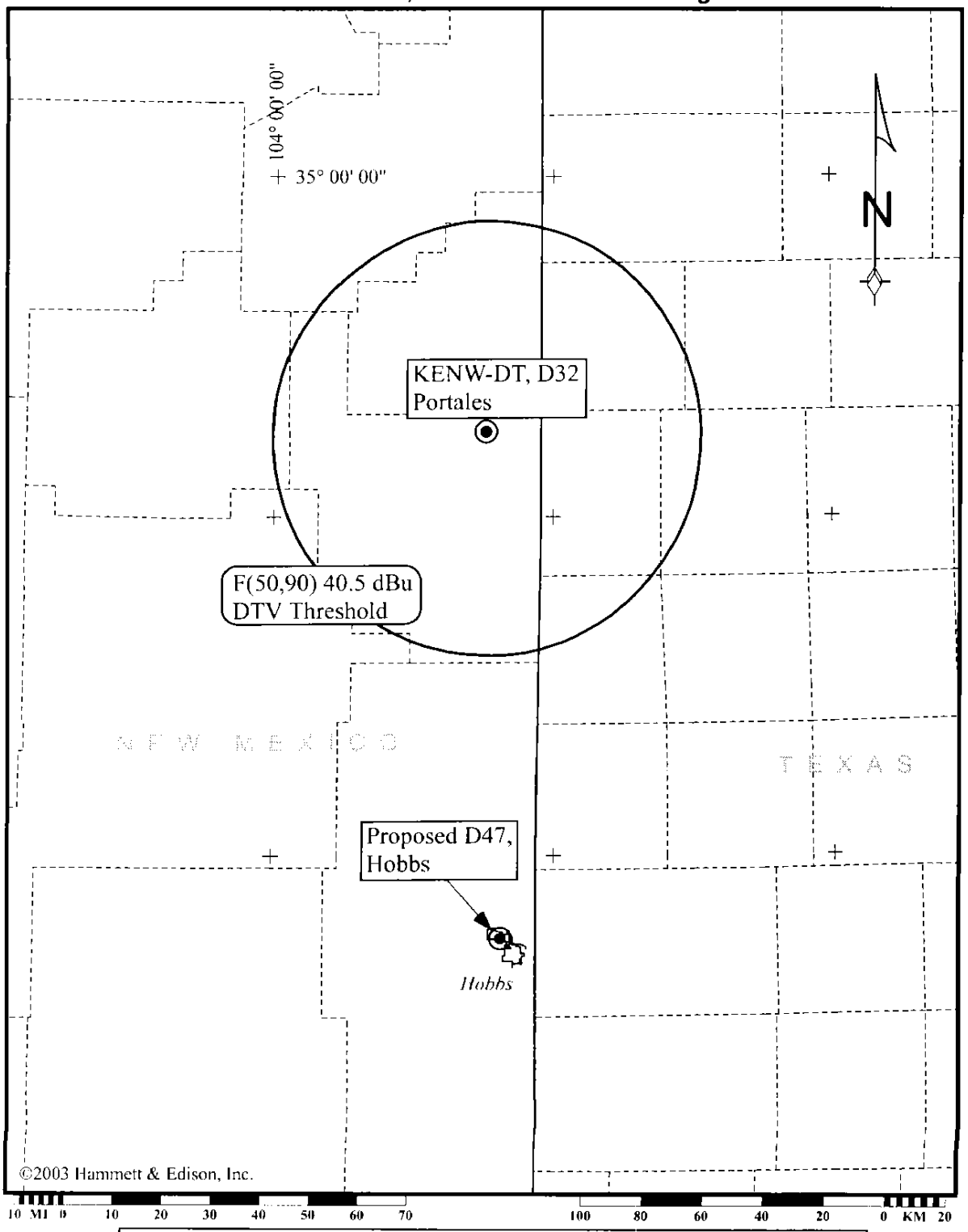
Azimuthal equidistant map projection. City limits shown taken from 2000 U.S. Census Bureau TIGER data. Geographic coordinate marks shown at 2-degree increments.

