

Jack N. Goodman

+1 202 663 6287 (t)
+1 202 663 6363 (f)
jack.goodman@wilmerhale.com

October 10, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 87-268, MB Docket No. 07-91

Dear Ms. Dortch:

This morning, Joan Barrett, President of Sunflower Broadcasting, Inc., and the undersigned met with Rick Chessen of Commissioner Copps' office; and Clay Pendarvis, Eloise Gore, Gordon Godfrey, Shaun Maher, Nazifa Sawez, Evan Baranoff and Maureen McCarthy of the Media Bureau, to discuss the above-referenced proceedings.

We discussed the proposal referenced in Sunflower's comments in MB Docket No. 07-91, to change the post-transition DTV channel for KSCW (TV), Wichita, Kansas, from channel 31 to channel 19, a change that would reduce costs and improve service and reliability of over-the-air service in the Wichita area. We pointed out that Sunflower could not have advanced this proposal earlier since its acquisition of KSCW (TV) was not consummated until July.

A copy of Sunflower's comments was distributed and is attached. Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

s/ Jack N. Goodman

Jack N. Goodman
Counsel for Sunflower Broadcasting, Inc.

Attachment

cc: Meeting Participants

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

In the Matter of)
)
)

Third Periodic Review of the)
Commission's Rules and Policies)
Affecting the Conversion)
To Digital Television)
)
_____)

MB Docket No. 07-91

Comments of Sunflower Broadcasting, Inc.

Sunflower Broadcasting, Inc. ("Sunflower") submits these comments on the Commission's *Notice of Proposed Rule Making*, released May 18, 2007, concerning completing the transition to digital television (DTV).

In the *Notice*, the Commission tentatively concluded that it would not consider requests for expanded DTV facilities until after the completion of the transition in February 2009, but asked for comments on this conclusion.^{1/} Sunflower requests that the Commission allow stations to request, prior to the end of the transition, changes in post-transition DTV facilities, including channel changes, where (1) the proposed change would not result in additional interference to any other digital station, (2) the proposed change would result in expanded DTV coverage at lower cost, and (3) there is good cause for the failure to propose the facilities change earlier.

^{1/} *Notice* ¶ 99.

Background

Sunflower is the licensee of KWCH-TV, Hutchinson, Kansas, and KSCW (TV), Wichita, Kansas, both serving the Wichita Designated Market Area (DMA).^{2/} Sunflower's acquisition of KSCW was consummated in July 2007.^{3/} KWCH operates in analog on Channel 12 and in digital on Channel 19. Sunflower elected to return to Channel 12 for KWCH's permanent digital channel, and the Commission recently confirmed that selection.^{4/} KSCW operates in analog on Channel 33 and in digital on Channel 31, and elected to remain on channel 31 after the transition.^{5/} Both KWCH-DT and KSCW-DT are operating with full licensed facilities.

KSCW broadcasts in analog and digital from a leased studio and tower. Following its acquisition of KSCW, Sunflower intends to move the KSCW studios into the building from which KWCH operates. Since a complete digital transmission facility for Channel 19 will already be in place at Sunflower's facilities and mounted on Sunflower's tower, and Channel 19 will not be used by any other station in the market following the completion of the transition, Sunflower desires to change KSCW-DT's post-transition assignment to Channel 19, specifying the facilities now used by KWCH-DT.

Sunflower requested Chesapeake RF Consultants, LLC, to analyze the coverage and interference potential of a post-transition operation on Channel 19 by KSCW using the existing KWCH-DT facility. That analysis is attached to these comments and shows that the interference

^{2/} Sunflower is also the licensee of three full-power satellite stations serving sparsely populated rural areas of Western Kansas.

^{3/} Sunflower's acquisition of KSCW pursuant to a "failing station" waiver was approved by the Media Bureau on July 9, 2007. FCC File No. BALCT-20070330ATL.

^{4/} *Advanced Television Systems and their Impact Upon the Existing Television Service (Seventh Report and Order)*, MB Docket No. 87-268 (rel. Aug. 6, 2007) & App. B ("DTV Assignment Order").

^{5/} *Id.*

to any post-transition station from Channel 19 would be far less than the Commission's 0.1 percent interference standard. Moreover, by changing from Channel 31 to Channel 19 after the transition, KSCW would reduce interference to KCWE-DT, Kansas City, by 0.12 percent. Changing to Channel 19 would also increase both KSCW-DT's service area and the population that receives over-the-air CW service, and the station would suffer less interference than it would if it continued to use Channel 31.

Argument

The Commission should permit Sunflower to file, as part of the process for completing the transition to DTV, a request to change the post-transition digital channel for KSCW to Channel 19, on which Sunflower now broadcasts KWCH-DT's transitional signal, from Channel 31, the digital channel assigned to KSCW-DT. While the Commission previously imposed a freeze on requests for changes in DTV channels to "provide a stable database for conducting the channel election process and developing a new DTV table,"^{6/} the channel election process is now complete and the Commission has adopted a new DTV table. It would be reasonable for the Commission, given the limited time before the statutory deadline for completing the transition, not to allow stations to request wholesale changes in the table, particularly where those changes would affect other stations and assignments. The limited change Sunflower desires to propose, however, would not adversely impact either completion of the transition or the policy objectives supporting the freeze. The Commission should allow Sunflower, before the end of the transition, to request a channel change for KSCW.

