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October 29, 2004

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OCT 29 2004

Federal Communications Commission
Office of Secretary

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 123th Street, SW
Washington, DC 20554

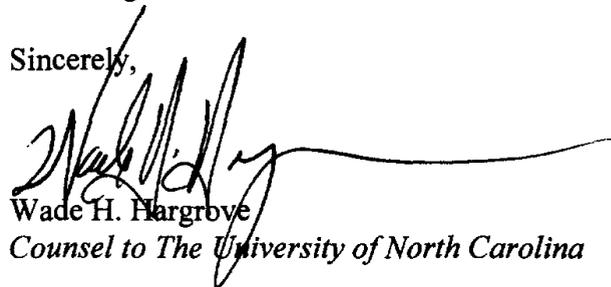
Re: In the Matter of Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations, and Section 73.622(b), Table of Allotments Digital Television Broadcast Stations (Columbia and Edenton, North Carolina)
MB Docket No. 04-289
RM-10802

Dear Ms. Dortch:

Enclosed, on behalf of The University of North Carolina, are the original and four copies of a Supplement for filing in the above-referenced matter.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with the undersigned.

Sincerely,


Wade H. Hargrove
Counsel to The University of North Carolina

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

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OCT 29 2004

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.606(b),) MB Docket No. 04-289
Table of Allotments,) RM-10802
Television Broadcast Stations, and)
Section 73.622(b), Table of Allotments)
Digital Television Broadcast Stations)
(Columbia and Edenton, North Carolina))

To: Chief, Video Division
Media Bureau

SUPPLEMENT OF THE UNIVERSITY OF NORTH CAROLINA

The University of North Carolina (“UNC”), licensee of noncommercial Television Stations WUND-TV, Channel 2, and WUND-DT, Channel 20, Columbia, North Carolina (collectively “WUND”), by its counsel, hereby seeks to supplement its comments in the above-referenced matter. In particular, UNC seeks to supplement its comments with the attached Declaration of Herb Skoog, Vice President of Operations of Decisionmark Corporation (“Decisionmark”), attached as Exhibit 10.¹ This Declaration responds directly to assertions in the Reply Comments of Hampton Roads Educational Telecommunications Association, Inc. (“Hampton Roads”) challenging the veracity of sworn factual data provided by UNC in its Comments.²

¹ Exhibit numbering continued from UNC’s Reply Comments.

² Should the Commission deem it necessary for UNC to request leave to submit this Supplement, then UNC hereby respectfully makes such a request and moves that this Supplement be accepted. Hampton Roads has questioned the reliability of important factual data provided by
(continued...)

In its Reply Comments, Hampton Roads states:

In fact, UNC has not actually “shown” that there are 10,000 DBS subscribers in the Nine County Area. There is only an oblique hearsay reference buried deep in an Engineering Statement of Louis Robert du Treil, Jr., P.E., attached to the UNC Comments, that “Decisionmark Corp. has provided . . . information [that] as of July, 2004, there are approximately 9,528 households served via satellite with local-into-local service within the North Carolina portion of the Tidewater Market.” However, neither du Triel [sic] nor UNC actually includes any documentation from Decisionmark or any other entity supporting the number or providing information that would permit the reliability of the number to be evaluated. Nor does the statement state that the Decisionmark information was actually provided to UNC or to du Treil.

It is the experience of counsel to Hampton Roads that the DBS industry zealously protects the confidentiality of its subscriber numbers. Even where the data is made available (though [sic] an entity called Skytrends) to particular types of entities (to counsel’s knowledge, only cable operators and franchising authorities), the information is confidential and cannot be shared with others. In an effort to get to the bottom of the matter, counsel for Hampton Roads contacted Decisionmark to inquire about obtaining information on the number of subscribers in any given area, but was told that Decisionmark does not have DBS subscriber counts and is not able to provide such numbers. Given that, and the rather oddly phrased reference to the number in the du Treil Engineering Statement, as noted above, Hampton Roads suggests that the number is not reliable. Thus, the 10,000 DBS subscriber number provides no basis for FCC action in this proceeding.³

²(...continued)

UNC and has suggested that certain data provided in the Engineering Statement accompanying UNC’s Comments is unreliable. UNC should have the opportunity to correct these unfounded misstatements of Hampton Roads so that the Commission will have before it all of the information necessary for it to make an appropriate public interest determination.

³ Reply Comments of Hampton Roads, at 5 (ellipsis and alteration in original).

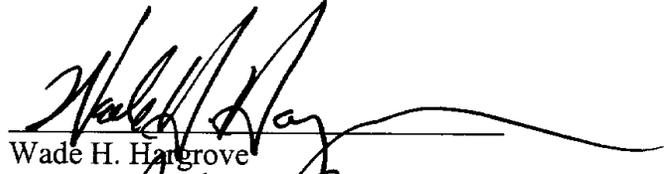
As Mr. Skoog states in his Declaration, Mr. Skoog has reviewed the portion of the du Treil Engineering Statement⁴ that was questioned by Hampton Roads and finds it to accurately represent the subscriber data provided by Decisionmark to UNC.⁵ Mr. Skoog further describes the methodology for the derivation of the number of North Carolina households in the Norfolk Market subscribing to local-into-local satellite service put forward by UNC in its Comments and Reply Comments and attaches the actual data that had been provided by Decisionmark. Accordingly, as stated in UNC's Comments and Reply Comments, the Commission should consider the DBS subscriber data provided by UNC—which is both concrete and relevant—in its analysis of the public interest at issue in this proceeding.

