

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

In the Matter of)	
)	
Advanced Television Systems)	MB Docket No. 87-268
and Their Impact upon the)	
Existing Television Broadcast)	
Service)	

**COMMENTS OF THE DEPARTMENT OF INFORMATION
TECHNOLOGY AND TELECOMMUNICATIONS
OF THE CITY OF NEW YORK**

The Department of Information Technology and Telecommunications of the City of New York (“DoITT”), permittee of noncommercial educational digital television station WNYE-DT (channel 24) and licensee of noncommercial educational analog television station WNYE-TV (channel 25), files these comments in response to the Seventh Further Notice of Proposed Rule Making (“7th FNPRM”) in the above-captioned proceeding.¹

These comments respond to the 7th FNPRM’s request (at ¶ 16) that DTV permittees and licensees comment on “the accuracy of their information contained in the proposed DTV Table and Appendix B.”

The information in the proposed DTV Table of Allotments relating to WNYE-DT (Appendix A at p. 41) is accurate. WNYE-DT is a noncommercial educational television station with a tentative channel designation of DT channel 24 in the City of New York.

¹ Seventh Further Notice of Proposed Rule Making, *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MB Docket 87-268, FCC 06-150 (rel. Oct. 20, 2006) (“7th FNPRM”).

DoITT requests, however, that the Commission make some minor revisions to the technical information about WNYE-DT in Appendix B (at p. 90). The current information about the station in Appendix B (Facility ID 6048, p. 90) is based on the original construction permit (“CP”) for WNYE-DT, which contemplated construction of full-power DTV facilities atop the Empire State Building.² As set forth more fully in DoITT’s Request for a Six-Month Waiver of Replication/Maximization Protection Deadline and Extension of Time, filed on July 7, 2006, in MB Docket No. 03-15,³ the September 11, 2001, loss of the World Trade Center as a broadcast site resulted in a spike in demand for transmission capacity at the Empire State Building as other stations moved to WNYE’s previously planned DT location there, and it also caused a dramatic increase in the cost of leasing transmission space at the Empire State Building. One result of the increased demand for transmission capacity at the Empire State Building was that there was no longer space at the site for both WNYE’s analog and digital antennas.

Confronted with these siting difficulties at the Empire State Building, DoITT pursued the alternative of relocating its planned full-power DTV transmitter site to the Four Times Square building in Manhattan. DoITT recently filed a CP minor modification application (File No. BMPEDT-20070124AAX) to effectuate the proposed move of WNYE-DT to the Four Times Square site. A copy of that CP minor modification application is attached hereto as Exhibit 2. An OET-69 interference and coverage study for WNYE-DT at the new Four Times Square site, performed by Hammett & Edison, Inc., is attached hereto as Exhibit 3.

As described in Exhibits 2 and 3, the relocation of WNYE-DT’s full-power facilities from the Empire State Building to Four Times Square would require adjustment of some of the

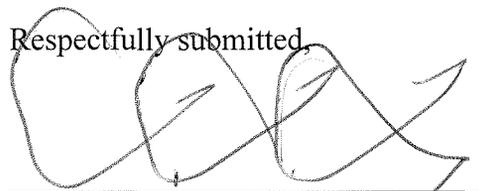
² See File Nos. BPEDT-19991110AAQ, BEPEDT-20030227ABV and BEPEDT-20031003ABK.

³ A copy of that Request is attached hereto as Exhibit 1.

technical specifications for Facility ID 6048 that are set forth in Appendix B, page 90 of the 7th *FNPRM*. The Facility ID, State and City, NTSC Channel, and DTV Channel information would remain the same. The following technical information in Appendix B, however, would need to be changed:

- ERP (kw): 151.0
- HAAT (m): 309.7
- Antenna ID: 71643 (omnidirectional)
- Latitude: 40-45-22 North
- Longitude: 73-59-12 West, NAD27
- Land Area (sq. km): 15,671 (F(50,90) 39.7 dBu Channel D24 dipole-adjusted DTV Threshold contour)
- Population (in thousands): 18,666 (2000 Census) (F(50,90) 39.7 dBu Channel D24 dipole-adjusted DTV Threshold contour)
- Percent Interference Received: 1.8%

DoITT therefore respectfully requests that the technical information for Facility ID 6048 set forth in Appendix B, page 90 of the 7th *FNPRM*, be modified as set forth above.

Respectfully submitted,

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*Counsel for the City of New York
Department of Information Technology and
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January 25, 2007

EXHIBIT 1

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July 7, 2006

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St Street, S.W.
Washington, DC 20554
Attention: Video Services Division

Note: Exempt from Filing Fees

Re: MB Docket No. 03-15, NYC-DoITT Request for a Six-Month Waiver of Replication/Maximization Protection Deadline and Extension of Time for WNYE-DT (Facility ID: 6048/FRN: 0008351835)

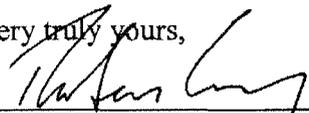
Dear Ms. Dortch:

On behalf of the City of New York's Department of Information Technology and Telecommunications ("DoITT"), licensee of non-commercial educational television station WNYE-DT, New York, NY, I enclose herewith a request for waiver of the DTV replication/maximization protection deadline and six-month extension of time for DoITT to construct and operate full-power DTV facilities.

Since DoITT is the licensee of a non-commercial broadcast station, no filing fee is required in connection with this request.

If there are any questions concerning this matter, please contact me.

Very truly yours,


for Tillman L. Lay
Counsel for New York City
Department of Information Technology and
Telecommunications

cc: Mr. Shaun Maher (shaun.maher@fcc.gov)



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July 7, 2006

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Federal Communications Commission
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Dear Ms. Dortch:

Pursuant to the FCC's recent Public Notice,¹ the Department of Information Technology and Telecommunications ("DoITT") of the City of New York ("City"), licensee of noncommercial educational television station WNYE-DT ("WNYE"), hereby requests for

¹ FCC Public Notice, "DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline," DA 06-1255 (June 14, 2006) ("2006 Public Notice").

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WNYE-DT² a six-month waiver from the replication/maximization protection deadline established in the *Second DTV Periodic Review Report and Order*.³

A. Background.

Pursuant to a Special Temporary Authority (“STA”) originally granted by the FCC on April 23, 2002,⁴ and subsequently modified and extended by the FCC, through and including September 21, 2006,⁵ DoITT is currently operating WNYE-DT as a reduced-power DTV station (1 kilowatt) from Brooklyn Technical High School (“Brooklyn Tech”) at an elevation of approximately 450 feet and serving an estimated 13.5 million viewers. WNYE’s DT construction permit (“CP”) for full-power WNYE-DT currently provides for a 20 kilowatt transmitter at an elevation of approximately 1300 feet on the Empire State Building (“ESB”), capable of reaching approximately 18.5 million viewers.⁶

² Facility ID No. 6048; current DTV channel 24, current NTSC channel 25; tentative DTV channel designation 24. Public Notice, “Tentative Digital Channel Designations for Stations Participating in the First and Second Rounds of the DTV Channel Election Process,” DA 06-1082 (May 23, 2006).

³ *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd. 18279, 18314-15, ¶ 78 (2004) (“*Second DTV Periodic Review Report and Order*” or “*Second Order*”). By FCC Public Notice, “DTV Channel Election Issues,” DA 06-1372 (June 29, 2006), the Commission extended the deadline for seeking a waiver of the DTV replication/maximization protection requirements until July 7, 2006.

⁴ File No. BDSTA 20020412AAZ (April 23, 2002).

⁵ File No. BEDSTA 20050623ADF (Sept. 21, 2005). See also File No. BEDSTA 20041221ACS (Jan. 25, 2005), File No. BDSTA 20040617AGC (June 30, 2004); File No. BEDSTA 20021010AAZ (Oct. 16, 2002).