Sunflower could not have requested this channel change before now. The assignment of the KSCW license to Sunflower was consummated on July 20, 2007. Sunflower could not have

^{6/} Notice n. 180.

requested a change in KSCW's facilities before it took control. Prior to consummation, KSCW would also have had no right or ability to use Sunflower's facilities, and KSCW's previous licensee could not have made this request. Thus, Sunflower has not delayed or been tardy in making this request; it is being filed at the first possible opportunity.

Notably, the Commission in the *DTV Assignment Order* permitted stations to make changes to their DTV channel assignments where the circumstances justified those changes and the proposed channel assignment would not result in new interference to other stations.^{7/} Thus, the Commission has recognized that it may be appropriate for it to allow stations to change DTV channel assignments.

Allowing KSCW to operate after the transition on the existing Channel 19 facility would serve the public interest. KSCW is the sole source of programming from The CW in Western Kansas. The Wichita DMA is the Nation's sixth largest in terms of area.^{8/} Unlike most of its competitors in the market, KSCW does not operate translators or satellite stations to provide coverage to rural portions of the DMA. Thus, increasing the DTV service area of KSCW would bring over-the-air CW service to consumers who now have no broadcast source for that programming. The Commission recognized in the *Notice* that its objectives in assigning final DTV licenses were to "promote overall spectrum efficiency and to ensure that broadcasters *provide the best possible service to the public.*"^{9/} The proposed channel change for KSCW would improve DTV service in the Wichita market.

Permitting KSCW to use the existing Channel 19 facilities would also reduce the costs of providing DTV service to a previously "failing" station. KSCW's transmitter and antenna are on

^{7/} *DTV Assignment Order* ¶¶ 145-56.

^{8/} See Exh. 15 to FCC File No. BALCT-20060728AGC at 3.

^{9/} *Notice* ¶ 5 (emphasis added).

leased facilities at a different location from KWCH's tower. If KSCW must continue to broadcast on Channel 31, Sunflower must continue to pay for the tower lease and to keep an additional studio-transmitter link in operation. Those costs would be saved if KSCW can operate using the existing Channel 19 transmitter and antenna already located at the KWCH tower. This is the kind of efficiency that the Commission sought to permit when it established its failing station waiver policy,^{10/} and would allow more resources to be devoted to improved programming and local service.^{11/}

Using the existing Channel 19 transmitter will also improve the reliability of digital service. The current KSCW transmitter has suffered from repeated failures of transmitter tubes, resulting in extended operation at half power.^{12/} Although Sunflower has now replaced the previous tubes with ones of a different design and returned the station to full power operation, the KSCW transmitter has also had problems with defective exciters. By contrast, the Channel 19 transmitter used for KWCH-DT has a proven record of reliability and is more likely to provide uninterrupted service without further modification or replacement. Further, there is neither a backup transmitter for KSCW's Channel 31 operations nor backup power generation capability at the KSCW tower site; Sunflower has a backup transmitter and backup power generators in place for Channel 19, providing additional reliability, which is particularly important in Kansas which suffers from frequent tornados.

^{10/} See *Review of the Commission's Regulations Governing Television Broadcasting*, 14 FCC Rcd 12903 (1999), *recon. granted in part*, 16 FCC Rcd 1067 (2001).

^{11/} The proposed change would also reduce the number of towers needed for post-transition television service.

^{12/} See, e.g., FCC File No. BDSTA-20070125ADM (request for Special Temporary Authority to operate at half-power).

As noted above, using Channel 19 after the transition would not result in interference to any other digital channel assignment. Returning Channel 31 at the end of the transition, however, would reduce the interference received by KWCE in Kansas City, further advancing the Commission's goal of spectrum efficiency.

Changing KSCW's final digital channel to Channel 19 would also not result in any delay in completing the transition or in any burden on the resources needed for other stations to complete post-transition facilities. As explained above, the facilities Sunflower proposes to use for KSCW are already constructed and in use as KWCH's transitional channel.

In Paragraph 99 of the *Notice*, the Commission tentatively concluded that it will not allow requests for expanded post-transition DTV service until either later in the transition or after it has been completed. That proposal may be reasonable where a requested change would adversely affect other stations or could result in additional strain on the resources needed to complete the transition. In Sunflower's circumstances, no other station would be harmed by the change to KSCW's post-transition channel, another station would in fact benefit from the change, and service to the Wichita DMA would also be improved. The Commission should, therefore, allow stations to seek changes in their post-transition channels where no new interference will result and service will improve and where they could not previously have requested a change.^{13/}

^{13/} Because no new construction would be required for the proposed channel change, the request to substitute Channel 19 for KSCW's post-transition channel need not be subject to the expedited processing procedures proposed in Paragraph 94 of the *Notice*.