⁴ Of course, the du Treil Engineering Statement was duly subscribed by Mr. du Treil as being true and correct to the best of his knowledge and belief, and, as such, it stands on its own and speaks for itself.

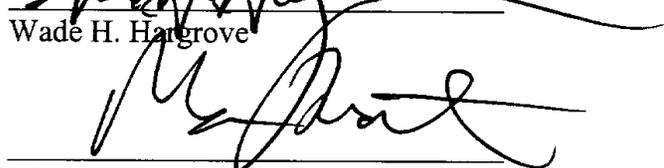
⁵ *See* Skoog Declaration, at ¶ 6.

Respectfully submitted,

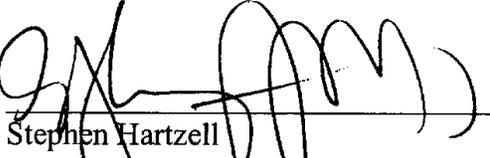
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Its Attorneys

October 27, 2004

Certificate of Service

The undersigned, of the law firm of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., hereby certifies that s/he has caused a copy of the foregoing **Supplement** to be placed in the U.S. Mail, first-class postage prepaid, addressed as follows:

Chairman Michael K. Powell†
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy†
Federal Communications Commission
445 12th Street, S.W.
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Commissioner Michael J. Copps†
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Chowan County
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Mr. Stanley T. Holland, Jr.
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† Denotes hand-delivery

This the 28th day of October, 2004.

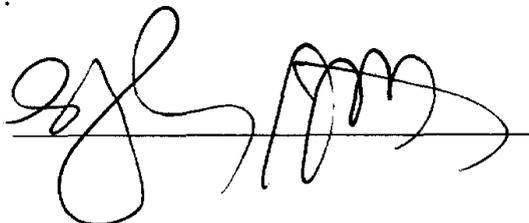
A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by several loops and a long horizontal stroke.

Exhibit 10

[Declaration of Herb Skoog]

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.606(b),)	MB Docket No. 04-289
Table of Allotments,)	RM-10802
Television Broadcast Stations, and)	
Section 73.622(b), Table of Allotments)	
Digital Television Broadcast Stations)	
(Columbia and Edenton, North Carolina))	

DECLARATION OF HERB SKOOG

1. I, Herb Skoog, declare that I am more than eighteen (18) years old and am under no disability. I have personal knowledge of the matters set forth in this Declaration, and I am competent to testify to them.

2. I am the Vice President of Operations of Decisionmark Corporation ("Decisionmark").

3. Decisionmark is an independent company, which counsel for The University of North Carolina ("UNC"), licensee of WUND-TV, approached regarding certain subscriber data for direct broadcast satellite ("DBS") providers. Specifically, UNC sought data regarding the number of DBS subscribers in the Norfolk-Portsmouth-Newport News Designated Market Area ("Norfolk DMA") and the number of those subscribers who reside in North Carolina.

4. In response to UNC's request, Decisionmark provided the counts of local-into-local subscribers for the Norfolk DMA and the counts for the subset of those subscribers that reside within North Carolina. Based on monthly data provided by the ABC, CBS, and NBC networks, Decisionmark can derive "net" subscriber counts from DBS subscriber "connects" and "disconnects." The counts Decisionmark provided to UNC are only for DirecTV as EchoStar announced local service to the Norfolk DMA on August 12, 2004, and as of the time Decisionmark provided the data to UNC, no August 2004 data had been provided to Decisionmark by the ABC, CBS, and NBC networks from whom Decisionmark obtains such data.

5. Exhibit A to this declaration is a true and complete copy of the spreadsheet Decisionmark provided to UNC's counsel regarding the requested DBS subscriber data. As shown on Exhibit A, as of July 2004 there were approximately 9,528 DirecTV customers in the Norfolk DMA residing in North Carolina that subscribed to local-into-local service. This number is correct to the best of my knowledge based on the information provided by the

networks as described above. Based on my observations of satellite subscriber growth in other markets, I would expect the number of total DBS subscribers in the Norfolk DMA to materially increase with the introduction of local-into-local service by EchoStar.

6. I have reviewed that portion of the engineering statement submitted as Exhibit 3 to UNC's Comments referencing DBS subscriber data, and it accurately reflects the data Decisionmark provided UNC.

[signature appears on following page]

The undersigned, under penalty of perjury, declares the foregoing to be true, complete, and correct to the best of his personal knowledge.

This, the 22 day of October, 2004.

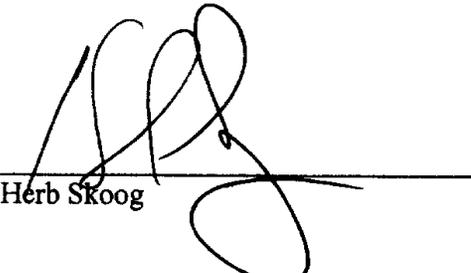

Herb Skoog

Exhibit A

DirectTV Local into Local Counts for Norfolk-Portsmouth-Newport News DMA

Status	Norfolk DMA Counts	NC Residents
Connect	75,991	11,808
Disconnect	16,320	2,280