⁶ WNYE-DT’s CP was originally granted on June 6, 2003 (File No. BEPEDT-20030227ABV) and extended on February 2, 2004 (File No. BEPEDT-20031003ABK).

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As noted above, WNYE's most recently granted STA for its reduced-power DTV channel operation expires on September 21, 2006. By the terms of WNYE's original STA (File No. BDSTA 20020412AAZ), the CP was automatically extended until the deadline set forth in the *Second Order* and the *2006 Public Notice*. The *2006 Public Notice* makes clear that licensees with STAs "will no longer receive automatic [CP] extensions . . . as of the July 1, 2006, deadline," but does not clearly state whether the CPs of licensees like WNYE-DT with pre-existing STAs having expiration dates after the July 1, 2006, deadline, will remain in effect until the expiration of the pre-existing STA. Out of an abundance of caution, WNYE-DT is therefore filing a Form 337 contemporaneously herewith requesting a six-month extension of its CP, the duration of the waiver requested herein.

Due to delays resulting from a transfer of WNYE from the New York City Board of Education ("Board")⁷ to DoITT, budget constraints within the City and financial hardship within WNYE, the reorganization and transitioning of the City's emergency public communications practices after the September 11, 2001, attack ("September 11th"), and antenna siting issues that have arisen at ESB, WNYE needs additional time to complete its full-power DTV buildout in

⁷ At the time, the Board, unlike DoITT, was not under the control of the Mayor. By act of the New York state legislature, the Board was subsequently brought under the direct control of the Mayor.

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order to provide maximized coverage under its license. Granting the requested waiver will serve the public interest by enhancing the City's ability to communicate emergency and other vital public information to residents and the media throughout the New York City metropolitan area through technologies made possible by WNYE's digital channel.

WNYE is currently one of only three noncommercial educational television stations, with intended service areas in metropolitan New York, serving the needs of New York City viewers.⁸ Its programming features content highlighting New York City's lifestyle, culture and history. In addition, after the transfer to DoITT, WNYE has been used by the City to communicate to viewers and the media about critical public events, including, for example, the anthrax scare in February 2006 and the transit strike in December 2005. Moreover, WNYE's digital channel is a vital component of the City's planned expansion of its post-9/11 public warning mechanisms and is directly tied to the City's Emergency Public Communications Systems (including the City's Emergency Alert System).⁹ The success of WNYE's digital transition – and thus the retention of its current interference protection – are critical to ensuring not only the continued provision of community-based noncommercial programming initiatives in New York City, but also to

⁸ See, e.g., Letter from William F. Baker, Chairman and CEO, WNET-NY ("Thirteen") to Donna Gregg, Chief, Media Bureau, FCC (May 22, 2006), available on the FCC's Electronic Comment Filing System, at http://gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi ("ECFS"), under proceeding 03-15.

⁹ See Section C, *infra*, for more details.





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enabling the City to communicate directly with residents and the media throughout the metropolitan area on events of public importance, including providing a digital television mechanism for the City to deliver potentially life-saving emergency information to New York City area residents, and to other broadcasters as well.

Denial of this waiver request would lead to a dramatic loss of coverage for the City's ability to make emergency communications both to City residents and to those who live in the New York metropolitan area. It would also lead to the loss of WNYE's unique noncommercial educational DTV programming to millions of viewers throughout the metropolitan area.¹⁰ Indeed, loss of interference protection beyond WNYE's current STA coverage area would result in the possible loss of service for up to 5 million viewers.

B. Financial Hardships and Events Beyond DoITT's Control.

Consistent with its longstanding commitment to noncommercial educational television, the Commission will grant waivers of the replication/maximization protection deadline if "the

¹⁰ A substantial component of WNYE's programming includes original NYC Media Group productions that are not on other public television stations in the New York metropolitan area.





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licensee can demonstrate that it is unable to provide the required service because of severe financial constraints or circumstances beyond its control.”¹¹

Despite WNYE’s diligent efforts to meet the *Second Order’s* requirements, WNYE is unable to meet the July 7, 2006 full DTV buildout deadline due to: 1) the transfer of WNYE from the Board to DoITT, which was not consummated until January 2005, and which greatly shortened the period available to DoITT to complete the digital buildout; 2) budget constraints within the City that resulted in financial hardships for WNYE; and 3) antenna and transmitter siting problems with ESB. As explained below, some of these obstacles are related to the unique and ongoing adverse effects caused by the September 11th terrorist attacks. In that regard, the challenges faced by WNYE-DT are more than unique; they are truly unprecedented and extraordinary.

Granting the requested waiver would also serve the public interest. The City intends to use WNYE-DT as an integral component of its emergency public information systems.

WNYE’s full-power digital channel will enable it to pursue unique methods to communicate directly with residents and media throughout the metropolitan area during emergencies and on

¹¹ 2006 Public Notice, at 2. See also *Second Order*, 19 FCC Rcd. at 18317, ¶ 83 (“In addition, we are adopting a waiver process for stations that truly cannot afford to build out to these minimum requirements, or that cannot build out for other reasons beyond their control.”); *WALT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).





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other events of public concern. Moreover, loss of interference protection beyond its current full-power DTV coverage area would prevent the City from establishing critical redundancy in its ability to provide emergency public information directly to residents of the NYC metropolitan area, a redundancy that is absolutely vital in the post-September 11th world.

1. The Transfer of WNYE From the Board to DoITT Delayed DoITT's Ability to Complete Full DTV Buildout.

WNYE's CP envisioned a location on the tower at ESB about 100 feet above WNYE's current NTSC location on the ESB. Before the 9/11 tragedy, WNYE was one of only a few broadcast stations on ESB, with most local broadcast stations being located at the World Trade Center ("WTC"). After September 11th, in keeping with the station's focus on serving not only the needs of the City's viewers but also the general public interest, WNYE made some of its facilities at ESB and in Brooklyn available as a back-up facility to the federal government and many commercial broadcasters, including WABC, New York 1, WNET and WNYC/NPR (radio). During October and November 2001, at the request of the Department of Defense and FEMA, WNYE also provided experimental DTV transmission services (using a 250-watt transmitter and antenna on loan from the manufacturer) to emergency workers in the Ground

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Zero area. All of these activities created a tremendous personnel drain on the station's human resources, which historically had only twenty full-time employees.

After September 11th, several commercial broadcasters that had been located elsewhere reached agreement with ESB management to build a new master antenna at the ESB, which was placed in WNYE's planned DTV aperture on the tower. Due to scarcity of suitable broadcast transmission locations in the City after 9/11, the effect of this agreement between ESB and commercial broadcasters was to escalate dramatically WNYE's siting costs on the ESB master antenna to the point where they became cost-prohibitive for WNYE. Having had its planned DTV transmission station location effectively displaced from its original ESB DTV CP location and suffering adverse financial conditions, the Board – WNYE's then-licensee¹² – focused its extremely limited financial resources for WNYE on expediting provision of DTV service at reduced power from Brooklyn Tech, a site that, unlike ESB, was immediately available to the Board at no cost. The Commission granted the Board an STA for DTV operation at Brooklyn Tech, covering only city-grade contour as an interim step toward full-power DTV service.¹³ Focusing limited resources on the low-power facility seemed a strategically-balanced

¹² The Commission consented to the transfer of WNYE's licenses from the Board to DoITT in late 2004. See File No. BALET 20041008ACG.

¹³ See notes 4 & 5 *supra*.

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compromise between fulfilling the FCC's interim mandate and maintaining the facility that proved to be a key resource to other broadcasters and the federal government (and that might be needed again), following September 11th.

After the citywide power blackout of 2003, it became clear to the City that being able to own and operate a TV and radio station directly would be a unique tool to communicate to the public during emergencies and for other homeland security reasons. The City therefore pursued a plan for the City, through DoITT, to acquire WNYE from the Board. The City spent a year transferring staff, property, budget and the license from the Board to DoITT.

