

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

RECEIVED & INSPECTED

AUG 9 2004

FCC - MAILROOM

In the Matter of)	
)	
Amendment of Section 73.622(b))	MB Docket No. 04-225
Table of Allotments,)	RM-10695
Digital Television Broadcast Stations.)	
(Santa Ana, California))	

To: Chief, Video Division: **DOCKET FILE COPY ORIGINAL**

COMMENTS AND COUNTERPROPOSAL OF BELA TV LLC

Bela TV LLC ("Bela") asks that the Commission amend the DTV Table of Allotments to substitute DTV Channel 23 for DTV Channel 24 for Station KBEH-DT, Oxnard, California, with the following specifications:

<u>State and City</u>	<u>DTV Channel</u>	<u>DTV Power</u>	<u>Antenna HAAT</u>
Oxnard, CA	23	390 kW	537 m

As demonstrated in the attached engineering statement of duTreil Lundin & Rackley, Inc., the proposed allotment results in increased television service from Station KBEH-DT¹ in a manner consistent with all applicable technical standards. In this connection, Bela submits that the following facts demonstrate its proposal's substantial compliance with Rule 73.623(c)(2) with respect to Station KVMD-DT, Twentynine Palms, California: First, Bela's proposal for DTV Channel 23 causes no interference whatsoever to any of the areas and populations used to

¹ The proposed Channel 23 DTV allotment for KBEH-DT would provide interference-free service to an estimated population of 3,768,000. This represents an increase in service population of 2,538,000 (and 15,253 square kilometers) with respect to the KBEH-DT Channel 24-allotment facility; and 2,148,000 (and 12,511 square kilometers) with respect to the present KBEH Channel 63 analog facility.

No. of Copies rec'd 074
List ABCDE

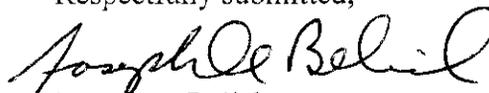
compute the KVMD-DT population values in Appendix B of Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, MM Docket No. 87-268, FCC 98-24, adopted January 29, 1998, (the "Reconsideration Order"). Next, KVMD-DT's currently authorized service area exceeds by 20,848 square kilometers and 2,440,401 people the service area used to compute the population values for KVMD set out in Appendix B of the Reconsideration Order. Finally, while Bela's proposed use of DTV Channel 23 does cause interference to KVMD-DT within the areas added to its service area after adoption of Appendix B of the Reconsideration Order (the "Gain Area"), this interference to the Gain Area affects only two percent of the Gain Area's population as determined in the 1990 US Census.²

In view of the foregoing, Bela requests that the DTV Table of Allotments be amended as follows:

<u>State and City</u>	<u>Present Channel</u>	<u>Proposed Channel</u>
Santa Ana, CA	23 c	33
Oxnard, CA	24	23

and that the authorization of Station KBEH-DT be modified to specify operation on DTV Channel 23.

Respectfully submitted,



Joseph A. Belisle
Counsel for Bela TV LLC

August 6, 2004
Leibowitz & Associates, P.A.
One SE Third Avenue - Suite 1450
Miami, FL 33131

² Bela notes that its engineer views these facts as demonstrating an anomalous situation warranting waiver of Rule 73.623(c)(2). While Bela believes Rule 73.623(c)(2) is fully accommodated on the facts stated, these same facts would certainly justify waiver of Rule 73.623(c)(2) if the rule would otherwise be applied to preclude grant of Bela's proposal. To the extent a waiver request assists in granting Bela's proposal, Bela requests waiver of Rule 73.623(c)(2).

TECHNICAL EXHIBIT
IN SUPPORT OF COMMENTS AND
COUNTERPROPOSAL
TELEVISION STATION KBEH-DT
OXNARD, CALIFORNIA

August 5, 2004

TECHNICAL EXHIBIT
IN SUPPORT OF COMMENTS AND COUNTERPROPOSAL
TELEVISION STATION KBEH-DT
OXNARD, CALIFORNIA

Table of Contents

	Technical Statement
Figure 1	Technical Specifications
Figure 2	Predicted Coverage Contours
Figure 3	Summary of Domestic Allocation Analysis

