

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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Federal Communication Commission  
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Federal Communications Commission  
Office of the Secretary

In the Matter of: )  
)  
)  
Petition for Rulemaking )  
Amendment of §73.622(b) )  
DTV Table of Allotments )  
(Booneville, Mississippi) )

TO: The Chief, Media Bureau

**MOTION FOR LEAVE TO FILE**

1. On February 4, 2000, there was filed with the Commission on behalf of Mississippi Authority for Educational Television (“MAET”), licensee of Educational Television Station WMAE-TV, NTSC Channel 12, Booneville, Mississippi, a “Petition for Rulemaking” requesting the Commission to substitute DTV Channel 8 for its authorized DTV allocation on Channel 55.<sup>1</sup> That Petition remains pending before the Commission. There is also pending before the Commission a “Petition for Reconsideration,” filed on behalf of WTVA, Inc. (“WTVA”), licensee of Television Broadcast Station WTVA, NTSC Channel 9, and permittee of WTVA-DT, Channel 57, Tupelo-Columbus-West Point, Mississippi. The WTVA petition seeks reconsideration of a Commission action of February 28, 2002, dismissing WTVA’s “Petition for Rulemaking” which proposed to amend the DTV Table of Allotments by substituting DTV Channel 8 for the allotted DTV Channel 57 at Tupelo, Mississippi. That

<sup>1</sup> Information in the Commission’s database conflicts with information supplied by the Petitioner as to whether the Petition for Rulemaking was filed on February 2, 2002, or February 4, 2002.

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submission by WTVA has spawned a series of procedurally convoluted events that now serve as a stumbling block to the introduction of new DTV service in the Tupelo-Columbus-West Point Television Market.<sup>2</sup> In essence, the WTVA and MAET proposals are mutually-exclusive.

2. Given the release of the Commission's *Report and Order in the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, (FCC 04-192), released August 4, 2004 ("*Channel Election and Repacking Order*"), it is imperative that certain information discussed in the accompanying "Petition to Dismiss as Moot" be brought to the Commission's attention to avoid missing a very short window of opportunity that exists before the actual channel election process begins, and the opportunity to have an appropriate and justifiable use of DTV Channel 8 evaporates. The "Petition to Dismiss as Moot" reveals to the Commission what is believed to be the present status of MAET's plans relative to DTV Channel 8. It is believed that the information discussed therein is *tantamount* to information that should have been reported in accordance with—at a minimum, the spirit and intent—of Section 1.65 of the Commission's Rules.

3. Wherefore, in view of the foregoing, to update certain relevant factual information inherently necessary for the Commission to proceed within the context of its announced "*Channel Election and Repacking Order*," having in its possession the most accurate information possible, it is hereby requested on behalf of WTVA, Inc. that it be granted leave to file the aforementioned "Petition to Dismiss as Moot" relative to the

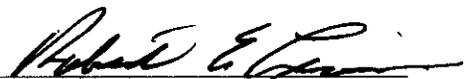
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<sup>2</sup> Those events are enumerated in the "Petition to Dismiss as Moot" filed simultaneously herewith on behalf of WTVA, Inc., and for which leave is hereby sought to file.

WMAE-TV Petition for Rulemaking. The "Petition to Dismiss as Moot" is being filed simultaneously herewith.

Respectfully submitted,

**WTVA, Inc.**

By:   
Robert E. Levine  
Its Attorney

Dated this 27<sup>th</sup> day of December, 2004.

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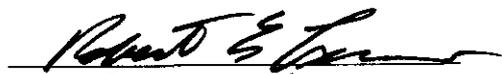
## CERTIFICATE OF SERVICE

I, Robert E. Levine, hereby certify that I have, on this 29<sup>th</sup> day of December, 2004, sent by hand-delivery\* or First Class United States Mail, postage prepaid, a copy of the foregoing "MOTION FOR LEAVE TO FILE" to the following:

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