It was not until January 11, 2005, several months after the release of the Commission's *Second Order*, that the transfer of control of WNYE from the Board to DoITT was consummated.¹⁴ The transfer was necessary, among other reasons, because the Board lacked the budget and the funds to complete the DTV transition. The transfer of the station not only strengthened one of New York City's only noncommercial TV stations, but also provided the

¹⁴ See Board's Form FCC 316, "Application [to FCC] for Consent to Assign Broadcast Station Construction Permit or License or to Transfer Control of Entity Holding Broadcast Station Construction Permit or License", available on the FCC's CDBS Electronic Filing System, at http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/app_sear.htm, under file no. BALET 20041008ACG (FCC grants the City consent to transfer control of all WNYE stations – WNYE-FM, WNYE-TV and WNYE-DT – from Board to DoITT, on October 26, 2004). Notwithstanding the FCC's approval, DoITT, as an agency of the City, could not assume control until January 11, 2005, by Executive Order and Act of the Mayor following the Commission's approval. *Id.*





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City with an invaluable mechanism for delivering emergency public information to area residents and local broadcasters.

The transfer, however, left DoITT with an abbreviated timeframe within which to complete the transition to full-power DTV. After the transfer of WNYE, DoITT had to make major improvements in the station's facility and operational model. Because WNYE was to be incorporated into the City's Emergency Public Communications Systems, special care and attention was taken on training and protocols, which was time-consuming but essential.

2. Financial Hardship.

The events of September 11th had unique and substantial adverse effects on the City's budget and forced the City to make difficult budget decisions. While the City remained fiscally sound, the impact of September 11th on the City's budget, and its budget priorities, occurred over an "economically significant period of time,"¹⁵ and deprived WNYE of capital funding that might otherwise have been available for the DTV buildout.

Upon consummation of WNYE's license transfer from the Board to DoITT in January 2005, DoITT immediately commenced its aggressive pursuit of external funding sources for the

¹⁵ *Revision of the Commission's Rules and Policies Affecting the Conversion to Digital Television, on recon.*, 16 FCC Rcd. 20594, 20611, ¶ 46 (2001) ("First DTV Periodic MO&O").





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DTV buildout. DoITT promptly sought grants from the Corporation for Public Broadcasting's ("CPB") Digital Distribution Fund ("DDF") in the very first round in which it was eligible to participate (Round 8 in May/June 2005). The \$2,000,000 in CPB grants that DoITT ultimately obtained were earmarked for WNYE's comprehensive DTV upgrade, including full-power transmission buildout and master control system improvements to ensure fully compliant DTV facilities. To be eligible for the CPB grants, DoITT had to secure a commitment from the City's Office of Management and Budget ("OMB") to match the CPB grants. DoITT obtained OMB's commitment on July 20, 2005.

Despite these prompt efforts, however, the DTV conversion funding process was delayed by circumstances beyond WNYE's control. WNYE applied for CPB's DDF grant in July 2005 and expected the grant to arrive in early fall 2005, which would have given WNYE a reasonable time to meet the July 7, 2006, DTV full buildout deadline. CPB, however, did not approve WNYE's grant request until January 26, 2006, and DoITT has yet to receive any of that funding. Thus, the delayed disbursement of the \$2,000,000 in DDF grant awards from the CPB has been a significant obstacle to WNYE's current buildout efforts.

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While financial hardship alone is typically not a sufficient reason for an extension,¹⁶ circumstances here are far from typical. The Commission has recognized that the transition to digital television is a “massive and complex undertaking”.¹⁷ Moreover, the Commission has also recognized that noncommercial educational stations “face a unique challenge in the construction of their DTV facilities”.¹⁸ Since the onset of DTV conversion, the FCC has expressed its commitment to noncommercial educational television and acknowledged the special difficulties these stations would face in transitioning to DTV.¹⁹ The Commission also has recognized that the scope of special relief would need to be tailored on a station-by-station basis.²⁰

WNYE’s build-out efforts have been delayed both by the City’s need to reprioritize its budget priorities after September 11th and by the delay in receiving critical CPB grant funding that was specifically earmarked for needed transition upgrades (and relied upon in WNYE’s buildout projections). These were unique events far outside WNYE’s control. Absent the

¹⁶ *Advanced Television Systems and Their Impact upon the Existing Broadcast Service*, 12 FCC Rcd. 12809, 12852 (1997) (“*Fifth Report and Order*”). See also *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 18 FCC Rcd. 20987, 20997 ¶ 29 (2003).

¹⁷ *Second Order*, at ¶ 11.

¹⁸ *DTV Build-out, Requests for Extension of the Digital Television Construction Deadline, Noncommercial Educational Television Stations with May 1, 2003 Deadline*, 20 FCC Rcd. 5783, 5786 ¶ 20 (2005) (“*Build-out Order*”).

¹⁹ *Fifth Report & Order*, 12 FCC Rcd. at 12852.

²⁰ See *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 16 FCC Rcd. 5946 (2001) (“*First DTV Periodic Report and Order*”).





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necessary critical funding, which WNYE has not yet received (but expects to receive shortly), WNYE could not accomplish, and could not reasonably be expected to have accomplished, its goal of meeting the replication and maximization requirements within the Commission's deadline.

3. ESB Siting Problems.

The relocation of broadcasters in the City to ESB after September 11th has also detrimentally affected WNYE's ability to secure proper siting for its planned full-power DTV transmitter on the ESB. As noted above, the loss of the WTC unsettled the long-term plans of local stations for continued provision of both NTSC and DTV television service in the New York metropolitan area because of the unprecedented need to relocate broadcast transmission facilities to the ESB. This spike in demand for broadcast transmission capacity at ESB, in turn, caused other stations to move onto WNYE's previously planned DT location at ESB and, at the same time, dramatically increased the cost of leasing transmission space at ESB.

The siting problems at ESB continued after DoITT assumed the WNYE licenses in early 2005. DoITT promptly entered into lease negotiations with ESB management, hoping that the ESB lease negotiations would conclude quickly and before the expected disbursement of the CPB funds, allowing sufficient time for the commencement of work at the ESB site. However,

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one result of the move of other broadcast station antennae to ESB was that there was no longer space for both WNYE's analog and digital antennas. If WNYE wished to site its digital antenna transmission facilities at ESB, it would have had to remove the analog antenna and transmit its analog signal from elsewhere. For many reasons, including increased costs and the risk of potential temporary loss of analog signal reach, ESB no longer was a suitable site for WNYE's digital antenna and transmission facilities. Thus, while DoITT vigorously pursued arrangements for its planned DTV site at ESB, it has not been able to secure such arrangements due to circumstances beyond its control.

Confronted with these difficulties concerning WNYE's proposed DTV siting location at ESB, WNYE has pursued the alternative of relocating its permanent DTV transmitter site to Four Times Square.²¹ Despite its unique funding and siting difficulties, WNYE has, and will continue to diligently pursue steps to complete full-power DTV capability as quickly as possible. DoITT has already commissioned engineering work for the Four Times Square location, approved an RFP for construction and installation of WNYE's primary DTV transmitter, and expects to pursue contract discussions with vendors shortly.

²¹ WNYE expects to file a CP modification application for the Four Times Square site promptly when arrangements there have been firmed up.





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4. Reasonable Steps Taken by DoITT to Expedite DTV Buildout.

In sum, within six months of acquiring the WNYE licenses from the Board, DoITT identified and applied for CPB grant funding for the DTV buildout, obtained a matching commitment from the City's OMB, and reinvigorated site lease negotiations with ESB. Having thereafter encountered difficulties in consummating ESB site arrangements, DoITT has pursued alternative siting at Four Times Square. Indeed, because DTV transmission facilities can be installed more quickly and at lower cost at Four Times Square than at ESB, moving WNYE's DTV transmission and antenna site to Four Times Square will expedite WNYE's transition to full-power DTV. DoITT therefore has taken, and continues to take, all reasonable steps to expedite WNYE's transmitter to full-power DTV as quickly as possible.