TECHNICAL EXHIBIT
IN SUPPORT OF COMMENTS AND COUNTERPROPOSAL
TELEVISION STATION KBEH-DT
OXNARD, CALIFORNIA

Technical Statement

This Technical Statement was prepared on behalf of Bela TV LLC (“Bela”), licensee of television broadcast station KBEH(TV), Oxnard, California (Channel 63), in support of Comments and Counterproposal in MB Docket No. 04-225. In conjunction with the proposal to migrate DTV Channel 23 at Santa Ana to DTV Channel 23, Bela proposes to amend Section 73.622(b) of the FCC Rules to change the KBEH-DT transitional digital television channel from Channel 24 to Channel 23.

KBEH-DT was allotted DTV Channel 24 with a maximum effective radiated power (ERP) of 50 kW using a directional antenna and an antenna height above average terrain (HAAT) of 549 m.* KBEH-DT is authorized for operation on Channel 24 with a maximum directional ERP of 85 kW and antenna HAAT of 533 m.† The instant petition proposes Channel 23 in lieu of Channel 24 for KBEH-DT’s DTV transitional channel using the same allotment reference location. The petitioner proposes that Channel 23 be allotted with a non-directional ERP of 390 kW and antenna HAAT of 553 m. The technical specifications for the proposed allotment are included herein at Figure 1.

* See Appendix B of *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, FCC-98-315, Released: December 18, 1998.

† See FCC File No. BPCDT-199901028AEN.

The proposed transmitting antenna will be located with a center of radiation at an elevation of 818 m above mean sea level and 553 m HAAT. Given a non-directional ERP of 390 kW, the proposed facility complies with Section 73.622(f)(8) concerning the maximum permissible ERP for UHF DTV stations located in Zone II.

As indicated in Figure 2, the proposed KBEH-DT allotment on Channel 23 will provide 48 dBu, f(50,90) contour coverage over the entire community of Oxnard, California in compliance with Section 73.625 of the FCC Rules.

The proposed Channel 23 facility meets the requirements of Section 73.623 of the FCC Rules concerning predicted interference to other existing U.S. NTSC facilities and U.S. DTV allotments and assignments. Longley-Rice interference analyses were conducted pursuant to the requirements of the FCC Rules; FCC OET Bulletin No. 69 ("OET-69")[†]; and published FCC guidelines for preparation of such interference analyses. The Longley-Rice interference analyses were conducted using the OET-69 software maintained by du Treil, Lundin & Rackley, Inc. based on the FCC published software routines.[§] Stations selected for analysis were determined pursuant to the distance requirements outlined in the FCC DTV Processing Guidelines Public Notice. Accordingly, co-channel DTV and NTSC stations within 429 km and 407 km, respectively, were examined for potential interference; and first-adjacent DTV and NTSC stations within 229 km and 207 km, respectively, were examined for potential interference. Analog taboo-related NTSC stations within 142 km were examined for potential interference. The results of the interference analyses for the proposed facility are summarized herein at Figure 3. As indicated therein, the proposed facility will meet the 2%/10% criterion outlined in the FCC Rules and published guidelines with respect to all considered stations with the exception of KVMD-DT.

[†] See *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, OET Bulletin 69, Federal Communications Commission (July 2, 1997)

[§] The duTreil, Lundin & Rackley, Inc. DTV interference analysis program is a precise implementation of the 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.

With respect to KVMD-DT, as noted in Figure 3, the Bela proposal will cause interference in excess of the 2.0%/10% de minimis criteria to the KVMD-DT construction permit facility (FCC File No. BPCDT-19991101AIP). However, this result is anomalous due to the unusual circumstances surrounding the KVMD-DT facility. The KVMD-DT facility was originally allotted DTV Channel 23 with a maximum ERP of 50 kW with an antenna HAAT of 90 m. The KVMD-DT facility was subsequently relocated 58 km west of its allotment location and its facility was maximized to a maximum ERP of 150 kW with an HAAT of 784 m (nearly maximum for a UHF DTV facility). Its predicted interference-free service population increased from 51,533 to 2,491,934, an increase of 4,836% (with a corresponding increase in service area from 2,525 square kilometers to 23,373 square kilometers). This represents an increase in service population of 2,440,401 in an area of 20,848. Despite this huge increase in service area, the KVMD-DT service baseline population would remain at 51,533 under normal FCC processing procedures.** This, in effect, causes the KVMD-DT to be treated essentially as a 10% station to which virtually no further interference may be caused. In the crowded spectrum of the Los Angeles market, this is clearly inequitable and an unintended consequence of the FCC processing procedures.