Petition for Rulemaking • New NonCommercial DTV Channel 47
Hobbs, New Mexico

KENW-DT, DTV Channel 32 Coverage



Lambert conformal conic map projection. City limits shown taken from 2000 U.S. Census Bureau TIGER data. Geographic coordinate marks shown at 1-degree increments.

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

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Figure 6

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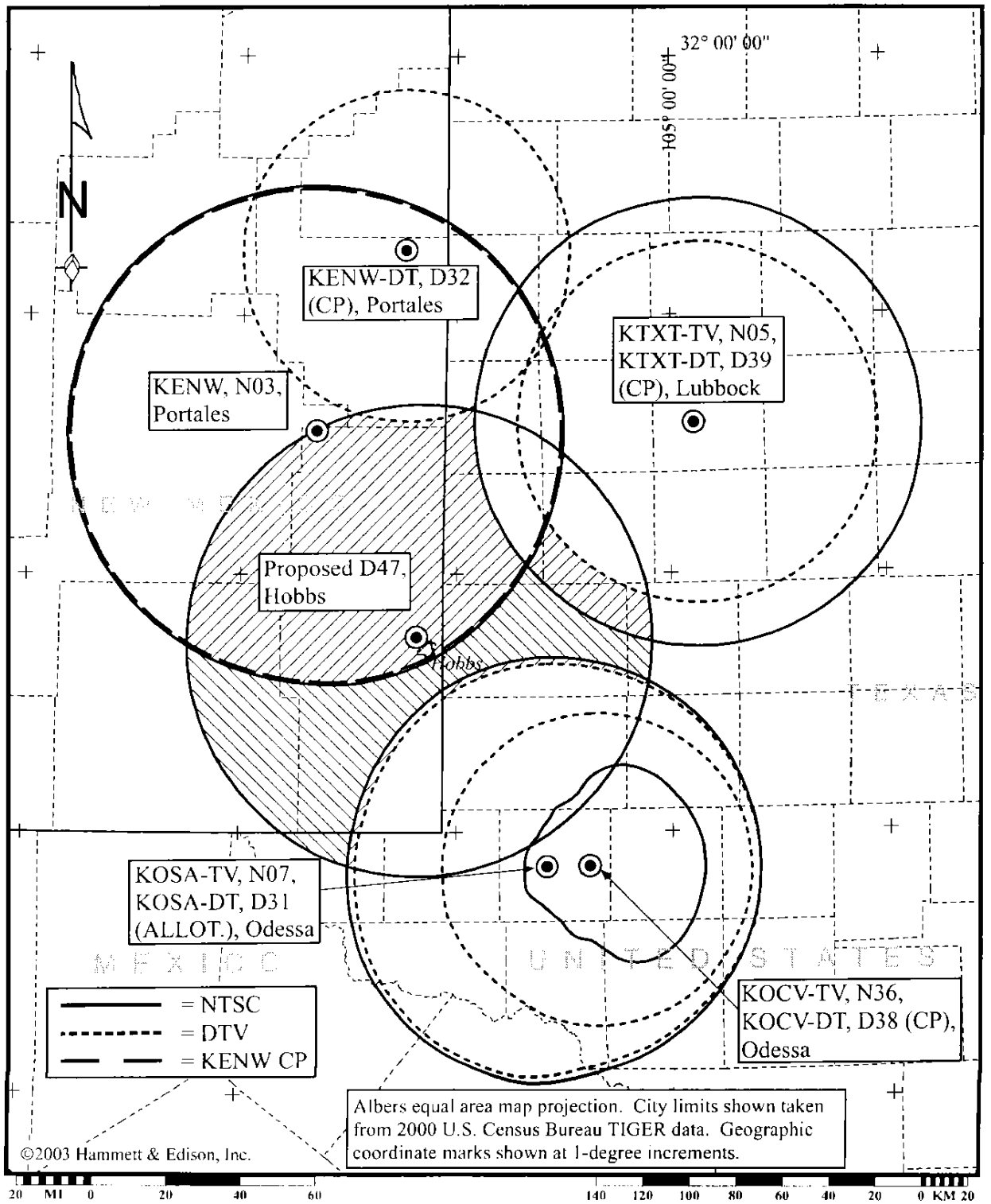
Hobbs, New Mexico