C. Granting the Requested Waiver Will Serve the Public Interest By Enabling the City to Pursue New Emergency Alert Initiatives That Will Allow It To Communicate Directly With Residents Throughout the NYC Metropolitan Area.

As with any waiver request, the Commission may grant a waiver of the replication/maximization protection deadline upon a showing that the waiver requested will

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“serve the public interest”.²² In the case of WNYE, granting the waiver will indeed serve the public interest.

Replication/maximization protection of WNYE’s digital channel is critical to the City’s expansion of its Emergency Public Communications Systems, both enabling it to create a dedicated channel for emergency public information and to establish critical redundancy in the City’s Emergency Alert System (“EAS”) and other emergency public information systems. New York City’s EAS is built on the backbone of a local spur of the federal Emergency Alert System. As with all local EAS plans under current FCC rule, the City’s plan, unlike the federal plan, is completely voluntary for federal broadcasters. The City has established partnerships with four AM radio broadcasters to serve as our Local Primary Ones (“LP1”) stations: WABC, WINS, WCBS, and WFAN. These stations have agreed to retransmit to the best of their ability any Civil Emergency Message issued by the City.

As a City-owned broadcast station, however, WNYE-DT will be able to provide a critical degree of redundancy for the City’s EAS system. It will provide a separate means, independent of the transmission capabilities of the LP1 stations, for the City to reach directly metropolitan

²² See FCC’s Rules of Practice and Procedure, 47 C.F.R. 1.925(b)(3)(i) (“The Commission may grant a request for waiver if it is shown that ... a grant of the requested waiver would be in the public interest”); *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, on recon.*, 16 FCC Rcd. 20594, 20611-12, ¶¶ 46-47 (2001) (“*First DTV Periodic MO&O*”) (quoted in *Second Order*, 19 FCC Rcd. at 18319 n. 198).





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area residents in the case of an emergency. Thus, if a terrorist strike or natural disaster cripples or shuts down any LP1, the City will still be able to reach its residents to provide guidance in a crisis. Moreover, unlike the LP1s, WNYE will be able to provide emergency information via video that can be originated by key locations throughout the City and relayed to WNYE for broadcast. This kind of redundancy is particularly important in the case of the New York metropolitan area.

In addition to providing needed redundancy, WNYE's full-power DTV channel will enable the City to develop new mechanisms to reach residents in an emergency. As the City moves toward integrating a digital EAS platform with other forms of emergency notification via Common Alerting Protocols (CAP), WNYE's DTV transmitter will play a central role in disseminating emergency public information to both the general public and members of the media. The City is pursuing plans to use the full-power DTV channel both to multicast television signals, including devoting at least one multicast DTV channel to emergency communications, and to also use the DTV spectrum to distribute emergency messages through other media, including text messaging and datacasting to other devices such as cell phones. The City is committed to emergency public communications systems and considers the WNYE

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digital transmitter project essential to providing a full range of emergency communication services for years to come.

D. Conclusion

For these reasons, we respectfully request a six-month waiver of the replication/maximization protection deadline for WNYE-DT. Granting this request would serve the public interest because it would allow WNYE, one of only three noncommercial educational television stations with New York City as its intended service area, to retain its current interference protection while it completes construction of its digital facilities.

DoITT is a noncommercial educational broadcaster and operates station WNYE (TV/DT) on a noncommercial basis. Moreover, DoITT qualifies as a government entity. WNYE is therefore exempt from filing fees pursuant to Section 1.1114 of the Commission’s rules, and exempt from regulatory fees pursuant to Section 1.1162 of the Commission’s rules.

The applicant certifies that no party to this filing is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

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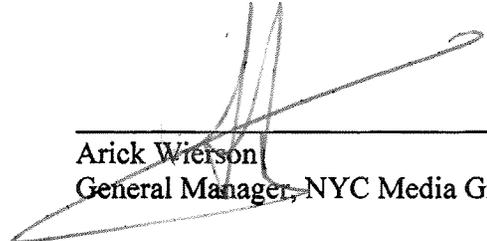




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Respectfully submitted,



Arick Wierson
General Manager, NYC Media Group, DoITT

cc: Mr. Shaun Maher (shaun.maher@fcc.gov)



EXHIBIT 2

Federal Communications Commission Washington, D.C. 20554 FCC 340	Approved by OMB 3060-0034 (March 2001) FOR FCC USE ONLY
APPLICATION FOR CONSTRUCTION PERMIT FOR RESERVED CHANNEL NONCOMMERCIAL EDUCATIONAL BROADCAST STATION Read INSTRUCTIONS Before Filling Out Form	FOR COMMISSION USE ONLY FILE NO. BMPEDT - 20070124AAX

Section I - General Information

1.	Legal Name of the Licensee/Permittee NEW YORK CITY DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOM	
	Mailing Address ARICK WIERSON, GENERAL MANAGER, NYC MEDIA GROUP, DOITT 75 PARK PLACE, 9TH FLOOR	
	City NEW YORK	State or Country (if foreign address) NY
	Zip Code 10007 -	
	Telephone Number (include area code) 2127886600	E-Mail Address (if available) TV@DOITT.NYC.GOV
	FCC Registration Number: 0008351835	Call Sign WNYE-DT
		Facility Identifier 6048
2.	Contact Representative (if other than licensee/Permittee) TILLMAN L. LAY, ESQ.	Firm or Company Name SPIEGEL & MCDIARMID
	Telephone Number (include area code) 2028794000	E-Mail Address (if available) TIM.LAY@SPIEGELMCD.COM
3.	Is this application being filed in response to a window? If Yes, specify closing date and/or window number:	<input type="radio"/> Yes <input checked="" type="radio"/> No
4.	Application Purpose <input type="radio"/> New station <input type="radio"/> Major Change in licensed facility <input type="radio"/> Minor Change in licensed facility <input type="radio"/> Major Modification of construction permit <input checked="" type="radio"/> Minor Modification of construction permit <input type="radio"/> Major Amendment to pending application <input type="radio"/> Minor Amendment to pending application (a) File number of original construction permit: BPEDT-19991110AAQ (b) Service Type: <input type="radio"/> FM <input type="radio"/> TV <input type="radio"/> DTV (c) Community of License: City: NEW YORK State: NY (d) Facility Type <input checked="" type="radio"/> Main <input type="radio"/> Auxiliary If an amendment, submit as an Exhibit a listing by Section and Question Number the portions of the pending application that are being revised.	
		[Exhibit 1]

NOTE: The failure to include an explanatory providing full particulars in connection with a "No" response may result in dismissal of the application. See Instructions, paragraph L for additional information regarding completion of explanatory exhibits.