Considering the authorized KVMD-DT facility on Channel 23, the adjusted baseline should correctly be considered as 2,494,934. Under this approach, the Bela proposal meets the 2%/10% criteria with respect to the KVMD-DT construction permit facility.

It is noted that the DTV allotment for Santa Ana, California (KTBN-DT) on Channel 23 was ignored for the purposes of this analysis. By *Notice of Proposed Rule Making* in MB Docket No. 04-225, released on June 18, 2004, the FCC proposed

** The proposed KBEH-DT facility on Channel 23 causes 0 predicted interference to the original KVMD-DT service area. Furthermore, considering just the KVMD-DT net gain area alone, which contains a population of 2,440,401, the predicted interference (48,903) to KVMD-DT would be 2.0%, which would meet the FCC 2%/10% de minimis criteria.

that Channel 33 be substituted for Channel 23 at Santa Ana. Therefore, to correctly assess the allocation situation for the instant proposal, the Santa Ana allotment and construction permit facilities must be ignored. This includes situations related to possible masking interference caused by these two facilities to other stations in the interference analysis, including with respect to KVMD-DT, which is discussed above.

With respect to Class A TV station protection, the proposal has been evaluated according to the requirements of Section 73.623(c)(5) of the FCC Rules. The analysis reveals one potentially affected Class A TV station as follows:

- KSKP-CA, Oxnard, CA, Channel 25, BLTTA-20030507ACF.

As demonstrated in Figure 3, the proposed KBEH-DT allotment facility will meet the 0.5% rounding requirement for calculation of predicted interference to KSKP-CA based on the OET-69 interference analysis.

The proposal is located 264 km from the closest point on the Mexican border and it is within the Mexican coordination distance. However, an allocation study reveals that the proposal would be fully-spaced with respect to all Mexican analog and digital television allotments. Since the proposed Oxnard allotment will be located 57 km further from the closest point on the Mexican border than the Santa Ana existing Channel 23 Allotment, which is located 207 km from the Mexican border, it is anticipated that there will be no impediment to approval of the proposed Channel 23 allotment at Oxnard.

A summary of the revised service area and population numbers as they would appear in the Appendix B of the FCC's *Sixth Report and Order* and subsequent *Second Memorandum Opinion and Order* are summarized below:

State and City	NTSC Channel	DTV Chan	DTV Power (kW)	Antenna HAAT (m)	DTV Service During Transition	
					Area (sq. km)	People (Thous)
CA OXNARD	63	23	390	553.0	26,168	3,768

As indicated above, the proposed Channel 23 DTV allotment for KBEH-DT would provide interference-free service to an estimated population of 3,768,000.^{††} This represents an increase in service population of 2,538,000 (and 15,253 square kilometers) with respect to the KBEH-DT Channel 24-allotment facility; and 2,148,000 (and 12,511 square kilometers) with respect to the present KBEH Channel 63 analog facility. It is evident from the above that the proposed Channel 23 allotment proposal would result in a preferential arrangement of FCC allotments.



Louis Robert du Treil, Jr.

du Treil, Lundin & Rackley, Inc.
201 Fletcher Ave.
Sarasota, FL 34237

August 5, 2004

^{††} All population figures herein are based on 1990 Census data consistent with FCC practice.

