

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re)
)
Third Periodic Review of the) FCC 07-70
Commission's Rules and Policies) MB Docket No. 07-91
Affecting the Conversion)
To Digital Television)

To: The Commission

LATE FILED COMMENTS

1. Independent Communications, Inc. ("Independent"), licensee of Station KTTW-DT, Sioux Falls, South Dakota, Fac. Id. 28521, by its counsel, respectfully submits these comments to the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*¹ to provide for a revision to the proposed DTV Table to include new specifications for the facilities listed for KTTW-DT. Independent can no longer construct the facilities of KTTW-DT as the Commission proposed in the DTV Table or as Independent certified in KTTW-DT's current construction permit, *see* BMPCDT-20060613AAT (the "Modified Permit"), as it no longer has access to the site upon which it was to construct KTTW-

¹ Notice of Proposed Rulemaking, FCC 07-70, MB Docket No. 07-91 (released May 18, 2007) (the "3rd Periodic NPRM"). Comments on the 3rd Periodic NPRM were due on August 15, 2007. Although these Comments are late filed, Independent submits them at the suggestion of the Commission staff to ensure that the Commission is provided with all of the necessary information to correct the DTV Table of Allotments (the "DTV Table"). Independent hereby requests leave to submit these Comments. Independent is submitting contemporaneously with these Comments a Petition for Reconsideration of the Seventh Report & Order in the Commission's *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service* proceeding to accomplish the same goal as these Comments. *See* FCC 07-138, MB Docket 87-268 (the "7th R&O"). As soon as possible, Independent will submit an application to modify the facilities of KTTW-DT to, among other necessary changes, specify the new transmitter site.

DT's facilities. Independent has located another site and desires Commission approval to construct KTTW-DT's facilities there. However, Independent must operate at the new site with facilities that are at variance from those it certified it would operate post-DTV transition. These new facilities will be within KTTW-DT's maximized facilities, which are currently protected in the proposed final DTV Table set forth in Appendix B of the 7th R&O.

2. KTTW-DT's Licensing Status. Station KTTW-DT was assigned Channel 7 and Independent elected to remain on this channel after the DTV transition. *See* BFRECT-2005118AFV (Station KTTW-TV's NTSC channel is Channel 17). Independent requested and received maximized facilities for KTTW-DT to operate on its digital channel post-transition. *See* BPCDT-19991029ACY (the "Maximized Permit"). The Maximized Permit was extended several times and now expires on November 18, 2007.

3. Independent complied with the July 1, 2006 Use-It-Or-Lose-It deadline (the "July 1 2006 Deadline") in respect to KTTW-DT by: (i) filing for and receiving the Modified Permit by the deadline, (ii) filing for a waiver of the deadline, and (iii) filing for an extension of its original construction permit. The Modified Permit requested facilities at a second transmitter site with corresponding changes in antenna height and power.

4. The FCC dismissed the waiver request as KTTW-DT had a new Use-It-Or-Lose-It deadline of November 18, 2007, by virtue of the grant of the Modified Permit and the extension of its original construction permit. KTTW-DT must construct its fully authorized facilities by November 18, 2007, or it will lose protection to the modified facilities. Station KTTW-DT is currently operating pursuant to an STA with minimal DTV facilities. *See* BDSTA-20030429ABS, which was extended several times and now expires on November 18, 2007.

5. DTV Table Facilities. The facilities for KTTW-DT listed in the DTV Table are the facilities specified in the Maximized Permit. As noted above, Independent cannot construct KTTW-DT's facilities at the site specified in the Maximized Permit or the Modified Permit. A chart summarizing KTTW-DT's different authorizations and listing the new facilities that KTTW-DT will operate with from its new transmitter site is attached as Attachment A.

6. Change in Site Beyond Independent's Control. Independent has learned that it cannot construct KTTW-DT's facilities on the representative of the tower specified in the Modified Permit. Independent had reasonable assurance from the tower owner that it could place KTTW-DT's transmitter on the tower specified in the Modified Permit. However, the person representing the tower owner that provided that assurance to Independent passed away, and thereafter, the tower owner informed Independent that it would not be allowed to place KTTW-DT's transmitter on the tower.

7. New Facilities Site. Independent has located a replacement site where KTTW-DT can provide a service area that is within its maximized service area, which is protected in the proposed final DTV Table. See 7th R&O, Appendix B. The new transmitter site is the tower currently used by KWSD(TV), Sioux Falls, South Dakota, Fac. ID 29121. The tower is registered with the Commission and its Antenna Registration Number is 1206712. The coordinates of the tower are 43-30-19.0 N 096-34-20.0 W. The height above average terrain of the KTTW-DT's antenna will be 254 m (833 ft).²

² As of the date of these Comments, Independent does not know the effective radiated power ("ERP") for KTTW-DT at the new tower site. Independent will soon file an application to modify the facilities of KTTW-DT which will specify the ERP of the station at the new tower site. Whatever the ERP will be, the service area of the station at the new site will be encompassed by the service area of KTTW-DT's maximized facilities, which are currently protected in the proposed final DTV Table.

8. Expiration of Construction Permit. As it is forced to relocate the facilities of KTTW-DT, Independent requests that the expiration of a new permit specifying the newly proposed tower site be extended to the end date of the DTV transition, February 19, 2009.³ This would provide Independent with a little over a year to completed construction of the new permanent facilities and still meet the deadline for digital broadcasting.

CONCLUSION

9. For the foregoing reasons, Independent requests that the Commission correct the DTV Table to specify KTTW-DT's new facilities at the new tower site as set forth in its.

Respectfully submitted,

INDEPENDENT COMMUNICATIONS, INC.

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October 26, 2007

³ Independent will have to file an application to extend its current permit regardless, as it cannot construct the facilities under any of its authorizations because it does not have access to the site specified in the authorizations.

APPENDIX A

KTTW-DT Facilities

NTSC Channel: 17

DTV Channel: 7

Pre-Election Certification: Maximized Service Area, BPCDT-19991029ACY. Effectively changed with Modified Permit.

Channel Election: Channel 7 (see BFRECT-2005118AFV)

Authorization	File Number	Coordinates	ASR	HAAT	ERP	Area (sq km)	Pop. (thousand)
Original DTV Table (Replication)		43 29 20 096 45 40	1042457	151 m	3.2 kW	6690	193
Original DTV CP (Maximized)	BPCDT-19991029ACY, extended, expires 11/18/07	43 29 20 096 45 40	1042457	126 m	65 kW	20300	310
STA	BDSTA-20030429ABS, extended, expires 11/18/07	43 29 20 096 45 40	1042457	96 m	0.022 kW	N/A	N/A
Modified Permit	BMPCDT-20060613AAT	43 30 18 096 33 22	1042104	327.6 m	5 kW		
Final DTV Table	N/A	43 29 20 096 45 40	1042457	126 m	65 kW	21044	318
KTTW-DT's New Facilities	BMPCDT-20071__	43 30 9.0 096 34 20.0	1206712	237.4 m	TBD	TBD	TBD

CERTIFICATE OF SERVICE

I, Nathaniel J. Hardy, hereby certify that on this 26th day of October 2007, copies of the foregoing Comments have been served by e-mail upon the following:

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