SECTION II - Legal and Financial

1.	<p>Certification. Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
2.	<p>Eligibility. Each application must answer "Yes" to one and "No" to two of the three following certifications. An applicant should not submit an explanatory exhibit in connection with these Question 2 "No" responses.</p> <p>The applicant certifies that it is:</p> <p>a. a nonprofit educational institution; or</p> <p>b. a governmental entity other than a school; or</p> <p>c. a nonprofit educational organization, other than described in a. or b.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
3.	<p>For applicants checking "Yes" to question 2(c) and applying for a new noncommercial educational television station only, the applicant certifies that the applicant's officers, directors and members of its governing board are broadly representative of the educational, cultural, and civic segments of the principal community to be served.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p><input checked="" type="radio"/> N/A</p>
4.	<p>a. The applicant certifies that the Commission has previously granted a broadcast application identified here by file number that found this applicant qualified as a noncommercial educational entity with a qualifying educational program, and that the applicant will use the proposed station to advance a program similar to that the Commission has found qualifying in applicant's previous application.</p> <p>b. Applicants who answered "No" to Question 4(a), must include an exhibit that describes the applicant's educational objective and how the proposed station will be used to advance an educational program that will further that objective according to 47 C.F.R. Section 73.503 (for radio applicants) and 47 C.F.R. Section 73.621 (for television applicants).</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>FCC FileNumber BTCET- 20030415ACG</p> <p>[Exhibit 2]</p>
5.	<p>The applicant certifies that its governing documents (e.g., articles of incorporation, by-laws, charter, enabling statute, and/or other pertinent organizational document) permit the applicant to advance an educational program and that there is no provision in any of those documents that would restrict the applicant from advancing an educational program or complying with any Commission rule, policy, or provision of the Communications Act of 1934, as amended.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
6.	<p>a. Parties to the Application. List separately each party to the application including, as applicable, the applicant, its officers, directors, five percent or greater stockholders, non-insulated partners, members, and all other persons and entities with attributable interests. If another entity hold an attributable interest in the applicant, list separately, as applicable, its officers, directors, five percent or greater stockholders, non-insulated partners, and board members. Create a separate row for each individual or entity. Attach additional pages if necessary.</p> <p>[Enter Parties/Owners Information]</p> <hr/> <p>b. Applicant certifies that equity and financial interests not set forth above are non-attributable pursuant to 47 C.F.R. Section 73.3555 and that there are no agreements or understandings with any non-party that would give influence over the applicant's programming, personnel, or finances to that non-party.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>[Exhibit 3]</p>
7.	<p>Other Authorizations. List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest pursuant to the notes to 47 C.F.R. Section 73.3555.</p>	<p><input type="checkbox"/> N/A</p> <p>[Exhibit 4]</p>
8.	<p>Character Issues. Applicant certifies that neither applicant nor any party to the application has or has had any interest in or connection with:</p> <p>a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or</p> <p>b. any pending broadcast application in which character issues have been raised.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>See Explanation in [Exhibit 5]</p>

9.	<p>Adverse Findings. Applicant certifies that, with respect to the applicant, any party to the application, and any non-party equity owner in the applicant, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another government unit; or discrimination.</p> <p>If the answer is "No," attach as an Exhibit a full disclosure concerning the persons and matters involved, including an identification of the the court or administrative body and the proceeding (by dates and file numbers), and a description of the disposition of the matter. Where the requisite information has been earlier disclosed in connection with another application or as required by 47 C.F.R. Section 1.65, the applicant need only provide: (i) an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing; and (ii) the disposition of the previously reported matter.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
See Explanation in [Exhibit 6]		
10.	<p>Alien Ownership and Control. Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
See Explanation in [Exhibit 7]		
11.	<p>Program Service Certification. Applicant certifies that it is cognizant of and will comply with its obligations as a commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
12.	<p>Local Public Notice. Applicant certifies compliance with the public notice requirements of 47 C.F.R. Section 73.3580.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
13.	<p>Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
14.	<p>Equal Employment Opportunity (EEO). If the applicant proposes to employ five or more full-time employees, applicant certifies that it is filing simultaneously with this application a Model EEO Program Report on FCC Form 396-A.</p>	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A
<p>QUESTIONS 15, 16 AND 17 APPLY ONLY TO APPLICANTS FOR NEW STATIONS. OTHER APPLICANTS CAN PROCEED TO QUESTION 18.</p>		
15.	<p>Financial. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.</p> <p>If "No" to 15., answer question 16. and 17.</p>	<input type="radio"/> Yes <input type="radio"/> No
See Explanation in [Exhibit 8]		
16.	<p>Is this application contingent upon receipt of a grant from the National Telecommunications and Information Administration?</p>	<input type="radio"/> Yes <input type="radio"/> No
17.	<p>Is this application contingent upon receipt of a grant from a charitable organization, the approval of the budget of a school or university, or an appropriation from a state, county, municipality or other political subdivision?</p>	<input type="radio"/> Yes <input type="radio"/> No
<p>NOTE: If Yes to 16. or 17., the application cannot be granted unconditionally until all of the necessary funds are committed or appropriated. In the case of grants from the National Telecommunications and Information Administration, no further action on the applicant's part is required. If the applicant relies on funds from a source specified in Question 17., the applicant must advise the Commission when the funds are committed or appropriated. This should be accomplished by letter amendment to the application. Applicants should take note that the Commission's construction period is not considered "tolled" by funding difficulties and that any permit granted conditionally on funding will expire if the station is not constructed for any reason, including lack of funding.</p>		
<p>QUESTIONS 18 AND 19 DO NOT APPLY TO APPLICATIONS FOR NEW STATIONS. APPLICANTS FOR NEW FM STATIONS CAN PROCEED TO SECTION III. APPLICANTS FOR NEW TV STATIONS CAN PROCEED TO SECTION IV.</p>		
<p>Holding Period.</p>		
18.	<p>Applicant certifies that this application does not propose a modification to an authorization that was awarded on the basis of a preference for fair distribution of service pursuant to 47</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No

U.S.C. Section 307(b).	
If "No," answer a. and b. below. If applicant answers "No" to 18. above and cannot answer "Yes" to either a. or b. below, the application is unacceptable.	
a. Applicant certifies that the proposed modification will not downgrade service to the area on which the Section 307(b) preference was based.	<input type="radio"/> Yes <input type="radio"/> No
b. Applicant certifies that although it proposes to downgrade service to the area on which the Section 307(b) preference was based, applicant has provided full service to that area for a period of four years of on-air operations.	<input type="radio"/> Yes <input type="radio"/> No
19. Applicant certifies that this application does not propose a modification to an authorized station that received a credit for superior technical parameters under the point system selection method in 47 C.F.R. Section 73.7003.	<input checked="" type="radio"/> Yes <input type="radio"/> No
If "No," applicant must be able to answer "Yes" to a. below or provide an exhibit that makes a compelling showing that the downgrade would be in the public interest.	
a. Applicant certifies that the population and area within the proposed service contour (60 dBu (FM) or grade B (TV)) are greater than or equivalent to those authorized.	<input type="radio"/> Yes <input type="radio"/> No [Exhibit 9]

Section III

Fair Distribution of Service Pursuant to 47 U.S.C. Section 307(b) (New and Major Changes to FM Radio Only) (Other applicants can proceed to Section IV).

1. Applicant certifies that the proposed station will provide a first noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and (b) to a minimum of 2,000 people. Applicants answering "Yes" must provide an Exhibit.	<input type="radio"/> Yes <input type="radio"/> No [Exhibit 10]
2. Applicant certifies that the proposed station will provide a second noncommercial educational aural service to (a) at least 10 percent of the people residing within the station's 60 dBu (1mV/m) service contour and (b) to a minimum of 2,000 people. Applicants answering "Yes" must provide an Exhibit.	<input type="radio"/> Yes <input type="radio"/> No [Exhibit 11]

Section IV Point System Factors - New and Major Change Applications Only (used to select among mutually exclusive radio and television applications for new stations and major modifications) **NOTE:** Applicants will not receive any additional points for amendments made after the close of the application filing window.