TECHNICAL EXHIBIT
 IN SUPPORT OF COMMENTS AND COUNTERPROPOSAL
 TELEVISION STATION KBEH-DT
 OXNARD, CALIFORNIA

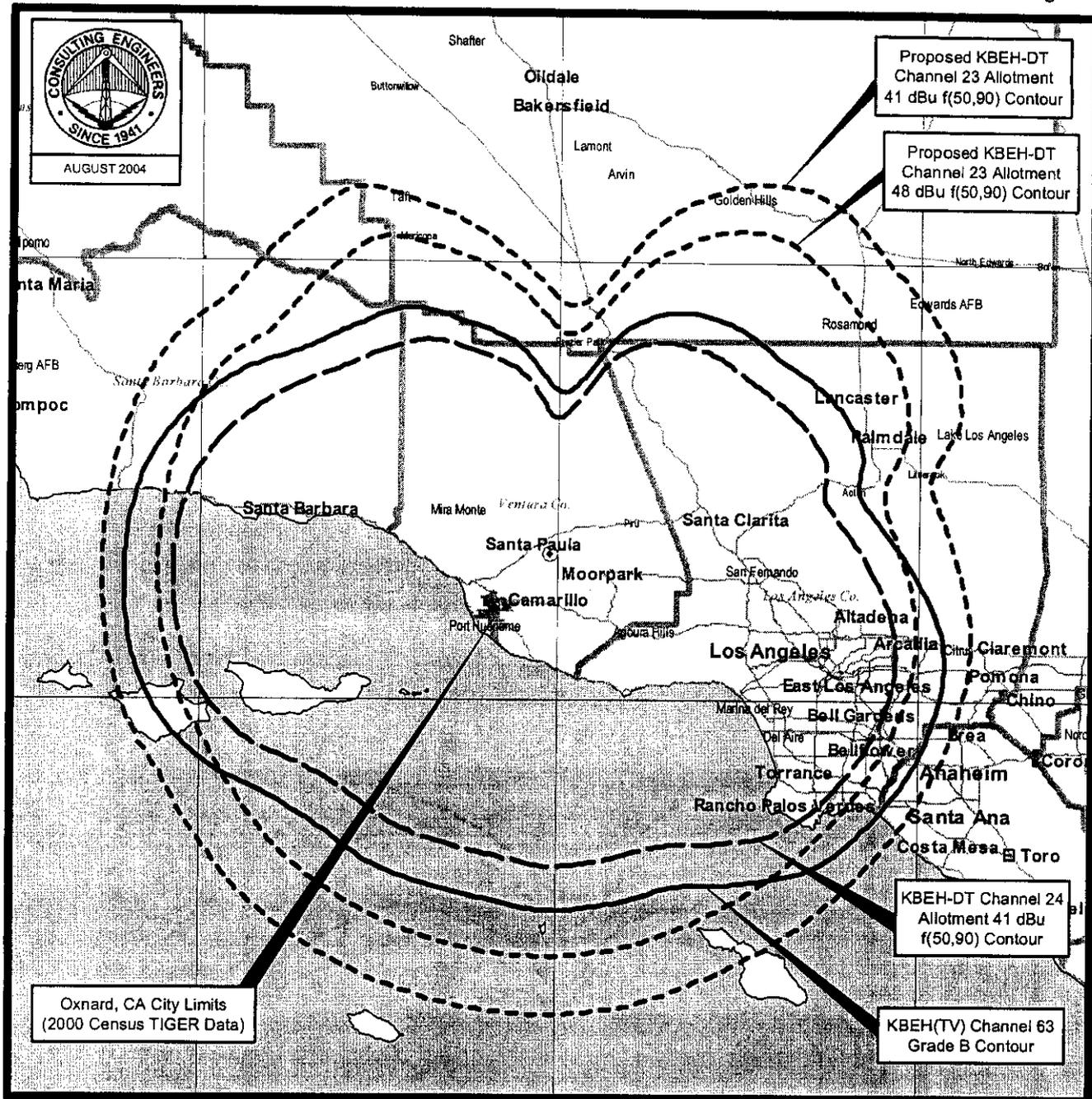
Technical Specifications

Channel / Frequency Band	23 / 524-530 MHz
Zone	II
Reference Coordinates (NAD 27):	
Latitude	34°19'49" North
Longitude	119°01'24" West
Height of Radiation Center Above Mean Sea Level	802 m
Height of Radiation Center Above Ground Level	98 m
Height of Radiation Center Above Average Terrain	537 m
Effective Radiated Power	390 kW

Directional Antenna Relative Field Values					
Degrees	Value	Degrees	Value	Degrees	Value
Non-directional antenna					

Notes concerning OET-69 analysis:

1. Channel 23 Allotment for Santa Ana will be migrated to Channel 33 (MB Docket No. 04-225).
2. Ignore DTV Allotment for Channel 23 at Santa Ana, CA, ARN No. DTVP0513.
3. Ignore DTV CP for Channel 23 at Santa Ana, CA, ARN No. 19991101AHZ.



