

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)

TO: Honorable Marlene H. Dortch
Secretary of the Commission

ATTN: The Commission

**PETITION FOR RECONSIDERATION
TO SEVENTH REPORT AND ORDER**

Withers Broadcasting Company of West Virginia, licensee of Television Broadcast Station WDTV, Weston, West Virginia ("Withers" or "WDTV"), by its attorney, pursuant to Section 405 of the Communications Act of 1934, as amended, as well as the FCC's Rules, hereby respectfully files this Petition for Reconsideration of the Seventh Report and Order in this proceeding.

1. Earlier this evening, Withers filed Comments in the related Eighth Further Notice. Out of an abundance of caution, Withers also seeks reconsideration of the Seventh Report and Order as it affects the digital allocation for WDTV-DT, Weston, West Virginia.

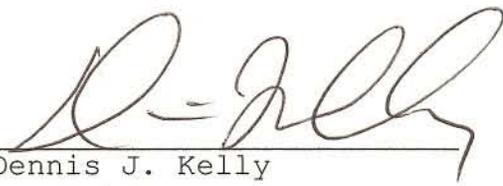
2. The Comments are attached hereto and incorporated herein by reference. They state the problem created by the Seventh Report and Order, and the technical and public interest reasons for the relief requested herein.

WHEREFORE, Withers Broadcasting Company of West Virginia urges that this Petition for Reconsideration **BE GRANTED** and that the FCC permit WDTV to operate in the post-transition era on Channel 5 at 10 kilowatts effective radiated power and antenna height 248 meters above average terrain with a non-directional antenna.

Respectfully submitted,

**WITHERS BROADCASTING COMPANY
OF WEST VIRGINIA**

By


Dennis J. Kelly
Its Attorney

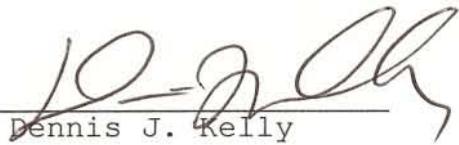
LAW OFFICE OF DENNIS J. KELLY
Post Office Box 41177
Washington, DC 20018
Telephone: 888-322-5291

DATED AND FILED: October 10, 2007

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Petition for Reconsideration" was served by e-mail on this 10th day of October, 2007 upon the following:

William H. Fitz, Esquire
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
wfitz@cov.com
Counsel for Licensee of WCYB-TV



Dennis J. Kelly

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)

For Initial Covering License

TO: Honorable Marlene H. Dortch
Secretary of the Commission

ATTN: The Commission

**COMMENTS ON
EIGHTH FURTHER NOTICE OF PROPOSED RULE MAKING**

Withers Broadcasting Company of West Virginia, licensee of Television Broadcast Station WDTV, Weston, West Virginia ("Withers" or "WDTV"), by its attorney, hereby respectfully files its Comments in the above-captioned proceeding. In so doing, the following is shown:

1. Withers has been the licensee of WDTV, analog channel 5, since 1973. It has been allocated digital channel 6 during the transition period, and it has also been allocated channel 5 for the post-transition period.

2. The allocation proposal for WDTV in the most recent FCC document dealing with the conversion from analog

to digital broadcasting does not allow post-transition coverage to match the existing primary service contour of WDTV's analog operations. Therefore, WDTV respectfully requests the FCC to adopt the engineering proposal for WDTV set forth in the attached engineering statement prepared by registered professional engineer Sudhir K. Khanna of Khanna & Guill, Inc., whose qualifications are well known to the FCC.

3. Withers proposes to operate WDTV on DTV Channel 5 with 10 kW ERP and 248 meters HAAT with a non-directional TV antenna. Withers has planned for the post-transition period, and prior to the release of the "Eighth Further Notice" had the understanding that it was going to be able to operate in the post-transition era with a non-directional antenna. In fact, Withers has acquired and installed the post-transition antenna, and is basically ready to effectuate the transition to digital channel 5. Therefore, it would be a severe economic blow to Withers, which operates WDTV in the 166th largest television market, to have to replace its new non-directional antenna with an expensive custom directional antenna. Further, since Withers would be unable to replicate its current service area, it would be a blow to those citizens living in the areas on the fringes of WDTV's service area, who would lose WDTV's extensive local news programming and CBS network

service. Mr. Khanna has determined that, should WDTV be forced to operate with the facilities stated in the "Eighth Further Notice", the population in WDTV's service area would shrink by 82,101 persons, from 725,871 currently to 643,770 after the transition. This result is clearly not in the public interest, and is a modification of WDTV's license which Withers rejects.