1. Established Local Applicant: Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 C.F.R. Section 73.7000, that its governing documents require that such localism be maintained, and that it has placed documentation of its qualifications as an established local applicant in a local public inspection file and has submitted to the Commission copies of the documentation.	<input type="radio"/> Yes <input type="radio"/> No
2. Diversity of Ownership: (a) Applicant certifies that the principal community (city grade) contour of the proposed station does not overlap the principal community contour of any other authorized station (comparing radio and television to television, including non-fill-in translator stations other than those identified in 2(b) below) in which any party to the application has an attributable interest as defined in 47 C.F.R. Section 73.3555, that its governing documents require that such diversity be maintained, and that it has placed documentation of its diversity qualification in a local public inspection file and has submitted to the Commission copies of the documentation.	<input type="radio"/> Yes <input type="radio"/> No
(b) Is the application's certification to 2(a) based on its exclusion of translator station(s) that will be replaced with a full service station pursuant to the authorization requested here? If Yes, applicant must include an exhibit identifying the translator station authorization for which it will request cancellation upon commencement of operation of the proposed full service station (i.e., upon its filing of a license application and receipt of program test authority).	<input type="radio"/> Yes <input type="radio"/> No [Exhibit 12]
3. State-wide Network: Applicant certifies that (a) it has NOT claimed a credit for diversity of ownership above; (b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and (c) it has placed documentation of its qualifications in a local public	<input type="radio"/> Yes <input type="radio"/> No

inspection file and has submitted to the Commission copies of the documentation.		
4.	Technical Parameters: Applicant certifies that the numbers in the boxes below accurately reflect the new area and population that its proposal would serve with a 60 dBu (FM) or Grade B (TV) signal measured in accordance with the standard predicted contours in 47 C.F.R. Section 73.713(c) (FM) and 73.683(TV) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include the area of proposed increase only (exclude any area already within the station's existing service area). (Points, if any, will be determined by FCC)	<input type="radio"/> Yes <input type="radio"/> No
New area served in square kilometers (excluding areas of water):		
Population served based on the most recent census block data from the United States Bureau of Census using the centroid method:		

SECTION V - Tie Breakers - New and Major Change Applications Only (used to choose among competing radio and television applications receiving the same number of points in Section IV)

1.	Existing Authorizations. By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of relevant broadcast station authorizations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in IV (2)(b) above. TV applicants should count all attributable full service TV stations, commercial and noncommercial and TV translator stations other than fill-in stations or those identified in IV(2)(b) above. (number of commercial and non-commercial licenses and construction permits)
2.	Pending Applications. By placing a number in the box, the applicant certifies that it and other parties to the application have, as of the date of filing and pursuant to 47 C.F.R. Section 73.3555, attributable interests in the stated number of pending applications for new or major changes to relevant broadcast stations. Radio applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial, and FM translator stations other than fill-in stations or those identified in IV(2)(b) above. TV applicants should count all attributable full service TV stations, commercial and noncommercial, and TV translator stations other than fill-in stations or those identified in IV(2)(b) above. (number of pending commercial and non-commercial applications)

Section VI -- Certification

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)	
Typed or Printed Name of Person Signing ARICK WIERSON	Typed or Printed Title of Person Signing GENERAL MANAGER, NYC MEDIA GROUP, DOITT
Signature	Date 01/23/2007

Section VII Preparer's Certification

I certify that I have prepared Section VII (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name DANE E. ERICKSEN, P.E.	Relationship to Applicant (e.g., Consulting Engineer) CONSULTING ENGINEER	
Signature	Date 01/21/2007	
Mailing Address HAMMETT & EDISON, INC. BOX 280068		
City SAN FRANCISCO	State or Country (if foreign address) CA	Zip Code 94128-
Telephone Number (include area code) 7079965200	E-Mail Address (if available) DERICKSEN@H-E.COM	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE

SECTION VII - DTV Engineering	
Complete Questions 1-5 of the Certification Checklist and provide all data and information for the proposed facility, as requested in Technical Specifications, Items 1-13.	
Certification Checklist: A correct answer of "Yes" to all of the questions below will ensure an expeditious grant of a construction permit. However, if the proposed facility is located within the Canadian or Mexican borders, coordination of the proposal under the appropriate treaties may be required prior to grant of the application. An answer of "No" will require additional evaluation of the applicable information in this form before a construction permit can be granted.	
1.	The proposed DTV facility complies with 47 C.F.R. Section 73.622 in the following respects: (a) It will operate on the DTV channel for this station as established in 47 C.F.R. Section 73.622. <input checked="" type="radio"/> Yes <input type="radio"/> No (b) It will operate from a transmitting antenna located within 5.0 km (3.1 miles) of the DTV reference site for this location as established in 47 C.F.R. Section 73.622. <input checked="" type="radio"/> Yes <input type="radio"/> No (c) It will operate with an effective radiated power (ERP) and antenna height above average terrain (HAAT) that do not exceed the DTV reference ERP and HAAT for this station as established in 47 C.F.R. Section 73.622. <input type="radio"/> Yes <input checked="" type="radio"/> No
2.	The proposed facility will not have a significant environmental impact, including exposure of workers or the general public to levels of RF radiation exceeding the applicable health and safety guidelines, and therefore will not come within 47 C.F.R. Section 1.1307. Applicant must submit the Exhibit called for in Item 13. <input checked="" type="radio"/> Yes <input type="radio"/> No
3.	Pursuant to 47 C.F.R. Section 73.625, the DTV coverage contour of the proposed facility will encompass the allotted principal community. <input checked="" type="radio"/> Yes <input type="radio"/> No
4.	The requirements of 47 C.F.R. Section 73.1030 regarding notification to radio astronomy installations, radio receiving installations and FCC monitoring stations have either been satisfied or are not applicable. <input checked="" type="radio"/> Yes <input type="radio"/> No
5.	The antenna structure to be used by this facility has been registered by the Commission and will not require registration to support the proposed antenna, OR the FAA has previously determined that the proposed structure will not adversely effect safety in air navigation and this structure qualifies for later registration under the Commission's phased registration plan, OR the proposed installation on this structure does not require notification to the FAA pursuant to 47 C.F.R. Section 17.7. <input checked="" type="radio"/> Yes <input type="radio"/> No

SECTION VII - DTV Engineering

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

TECH BOX	
1.	Channel Number: DTV 24 Analog TV, if any 25
2.	Zone: <input checked="" type="radio"/> I <input type="radio"/> II <input type="radio"/> III
3.	Antenna Location Coordinates: (NAD 27) Latitude: Degrees 40 Minutes 45 Seconds 22 <input checked="" type="radio"/> North <input type="radio"/> South

Longitude:
 Degrees 73 Minutes 59 Seconds 12 West East

4. Antenna Structure Registration Number: 1238745
 Not Applicable Notification filed with FAA

5. Antenna Location Site Elevation Above Mean Sea Level: 15.2 meters

6. Overall Tower Height Above Ground Level: 340.8 meters

7. Height of Radiation Center Above Ground Level: 309 meters

8. Height of Radiation Center Above Average Terrain (HAAT): 309.7 meters

9. Maximum Effective Radiated Power (average power): 151 kW

10. Antenna Specifications:

a. Manufacturer DIE Model TUA-O8-8/64U-2-R

b. Electrical Beam Tilt:
 1.2 degrees Not Applicable

c. Mechanical Beam Tilt:
 degrees toward azimuth
 degrees True Not Applicable
 Attach as an Exhibit all data specified in 47 C.F.R. Section 73.685(c). [Exhibit 32]

d. Polarization:
 Horizontal Circular Elliptical

e. Directional Antenna Relative Field Values: Not applicable (Nondirectional)

[For a composite directional (not off-the-shelf) antenna, press the following button to fill in the relative field values subform.]
 [Relative Field Values]

10e. Directional Antenna Relative Field Values

[Fill in this subform for a composite directional (not off-the-shelf) antenna, only.]

e. Directional Antenna Relative Field Values:

Rotation (Degrees): No Rotation

Degrees	Value										
0		10		20		30		40		50	
60		70		80		90		100		110	
120		130		140		150		160		170	
180		190		200		210		220		230	
240		250		260		270		280		290	
300		310		320		330		340		350	

Additional Azimuths

Relative Field Polar Plot

If a directional antenna is proposed, the requirements of 47 C.F.R. Sections 73.625(c) must be [Exhibit 33]

	satisfied. Exhibit required.	
11.	Does the proposed facility satisfy the interference protection provisions of 47 C.F.R. Section 73.623(a)? (Applicable only if Certification Checklist items 1(a), (b), or (c) are answered "No".) If "No", attach as an Exhibit justification therefor, including a summary of any related previously granted waivers.	<input checked="" type="radio"/> Yes <input type="radio"/> No [Exhibit 34]
12.	If the proposed facility will not satisfy the coverage requirement of 47 C.F.R. Section 73.625, attach as an Exhibit justification therefor. (Applicable only if Certification Checklist item 3 is answered "No".)	[Exhibit 35]
13.	Environmental Protection Act. Submit in an Exhibit the following: a. If Certification Checklist Item 2 is answered "Yes," a brief explanation of why an Environmental Assessment is not required. Also describe in the Exhibit the steps that will be taken to limit RF radiation exposure to the public and to persons authorized access to the tower site. By checking "Yes" to Certification Checklist Item 2, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines. If Certification Checklist Item 2 is answered "No," an Environmental Assessment as required by 47 C.F.R Section 1.1311.	[Exhibit 36]
PREPARERS CERTIFICATION ON PAGE 8 MUST BE COMPLETED AND SIGNED.		