Conclusion

For the foregoing reasons, the Commission should allow Sunflower to file, before the end of the transition, a request to change the post-transition DTV channel assigned to KSCW to permit it to use the KWCH-DT Channel 19 facilities.

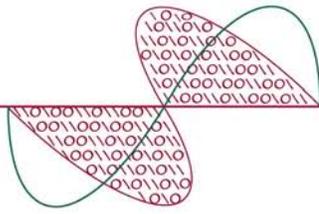
Respectfully submitted,



Jack N. Goodman
Wilmer Cutler Pickering Hale and Dorr, LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 663-6000

Counsel for Sunflower Broadcasting, Inc.

August 15, 2007



Chesapeake RF Consultants, LLC

Radiofrequency Consulting Engineers
Digital Television and Radio

JOSEPH M. DAVIS, P.E.

Joseph.Davis@RF-consultants.com
www.RF-consultants.com

11993 Kahns Road
Manassas, VA 20112

703-650-9600
Fax: 703-310-6095

August 3, 2007

Ms. Marcia K. Burdick
Senior Vice President, Broadcasting
Schurz Communications Inc.
225 West Colfax Avenue
South Bend, IN 46626

VIA E-MAIL

RE: KSCW(TV) Digital Channel

Dear Ms. Burdick:

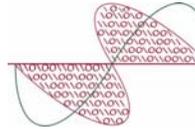
This will summarize the results of interference studies concerning a change in the final digital television channel assignment regarding KSCW(TV), Wichita, KS, recently acquired Sunflower Broadcasting, Inc. KSCW is presently analog Channel 33 and digital Channel 31. KSCW elected to remain on Channel 31 as its final digital channel and this is shown as the KSCW Tentative Channel Designation ("TCD") in the FCC's proposed table of final digital allotments.

Nearby Sunflower Broadcasting station KWCH-TV, Hutchinson, KS, presently analog Channel 12 and digital Channel 19, will go to Channel 12 for final digital operation, vacating its transitional digital Channel 19 operation. As outlined by counsel, Mr. Jack Goodman, I understand that you are interested in changing KSCW's final digital operation to Channel 19 utilizing the antenna location and parameters corresponding to the presently licensed KWCH-TV digital Channel 19.

The KWCH-TV digital Channel 19 facility is located 35.8 km (22.2 miles) from the KSCW site. The use of Channel 19 at the KWCH-TV digital parameters (1000 kW ERP / 421 meters antenna HAAT) for KSCW would extend the coverage area beyond that of the KSCW TCD Channel 31 (1000 kW / 345 m). A coverage contour comparison map is attached.

Interference study results pursuant to FCC OET Bulletin 69 show that KSCW's use of digital Channel 19 (with the KWCH-TV antenna parameters from BLCDT-20050621AAR) would have complied with the 0.1 percent interference limit and method of calculation the FCC employed during the channel election phase. Additionally, now considering only post-transition facilities, the interference would also not exceed 0.1 percent and therefore would comply with the proposed 0.5 percent limit specified in FCC Third Periodic Review NPRM (MB Docket 07-91) for post-transition modifications. Potentially affected stations by a Channel 19 operation are well removed from the Wichita area. A summary of the post-transition interference study results is provided in the following.

Ms. Marcia K. Burdick
August 3, 2007
Page 2 of 2



Chesapeake RF Consultants, LLC
Radiofrequency Consulting Engineers
Digital Television and Radio

**Post-Transition Interference Analysis Results Summary
KSCW(TV) On Digital Ch. 19 at KWCH-TV Licensed Digital Ch. 19 Parameters**

Ch	Call	State/City File Number	Fac. ID	Latitude Longitude	Power HAAT	Distance Bearing	Baseline Population	New Interference (2000 Census)	
								Population	Percent
19	KTVG	NE GRAND ISLAND BPCDT-19991015ABA	27220	40 43 44 98 34 13	1000 186	304.2 347.1	43,294	17	0.04%
19	KWKS	KS COLBY BNPEDT-20040726ACE	162115	39 14 31 101 21 38	500 384	339.5 293.9	195,558	57	0.03%

The service and interference statistics for the present and prospective KSCW TCD are summarized below.

	Ch. 31 Present TCD	Ch. 19 Prospective TCD
Service Area (sq. km)	31,920.1	39,557.8
Service Population (2000 census)	747,336	829,621
Interference	0.097 %	0.015 %

I also examined the interference impact to other stations brought about by the current KSCW digital Channel 31 TCD facility. Interference studies show that removing KSCW's digital Channel 31 from the proposed allotment table would reduce post-transition interference by 0.12 percent to KCWE(TV) (Ch. 31, Kansas City, MO) and by 0.03 percent to KOET(TV) (Ch. 31, Eufaula, OK).

Thank you for the opportunity to be of service. Please contact me with any questions or comments.

Sincerely,

Joseph M. Davis, P.E.
For Chesapeake RF Consultants, LLC

Enclosure: as stated

cc: Jack N. Goodman, Esq.