4. The interference area between WDTV and co-channel WCYB-DT, Bristol, Virginia, under the proposals in the "Eighth Further Notice" is 0.3349%. Were WDTV permitted to operate post-transition with a non-directional antenna at 248 meters above average terrain at its present site, the interference area between WDTV and WCYB would only very slightly increase to 0.418%.

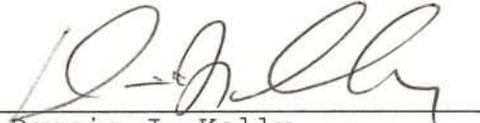
5. The public interest factor present here, namely, service to 82,101 people, and the economic blow to Withers were it forced to replace its non-directional antenna with a directional antenna, provide ample justification for the FCC to authorize WDTV to operate in the post-transition era with a non-directional antenna at 10 kilowatts effective radiated power and antenna height 248 meters above average terrain.

WHEREFORE, Withers Broadcasting Company of West Virginia urges the FCC to permit WDTV to operate in the post-transition era on Channel 5 at 10 kilowatts effective radiated power and antenna height 248 meters above average terrain.

Respectfully submitted,

**WITHERS BROADCASTING COMPANY
OF WEST VIRGINIA**

By


Dennis J. Kelly
Its Attorney

LAW OFFICE OF DENNIS J. KELLY
Post Office Box 41177
Washington, DC 20018
Telephone: 888-322-5291

DATED AND FILED: October 10, 2007

ENGINEERING STATEMENT
ON BEHALF
WDTV, WESTON, WEST VIRGINIA
IN SUPPORT OF ITS COMMENTS IN
EIGHTH FURTHER NOTICE OF PROPOSED RULE MAKING
MB DOCKET NO. 87-268
OCTOBER 2007

This engineering statement has been prepared on behalf of Withers Broadcasting Company, (“Withers”) licensee of TV station WDTV, Weston, West Virginia, in support of its comments in the Eighth Further Notice of Rule Making in MB Docket No. 87-268.

Station WDTV, Facility ID Number 70592, currently operates on analog TV Channel 5 (76-82 MHz) with 100 kW effective radiated power (ERP) and 268 meters antenna height above average terrain (HAAT). The Commission has allotted Channel 6 (82-88 MHz) to WDTV for its digital TV operation. Station WDTV holds a construction permit to operate the allotted DTV facility on Channel 6 with 10 kW ERP and 248 meters HAAT using a directional TV antenna. In the Eighth Further Notice of Proposed Rule Making, the Commission has proposed allotment of Channel 5 for the proposed DTV operation of WDTV with 9.96 kW effective radiated power (ERP) and 253 meters antenna height above average terrain (HAAT) and a directional TV antenna (ID No. 74344). Withers proposes to operate WDTV on DTV Channel 5 with 10 kW ERP and 248 meters HAAT with a non-directional TV antenna.

The attached map (Figure 1) shows the predicted coverage contours for the licensed analog TV and the allotted DTV operation of WDTV on Channel 5. Figure 1 shows the allotted Channel 5 DTV operation does not replicate the current analog TV service area. The 2000 census estimated population within the current analog TV service area (Grade B contour) is 725,871 people while the estimated population within the allotted DTV operation (28 dBu contour) is 643,770 people.

An electromagnetic interference study, according to the FCC OET Bulletin 69, has been conducted (see attached Table I) for the Channel 5 DTV allotment with 9.96 kW

ERP and 253 meters HAAT using the proposed allotted directional antenna (ID NO. 74344). Table I indicates the allotted facilities cause slight interference (0.3349%) to WCYB, Bristol, Virginia. The proposed operation of WDTV with 10 kW ERP, 248 meters HAAT and a non-directional TV antenna would result in a very minimal increase in interference (0.418%) to WCYB as shown on the attached Table II.

Therefore, Withers requests the Commission to allot 10 kW ERP at 248 meters HAAT with a non-directional TV antenna for the WDTV's digital operation which would enable the station to essentially replicate its analog TV service area as shown on the attached map (Figure 2).

Under penalty of perjury the undersigned states that the foregoing statement has been prepared by him or under his supervision and that the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts, he believes them to be true.