Exhibits

Attachment 1

Description
Question 4 - Sections and Question Numbers Being Revised

Attachment 4

Description
Question 7 - Other Authorizations

Exhibit 34

Description: INTERFERENCE CONSIDERATIONS

PROCESSING ON AN INCREASED RESOLUTION OF 1 KM BY 1 KM CELLS, AND 10 POINTS PER KM OF TERRAIN EXTRACTION, IS REQUESTED.

Attachment 34

Exhibit 35

Description: PERMITTED VS. PROPOSED CONTOURS

AS SHOWN BY THE ATTACHED EXHIBIT 35, THE PROPOSED OPERATION AT 4 TIMES SQUARE AT 151 KW ERP OMNI WOULD NOT EXTEND THE CURRENTLY PERMITTED DTV THRESHOLD CONTOUR, WHICH IS BASED ON 200 KW ERP (DA) AT THE EMPIRE STATE BUILDING (FCC FILE NO. BPEDT-19991110AAO). THEREFORE THE PROPOSED OPERATION WOULD NOT VIOLATE THE AUGUST 3, 2004, 'FREEZE ORDER.'

Attachment 35

Description

Permitted vs. Proposed Contours

Exhibit 36**Description:** ENVIRONMENTAL CONSIDERATIONS

GRANT OF THIS APPLICATION WOULD NOT BE A MAJOR ENVIRONMENTAL ACTION. THE PROPOSED TRANSMITTING ANTENNA IS AN EXISTING PANEL ANTENNA SIDE-MOUNTED ON AN EXISTING TOWER THAT HAS BEEN REGISTERED WITH THE FCC. THERE WILL BE NO CHANGE IN THE OVERALL HEIGHT OF THAT STRUCTURE. NONE OF THE SITUATIONS IN SECTION 1.1307(A) OF THE FCC RULES, DEFINING MAJOR ENVIRONMENTAL ACTIONS, ARE BELIEVED TO APPLY.

THE PROPOSED OPERATION, BY ITSELF, HAS A PREDICTED ROOFTOP POWER DENSITY EQUAL TO 0.55% OF THE OCCUPATIONAL LIMIT APPLYING AT UHF TV CHANNEL 24 (THE ROOF OF THE 4 TIMES SQUARE BUILDING IS A CONTROLLED ACCESS AREA). THE PROPOSED OPERATION, BY ITSELF, HAS A PREDICTED GROUND LEVEL POWER DENSITY EQUAL TO 0.20% OF THE PUBLIC EXPOSURE LIMIT APPLYING AT UHF TV CHANNEL 24. THEREFORE THE PROPOSED FACILITIES ARE CATEGORICALLY EXCLUDED BY SECTION 1.1307(B)(3) OF THE FCC RULES FROM HAVING TO CONSIDER THE CONTRIBUTIONS OF OTHER STATIONS AT OR NEAR THE PROPOSED SITE.

Attachment 36

Form FCC 340 Exhibits for WNYE-DT

(Facility ID: 6048 / FRN: 0008351835

Exhibit No. 1 (Sections and Question Numbers Being Revised)

Reason for Amendment

This Minor Modification of Construction Permit filed by WNYE-DT pertains to a change in siting for WNYE-DT's planned full-power DTV transmitter from the currently permitted Empire State Building ("ESB") site in New York City ("City") to a new site at the Four Times Square building "(Times Square)" in the City.

After the 9/11 tragedy in New York City, several commercial broadcasters that had been located at the World Trade Center and elsewhere reached agreement with ESB management to build a new master antenna at the ESB, which was placed in WNYE's planned DTV aperture on the tower. Due to a scarcity of suitable broadcast transmission locations in the City after 9/11, the effect of this agreement between ESB and commercial broadcasters was to escalate dramatically WNYE's siting costs on the ESB master antenna to the point where they became cost-prohibitive for WNYE.

Although WNYE promptly entered into lease negotiation with ESB management, there was no longer space for both WNYE's analog and digital antennas at ESB. If WNYE wanted to site its digital television antenna transmission facilities at ESB, it would have had to remove its analog antenna and transmit its analog television signal from elsewhere. For many reasons, including increased costs and the risk of potential temporary loss of analog signal reach, ESB no longer was a suitable site for WNYE's digital antenna and transmission facilities. Confronted with these difficulties, WNYE pursued the alternative of relocating its permanent DTV transmitter site to Four Times Square. This Minor Modification application reflects the technical changes necessary to accommodate the move from the ESB to Four Times Square.

As described in the engineering consultant's report attached as Exhibit No. 3, WNYE-DT operation from Four Times Square would not extend the currently permitted F(50,90) 39.7 dBu DTV Threshold contour and such operation would not cause incremental interference to other stations in excess of the 2% *de minimis* limit.

Form 340 Section and Question Numbers Affected

The Section and Question Numbers of FCC Form 340 affected by this amendment are *Section VII (DTV Engineering)*, Question Numbers 1 through 5, and *Section VII (DTV Engineering, Technical Specifications)*, Question Numbers 1 through 13.

CP History

WNYE's DT CP was originally granted on February 4, 2004 (File No. 19991110AAQ), and subsequently extended (*see* File Nos. BEPEDT-20030227ABV and BEPEDT-20031003ABK). On July 7, 2006, contemporaneously with the filing of WNYE's request filed in Docket No. 03-15 for a six-month waiver of the DTV replication/maximization interference deadline, WNYE also filed a Form 337 (File No. BEPEDT-20060707AFI, accepted for filing on July 10, 2006) requesting an extension of its CP through the six-month period covered by the July Waiver Request ("July Extension Request").

On December 18, 2006, WNYE filed in Docket 03-15 a supplement to and request for further extension of its July Waiver Request of the replication/maximization interference protection deadline through September 30, 2007, to complete its DTV buildout, and once again out of an abundance of caution, WYNE also filed on that day a Form 337 requesting an additional extension of its CP through September 30, 2007 (File No. BEPEDT-20061218ACU) ("December Extension Request").

Both the July Extension Request and the December Extension Request are currently pending before the Commission.

