

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

In the Matter of )  
)  
Amendment of Section 73.606(b) ) MM Docket No. 01-323  
Table of Allotments ) RM - 10337  
Television Broadcast Stations )  
(Vernal and Santaquin, Utah, )  
Ely and Caliente, Nevada) )

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To: Office of the Secretary  
Attn: Chief, Allocations Branch  
Media Bureau

Federal Communications Commission  
Office of Secretary

**MOTION TO SEVER AND**  
**REQUEST FOR EXPEDITED ACTION**

Kaleidoscope Foundation, Inc. ("KFI"), permittee of VHF TV Station KBNY, Channel 6, Ely, Nevada, by its counsel, hereby moves to sever its proposal to relocate KBNY from Ely to Caliente, Nevada from the other proposal in this proceeding, and requests that the Commission expedite its processing of the Ely-Caliente proposal.

On April 27, 2000, KFI and Vernal Broadcasting Inc. ("VBI"), permittee of VHF TV Station KBCJ, Channel 6, Vernal, Utah, together filed a petition for rule making pursuant to which (1) KBCJ would relocate from Vernal to Santaquin, Utah, and (2) KBNY would relocate from Ely to Caliente, Nevada. The Commission released a Notice of Proposed Rule Making on November 23, 2001, and comments and reply comments were filed. The pleading cycle closed on January 29, 2002.

As set forth in the petition for rule making, the Vernal-Santaquin relocation cannot be accomplished without the Ely-Caliente relocation as a prerequisite. The channel spacing requirements do not permit Channel 6 to be allotted to Santaquin while Channel 6 remains at

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Ely. However, the Ely-Caliente relocation can be accomplished on its own without any other changes.

It has now been more than four years since the petition for rule making was filed, and more than two years since the close of the pleading cycle. KFI does not understand why this proceeding has languished so long before the Commission. However, the request to relocate Station KBNY from Ely to Caliente, Nevada is less complicated than the request to relocate Station KBCJ from Vernal to Santaquin, Utah due to the oppositions filed to the latter proposal.

***Motion to Sever.*** KFI hereby moves to sever the Ely-Caliente proposal from the Vernal-Santaquin proposal. As discussed above and demonstrated in the petition for rule making, the relocation of Channel 6 from Ely to Caliente can be accomplished with no other changes to the TV Table of Allotments. Accordingly, the Commission should act on the Ely-Caliente proposal standing alone. As set forth in the petition for rule making, the relocation of Channel 6 to Caliente will provide existing white and gray areas with a first television service (priority 1) and a second television service (priority 3), respectively. It will also provide a first local television service to Caliente (priority 2). There will be no existing loss area because Channel 6 has never been constructed at Ely.

***Digital Construction.*** Should the Commission grant the Ely-Caliente reallocation, KFI hereby states that it is willing to construct Channel 6 at Caliente as a digital-only station, thus furthering the Commission's goal to achieve a rapid transition to digital television.

***Request for Expedited Action.*** Four years ago KFI and VBI requested that the Commission process their combined proposals on an expedited basis. Since the process has taken much longer than expected, KFI is willing to separate the proposals. The Ely-Caliente

proposal is unopposed in the record of this proceeding, any substantive comments in opposition having been directed towards the Vernal-Santaquin proposal.

WHEREFORE, for the foregoing reasons, the Commission should sever the Ely-Caliente proposal and grant it expeditiously.

Respectfully submitted,

KALEIDOSCOPE FOUNDATION, INC.

By:   
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Its Counsel

July 23, 2004

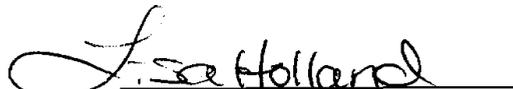
**CERTIFICATE OF SERVICE**

I, Lisa Holland, a secretary in the law firm of Vinson & Elkins, do hereby certify that I have on this 23rd day of July, 2004 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Motion to Sever and Request for Expedited Action" to the following:

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