9 October 2007



S. K. Khanna
Professional Engineer
District of Columbia, PE License No.8057

TABLE I

Census data selected 2000

Post Transition Data Base Selected
 /space/software/cdbs/tvdb.sff_G
 TV INTERFERENCE and SPACING ANALYSIS PROGRAM

Date: 10-09-2007 Time: 15:18:18

Record Selected for Analysis

WDTV USERRECORD-01 WESTON WV US
 Channel 05 ERP 9.96 kW HAAT 253. m RCAMSL 00635 m
 Latitude 039-04-29 Longitude 0080-25-28
 Status APP Zone 1 Border
 Dir Antenna Make usr Model WDTV_PAT Beam tilt N Ref Azimuth
 0.
 Last update Cutoff date Docket
 Comments
 Applicant

Cell Size for Service Analysis 2.0 km/side

Distance Increments for Longley-Rice Analysis 1.00 km

Facility meets maximum height/power limits

| Azimuth (Deg) | ERP (kW) | HAAT (m) | 28.0 dBu F(50,90) (km) |
|------------------|-------------|-------------|---------------------------|
| 0.0 | 2.333 | 295.8 | 93.3 |
| 45.0 | 0.832 | 242.6 | 80.4 |
| 90.0 | 6.013 | 241.8 | 97.0 |
| 135.0 | 8.857 | 195.3 | 96.3 |
| 180.0 | 7.435 | 254.6 | 100.3 |
| 225.0 | 5.753 | 269.6 | 99.1 |
| 270.0 | 9.900 | 249.6 | 102.6 |
| 315.0 | 8.961 | 273.2 | 103.9 |

Evaluation toward Class A Stations

No Spacing violations or contour overlap to Class A stations

Class A Evaluation Complete

SPACING VIOLATION FOUND BETWEEN STATION

WDTV 05 WESTON WV USERRECORD01

and station

SHORT TO: WDTV 05 WESTON WV BPRM 20001002ADW
 039-04-29 0080-25-28
 Req. separation 244.6 Actual separation 0.0 Short 244.6 km

Proposed facility OK to FCC Monitoring Stations

Proposed facility within West Virginia quite zone

Proposed facility OK toward Table Mountain

Proposed facility is within the Canadian coordination distance
 Distance to border = 335.0km

Proposed facility is beyond the Mexican coordination distance

Proposed station is OK toward AM broadcast stations

 *

Start of Interference Analysis

| | | | | |
|---------|------|------------------|--------------|--|
| | | Proposed Station | | |
| Channel | Call | City/State | ARN | |
| 05 | WDTV | WESTON WV | USERRECORD01 | |

Stations Potentially Affected by Proposed Station

| Chan No. | Call | City/State | Dist(km) | Status | Application | Ref. |
|-------------|--------|------------|----------|--------|-------------|------|
| 05 | WLMB | TOLEDO OH | 424.9 | LIC | BLCDT | - |
| 20050201AAF | | | | | | |
| 05 | WCYBTV | BRISTOL VA | 327.2 | LIC | BLCT | - |
| 790811KK | | | | | | |

%%
 %

Analysis of Interference to Affected Station 1

Analysis of current record

| | | | | |
|---------|------|------------|-------------|--------------|
| Channel | Call | City/State | Application | Ref. No. |
| 05 | WLMB | TOLEDO OH | BLCDT | -20050201AAF |

Stations Potentially Affecting This Station

| Chan No. | Call | City/State | Dist(km) | Status | Application | Ref. |
|---------------------------------|------|--------------|----------|--------|---------------|------|
| 05 | WGVK | KALAMAZOO MI | 149.0 | CP | BPEDT | - |
| 20000214AAP | | | | | | |
| 05 | WDTV | WESTON WV | 424.9 | APP | USERRECORD-01 | |
| Proposal causes no interference | | | | | | |

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Analysis of Interference to Affected Station 2

Analysis of current record

| Channel | Call | City/State | Application | Ref. No. |
|---------|--------|------------|-------------|-----------|
| 05 | WCYBTV | BRISTOL VA | BLCT | -790811KK |

Stations Potentially Affecting This Station

| Chan No. | Call | City/State | Dist(km) | Status | Application | Ref. |
|----------|------|--------------|----------|--------|---------------|------|
| 05 | WTVF | NASHVILLE TN | 419.3 | LIC | BLCT | - |
| 860702KI | | | | | | |
| 05 | WDTV | WESTON WV | 327.2 | APP | USERRECORD-01 | |