Form FCC 340 Exhibits for WNYE-DT

(Facility ID: 6048 / FRN: 0008351835)

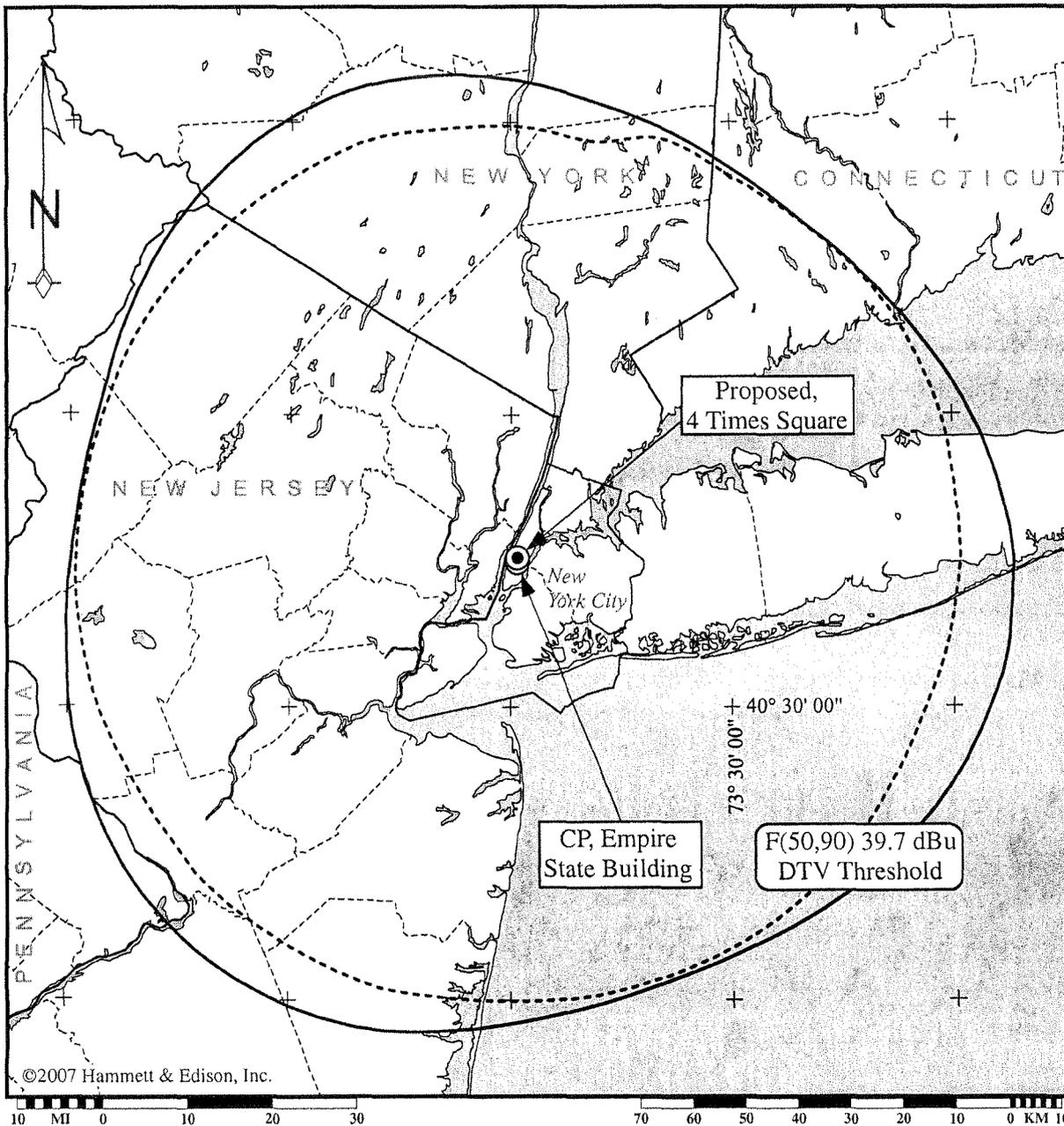
Exhibit No. 4 (Question No. 7 – Other Authorizations)

**Other Broadcast Stations in Which Applicant
(New York City Dept. of Information Technology and Telecommunications)
Has An Attributable Interest**

CALL SIGN	FACILITY ID	LOCATION	FACILITY TYPE
WNYE-FM	3539	New York, NY	Non-Commercial Educational FM Station
WNYE-TV	6048	New York, NY	Educational TV Station (NTSC Ch. 25)

Station WNYE-DT • D24/TCD24 • New York, New York

Permitted vs. Proposed DTV Threshold Contours



— = Permitted, 200 kW ERP (DA) at 423.5 m AMSL
 - - - = Proposed, 151 kW ERP Omni at 324.2 m AMSL

Lambert conformal conic map projection. Map data taken from Sectional Aeronautical Charts, published by the National Ocean Survey. Geographic coordinate marks shown at 30-minute increments. City limits shown taken from U.S. Census Bureau TIGER/Line 2000 data.

EXHIBIT 3

Station WNYE-DT • DTV Channel 24 • New York, New York

**OET-69 Coverage Study for WNYE-DT at Four Times Square at 151 kW ERP Omni
C.O.R. = 309.0 m AGL, 324.2 m AMSL, 309.7 m HAAT
Error Code 3 Respected, Generic Elevation Pattern, Incorrectly Calculated Depression
Angles to Cells Under Study (FCC Method)**

OET-69 Coverage Analysis, 2000 Census
tvstudy v3.2.12

This interference study is based on 1.00 x 1.00 kilometer cells and terrain profiles with 10.0 points per kilometer. FCC processing using these finer-resolution parameters is hereby requested, pursuant to the Commission's August 10, 1998, Public Notice, "Additional Application Processing Guidelines for DTV."

Station record parameters:

	--Modified-----	--Original-----
Station:	D24 WNYE-TV CP	D24 WNYE-TV CP
City:	NEW YORK, NY	NEW YORK, NY
Facility ID:	6048	6048
Coordinates:	N 40-45-22.0	N 40-44-54.0
	W 73-59-12.0	W 73-59-10.0
Height AMSL:	324.2 m	423.5 m
Maximum ERP:	151 kW	200 kW
Azimuth pattern:	omnidirectional	DIE-TFU-16DSC-R T180
Orientation:		0.0
Elevation pattern:	OET-69 generic	OET-69 generic
Service level:	39.7 dBu	39.7 dBu

Warning - some records had missing or bad data:

N24+ WUTB LIC Missing or bad azimuth pattern data, substituted omni

Interfering station	Total IX		Unique IX	
	Area, km2	Population	Area, km2	Population
D23 WFTY-TV LIC SMITHTOWN, NY	178.9	214,617	128.2	159,260
D24 WATM-TV LIC ALTOONA, PA	0.0	0	0.0	0
D24 WVTA CP WINDSOR, VT	0.0	0	0.0	0
D25 WTVE CP READING, PA	4.0	374	0.0	0
N23+ WNJS LIC CAMDEN, NJ	0.0	0	0.0	0
N24+ WCNY-TV LIC SYRACUSE, NY	73.5	16,004	8.0	2,252
N24+ WUTB LIC BALTIMORE, MD	99.4	11,583	9.9	1,689
N24+A WFXZ-CA CP BOSTON, MA	0.0	0	0.0	0
N24-A W24BB LIC EAST STROUDSBUR, PA	319.0	57,737	181.9	31,860
N24z WEDH CP HARTFORD, CT	309.1	119,641	159.0	55,275
N24zA W24DB LIC SAYRE, PA	0.0	0	0.0	0
N24zA WEWE-LP LIC SUSSEX COUNTY, DE	0.0	0	0.0	0
N25-A W25AW LIC TRENTON, NJ	3.0	3,849	3.0	3,849
N25z WNYE-TV LIC NEW YORK, NY	0.0	0	0.0	0

[Continued on next page]

Station WNYE-DT • DTV Channel 24 • New York, New York

**OET-69 Coverage Study for WNYE-DT at Four Times Square at 151 kW ERP Omni
C.O.R. = 309.0 m AGL, 324.2 m AMSL, 309.7 m HAAT
Error Code 3 Respected, Generic Elevation Pattern, Incorrectly Calculated Depression
Angles to Cells Under Study (FCC Method)**

Service conditions	Area, km2	Population
Noise-limited service	16145.6	18,637,971
Terrain-limited service	15148.9	18,477,578
Interference-free service	14453.2	18,143,315
Longley-Rice errors	8209.5	6,873,624

Note: The results of the OET-69 algorithm are dependent on the use of computer databases and complex software algorithms, which may vary between computer platforms and installations. Also, while Hammett & Edison, Inc. endeavors to follow official releases and established precedents on the matter, FCC policy on DTV analysis methods changes from time to time. Thus, the results of OET-69 interference and coverage studies are subject to change and may differ from FCC results.