PREDICTED COVERAGE CONTOURS

TELEVISION STATION KBEH-DT
OXNARD, CALIFORNIA

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

TECHNICAL EXHIBIT
 IN SUPPORT OF COMMENTS AND COUNTERPROPOSAL
 TELEVISION STATION KBEH-DT
 OXNARD, CALIFORNIA

Summary of Allocation Analysis

Stations Potentially Affected by Proposed Station							
Facility Number	Channel	Call	City State	Distance (km)	Status	Application Prefix	Application Reference Number
1	19	KAZB-CA	BAKERSFIELD CA	130.9	CP MOD	BMPTTA	20020318AAE
2	22	KWHY-TV	LOS ANGELES CA	88.6	LIC	BLCT	19940317KM
3	23	KERO-TV	BAKERSFIELD CA	130.9	LIC	BMLCT	305
4	23	KBSV	CERES CA	401.8	LIC	BLET	19960319KE
5	23	KVMD-DT	TWENTYNINE PALMS CA	260.4	PLN	DTVPLN	DTVP0514
6	23	KVMD	TWENTYNINE PALMS CA	205.8	CP	BPCDT	19991101AIP
7	24	KVCR-TV	SAN BERNARDINO CA	165	LIC	BLET	19831021KG
8	25	KNET-LP	LOS ANGELES CA	89.3	APP	BPTTA	20031125AFD
9	25	KNET-LP	LOS ANGELES CA	63.1	CP	BPTTL	JG0601JK
10	25	KSKP-CA	OXNARD CA	0.1	LIC	BLTTA	20030507ACF
11	27	KBFX-LP	BAKERSFIELD CA	130.9	CP	BPTTL	20030508ACO
12	30	KPXN	SAN BERNARDINO CA	122.7	LIC	BLCT	19940124KF
13	30	KPXN	SAN BERNARDINO CA	89.3	APP	BPCT	20010131ABT
14	31	KABE-CA	BAKERSFIELD CA	130.9	CP	BPTTL	20010116AHS
15	31	KABE-CA	BAKERSFIELD CA	130.9	APP	BPTTA	20020520ABR

Summary of Interference Analysis for Worst-Case Scenarios							
Facility Number	Interference Population Before Analysis	Interference Population After Analysis	Baseline Population	Net Change in Interference	Percent of Baseline	Permissible Percent of Baseline	Result
1	--	--	--	*	0.000	--	pass
2	203754	210011	13705551	6257	0.046	2.0	pass
3	306	319	788152	13	0.002	2.0	pass
4	--	--	--	*	0.000	--	pass
5	--	--	--	*	0.000	--	pass
6	224793	273657	51533	48903	94.896**	2.0	fail
7	--	--	--	*	0.000	--	pass
8	--	--	--	*	0.000	--	pass
9	--	--	--	*	0.000	--	pass
10	7	33	417677	26	0.006	0.5	pass
11	--	--	--	*	0.000	--	pass
12	--	--	--	*	0.000	--	pass
13	--	--	--	*	0.000	--	pass
14	--	--	--	*	0.000	--	pass
15	--	--	--	*	0.000	--	pass

*There is no interference caused.

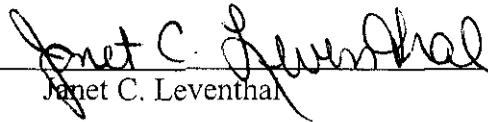
**Using the corrected baseline population for the KVMD-DT facility of 2,494,934, the actual interference predicted is 1.96%, which passes the 2.0%/10% *de minimis* criteria with respect to the KVMD-DT facility. It is noted that the proposal causes 0 interference to the KVMD-DT allotment facility.

CERTIFICATE OF SERVICE

I, Janet C. Leventhal do hereby certify that a true and correct copy of the foregoing Comments and Counterproposal of Bela TV LLC sent by First Class Mail, Postage Prepaid was mailed this 6th day of August, 2004 to:

Colby M. May, Esquire
205 3rd Street SE
Washington, DC 20003

By: _____


Janet C. Leventhal