Total scenarios = 1

Result key: 1
Scenario 1 Affected station 2
Before Analysis

| | | | | |
|--------------|--------------------------------|------------|--------------|-----|
| Results for: | 5A VA BRISTOL | BLCT | 790811KK | LIC |
| | HAAT 680.0 m, ATV ERP 8.9 kW | | | |
| | | POPULATION | AREA (sq km) | |
| | within Noise Limited Contour | 2230361 | 52922.6 | |
| | not affected by terrain losses | 1947822 | 46884.5 | |
| | lost to NTSC IX | 0 | 0.0 | |
| | lost to additional IX by ATV | 453 | 24.2 | |
| | lost to ATV IX only | 453 | 24.2 | |
| | lost to all IX | 453 | 24.2 | |

Potential Interfering Stations Included in above Scenario 1

| | | | |
|-----------------|------|----------|-----|
| 5A TN NASHVILLE | BLCT | 860702KI | LIC |
|-----------------|------|----------|-----|

After Analysis

| | | | | |
|--------------|--------------------------------|------------|--------------|-----|
| Results for: | 5A VA BRISTOL | BLCT | 790811KK | LIC |
| | HAAT 680.0 m, ATV ERP 8.9 kW | | | |
| | | POPULATION | AREA (sq km) | |
| | within Noise Limited Contour | 2230361 | 52922.6 | |
| | not affected by terrain losses | 1947822 | 46884.5 | |
| | lost to NTSC IX | 0 | 0.0 | |
| | lost to additional IX by ATV | 6974 | 230.1 | |
| | lost to ATV IX only | 6974 | 230.1 | |

TABLE II

Census data selected 2000

Post Transition Data Base Selected
 /space/software/cdbs/tvdb.sff_B
 TV INTERFERENCE and SPACING ANALYSIS PROGRAM

Date: 10-01-2007 Time: 14:48:05

Record Selected for Analysis

WDTV_DTV USERRECORD-01 WESTON WV US
 Channel 05 ERP 10. kW HAAT 248. m RCAMSL 00630 m
 Latitude 039-04-29 Longitude 0080-25-28
 Status APP Zone 1 Border
 Last update Cutoff date Docket
 Comments
 Applicant

Cell Size for Service Analysis 2.0 km/side

Distance Increments for Longley-Rice Analysis 1.00 km

Facility meets maximum height/power limits

| Azimuth (Deg) | ERP (kW) | HAAT (m) | 28.0 dBu F(50,90) (km) |
|------------------|-------------|-------------|---------------------------|
| 0.0 | 10.000 | 290.8 | 106.5 |
| 45.0 | 10.000 | 237.6 | 101.6 |
| 90.0 | 10.000 | 236.8 | 101.5 |
| 135.0 | 10.000 | 190.3 | 96.9 |
| 180.0 | 10.000 | 249.6 | 102.8 |
| 225.0 | 10.000 | 264.6 | 104.2 |
| 270.0 | 10.000 | 244.6 | 102.3 |
| 315.0 | 10.000 | 268.2 | 104.5 |

Evaluation toward Class A Stations

No Spacing violations or contour overlap to Class A stations

Class A Evaluation Complete

SPACING VIOLATION FOUND BETWEEN STATION

WDTV_DTV 05 WESTON

WV USERRECORD01

and station

SHORT TO: WDTV 05 WESTON WV BPRM 20001002ADW
 039-04-29 0080-25-28
 Req. separation 244.6 Actual separation 0.0 Short 244.6 km

Proposed facility OK to FCC Monitoring Stations

Proposed facility within West Virginia quite zone

Proposed facility OK toward Table Mountain

Proposed facility is within the Canadian coordination distance
 Distance to border = 335.0km

Proposed facility is beyond the Mexican coordination distance

Proposed station is OK toward AM broadcast stations

 *

Start of Interference Analysis

| | | | |
|---------|------------------|------------|--------------|
| | Proposed Station | | |
| Channel | Call | City/State | ARN |
| 05 | WDTV_DTV | WESTON WV | USERRECORD01 |

Stations Potentially Affected by Proposed Station

| Chan No. | Call | City/State | Dist(km) | Status | Application | Ref. |
|-------------|--------|------------|----------|--------|-------------|------|
| 05 | WLMB | TOLEDO OH | 424.9 | LIC | BLCDT | - |
| 20050201AAF | | | | | | |
| 05 | WCYBTV | BRISTOL VA | 327.2 | LIC | BLCT | - |
| 790811KK | | | | | | |