Pre-DTV Transition First and Second NonCommercial Service Areas



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

First Non-Commercial Service

Second Non-Commercial Service

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Figure 7

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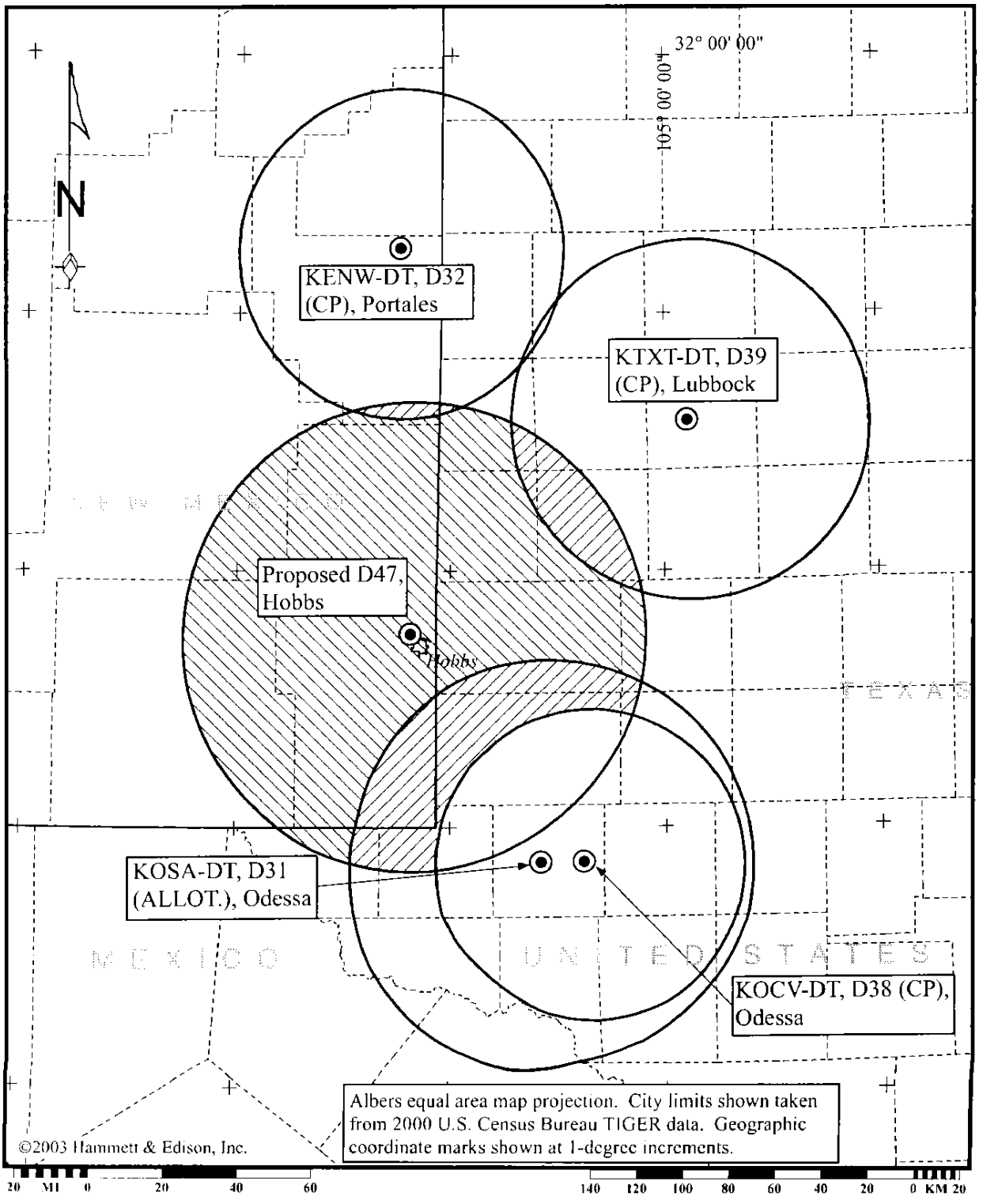
Hobbs, New Mexico

Post-DTV Transition First and Second NonCommercial Service Areas



First Non-Commercial Service

Second Non-Commercial Service

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SAN FRANCISCO

030102
Figure 8