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Analysis of Interference to Affected Station 1

Analysis of current record

| | | | |
|---------|------|------------|----------------------|
| Channel | Call | City/State | Application Ref. No. |
| 05 | WLMB | TOLEDO OH | BLCDT -20050201AAF |

Stations Potentially Affecting This Station

| Chan No. | Call | City/State | Dist(km) | Status | Application | Ref. |
|----------|------|------------|----------|--------|-------------|------|
|----------|------|------------|----------|--------|-------------|------|

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05   WGVK      KALAMAZOO MI           149.0  CP      BPEDT      -
20000214AAP
05   WDTV_DTV WESTON WV           424.9  APP     USERRECORD-01
Proposal causes no interference
    
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Analysis of Interference to Affected Station 2

Analysis of current record

| | | | | |
|---------|--------|------------|-------------|-----------|
| Channel | Call | City/State | Application | Ref. No. |
| 05 | WCYBTV | BRISTOL VA | BLCT | -790811KK |

Stations Potentially Affecting This Station

| Chan No. | Call | City/State | Dist(km) | Status | Application Ref. |
|----------|----------|--------------|----------|--------|------------------|
| 05 | WTVF | NASHVILLE TN | 419.3 | LIC | BLCT - |
| 860702KI | | | | | |
| 05 | WDTV_DTV | WESTON WV | 327.2 | APP | USERRECORD-01 |

Total scenarios = 1

Result key: 1
Scenario 1 Affected station 2
Before Analysis

| | | | |
|--------------------------------|------------|--------------|-----|
| Results for: 5A VA BRISTOL | BLCT | 790811KK | LIC |
| HAAT 680.0 m, ATV ERP 8.9 kW | | | |
| | POPULATION | AREA (sq km) | |
| within Noise Limited Contour | 2230361 | 52922.6 | |
| not affected by terrain losses | 1947822 | 46884.5 | |
| lost to NTSC IX | 0 | 0.0 | |
| lost to additional IX by ATV | 453 | 24.2 | |
| lost to ATV IX only | 453 | 24.2 | |
| lost to all IX | 453 | 24.2 | |

Potential Interfering Stations Included in above Scenario 1

| | | | |
|-----------------|------|----------|-----|
| 5A TN NASHVILLE | BLCT | 860702KI | LIC |
|-----------------|------|----------|-----|

After Analysis

| | | | |
|--------------------------------|------------|--------------|-----|
| Results for: 5A VA BRISTOL | BLCT | 790811KK | LIC |
| HAAT 680.0 m, ATV ERP 8.9 kW | | | |
| | POPULATION | AREA (sq km) | |
| within Noise Limited Contour | 2230361 | 52922.6 | |
| not affected by terrain losses | 1947822 | 46884.5 | |
| lost to NTSC IX | 0 | 0.0 | |
| lost to additional IX by ATV | 8593 | 331.0 | |
| lost to ATV IX only | 8593 | 331.0 | |
| lost to all IX | 8593 | 331.0 | |

Potential Interfering Stations Included in above Scenario 1

5A TN NASHVILLE BLCT 860702KI LIC
 5A WV WESTON USERRECORD01 APP

Percent new IX = 0.4180%

Worst case new IX 0.4180% Scenario 1

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Analysis of Interference to Affected Station 3

Analysis of current record

| | | | |
|---------|----------|------------|----------------------|
| Channel | Call | City/State | Application Ref. No. |
| 05 | WDTV_DTV | WESTON WV | USERRECORD-01 |

Stations Potentially Affecting This Station

| Chan No. | Call | City/State | Dist(km) | Status | Application Ref. |
|-------------|--------|------------|----------|--------|------------------|
| 05 | WLMB | TOLEDO OH | 424.9 | LIC | BLCDT - |
| 20050201AAF | | | | | |
| 05 | WCYBTV | BRISTOL VA | 327.2 | LIC | BLCT - |
| 790811KK | | | | | |

Total scenarios = 1

Result key: 2
 Scenario 1 Affected station 3
 Before Analysis

Results for: 5A WV WESTON USERRECORD01 APP
 HAAT 248.0 m, ATV ERP 10.0 kW

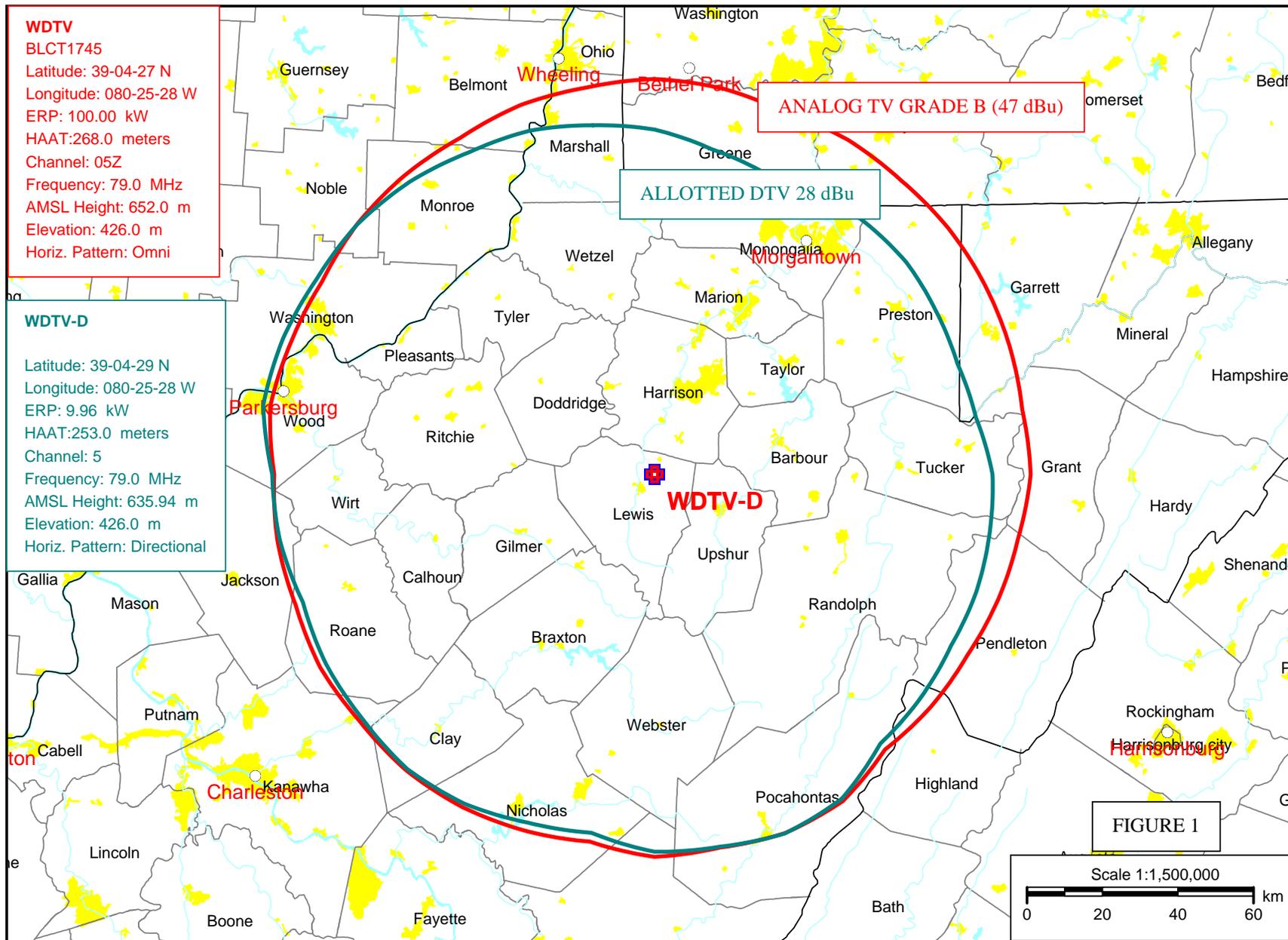
| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 745695 | 33058.3 |
| not affected by terrain losses | 675089 | 30926.8 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 3332 | 191.6 |
| lost to ATV IX only | 3332 | 191.6 |
| lost to all IX | 3332 | 191.6 |

Potential Interfering Stations Included in above Scenario 1

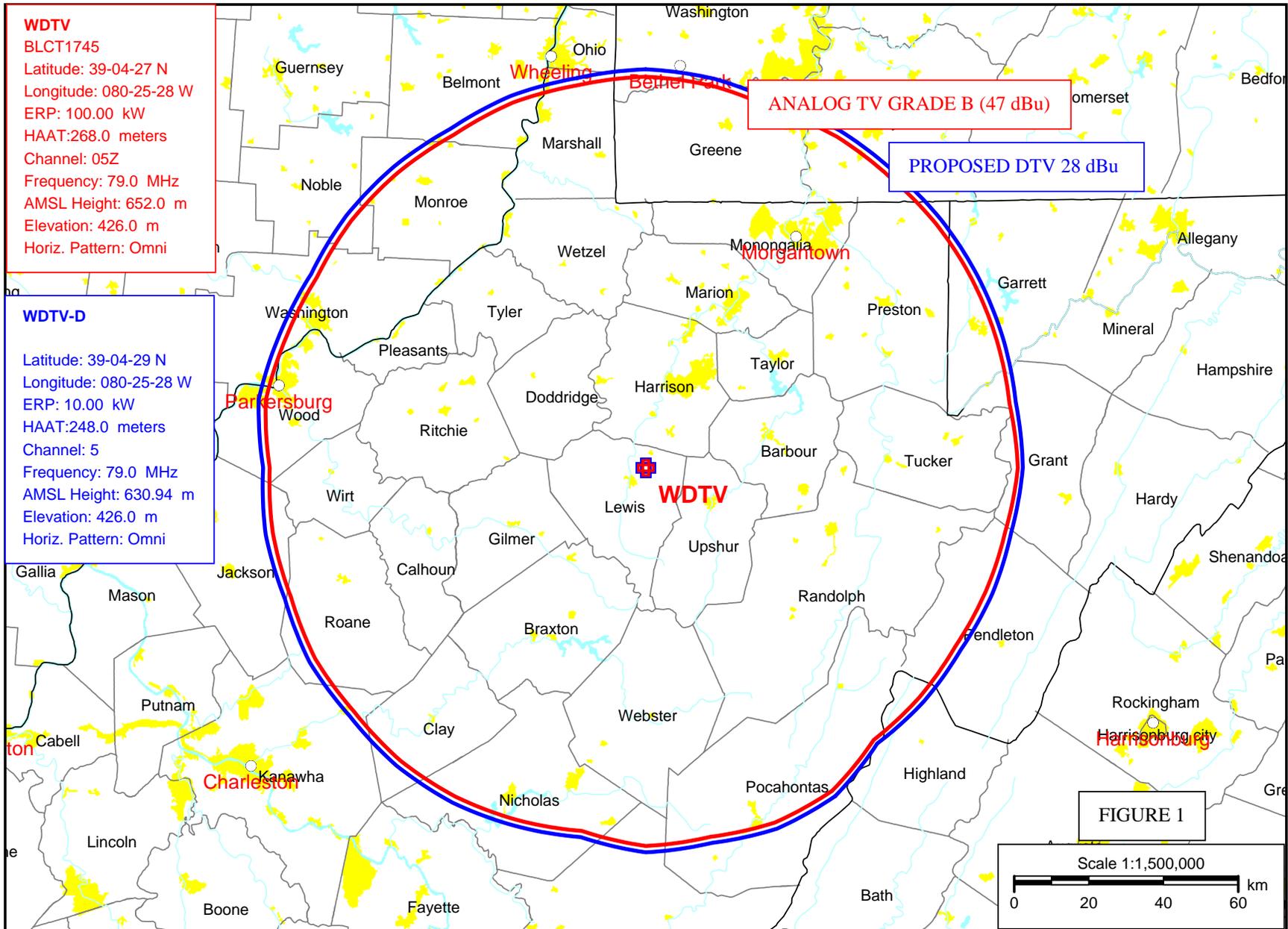
5A VA BRISTOL BLCT 790811KK LIC

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FINISHED FINISHED FINISHED FINISHED FINISHED FINISHED



COMPUTED CONTOURS FOR THE LICENSED ANALOG TV AND ALLOTTED DTV OPERATION OF WDTV, WESTON, WV



COMPUTED CONTOURS FOR THE LICENSED ANALOG TV AND PROPOSED DTV OPERATION OF WDTV, WESTON, WV

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Comments, etc" was served by e-mail on this 10th day of October, 2007 upon the following:

William H. Fitz, Esquire
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
wfitz@cov.com
Counsel for Licensee of WCYB-TV


Dennis J. Kelly