

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

In the Matter of)
)
Amendment of Section 73.622(i),)
Final DTV Table of Allotments,)
Television Broadcast Stations.)
(St. Paul, Minnesota))

MB Docket No. 08-117
RM-11450

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary

Attn: Chief, Policy and Rules Division
Media Bureau

FILED/ACCEPTED

SEP 19 2008

Federal Communications Commission
Office of the Secretary

REPLY COMMENTS

Twin Cities Public Television, Inc. ("TPT"), the proponent of this rule-making proceeding, urges the Bureau to reject promptly the Counterproposal filed by Duluth-Superior Area Educational Television Corporation ("DS"). DS proposes the substitution of DTV Channel *25, rather than *38 as proposed, in place of TPT's assigned post-transition DTV Channel *26 for Station KTCI-DT, St. Paul.¹ TPT is trying to secure a suitable post-transition channel for an existing public television station. DS, on the other hand, ignores the Commission's processes to seek an allotment for a new television station for which it hopes to apply when applications for new stations are acceptable.

1. When the Commission ended the freeze on petitions for channel substitutions for existing DTV stations it stated unequivocally "We will not, at this time, accept

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¹ The DS engineering exhibit inaccurately states in the Conclusion that Station KTCI-DT currently broadcasts on Channel *26. The station broadcasts on pre-transition Channel *16.

petitions for allotment of DTV channels for new stations, or for changes in community of license." *Public Notice* DA 08-1213, released May 30, 2008. The Bureau followed the Commission's policy here, stating at Section 3(a) of the Appendix to the *Notice* that it will not consider counterproposals that propose new allotments or changes in community of license.

2. DS asks for waiver of the freeze and consideration of its proposal to allot Channel *38 to Superior, Wisconsin on the grounds that it has a plan to use the pre-transition Channel *38 equipment from its Duluth, Minnesota station for a new television station at Superior. It proposes allotment of Channel *25 instead of Channel*38 at St. Paul solely to accommodate that plan. DS claims that having a second station in the Duluth-Superior market would allow it to broadcast additional Wisconsin oriented programming provided by the Wisconsin Educational Communications Board. Notably, though, that Board has filed Comments in support of the *Notice*. Further, DS assumes that if Channel *38 were allotted it would be the only applicant, with no in-state Wisconsin applicant applying for the channel. That, however, is purely an assumption.

3. In these circumstances there is no reason to compare Channel *38 to other possible channel selections. However, TPT notes that it chose Channel *38 after careful consideration. The channel provides full coverage of TPT's target audience. The channel is located next to one reserved for observatory use, so there is no possibility of adjacent-channel interference on one side. There are no co- or adjacent-channel stations that present interference considerations. Finally, the channel is extraordinarily likely to receive Canadian concurrence. Moreover, TPT is working hard to put Station KTCI-DT on the air on its permanent channel by the transition date. It is at the point

where every day counts and consideration of an alternative channel and the need for Canadian concurrence would set it back unacceptably in meeting that goal.

4. The Commission has carefully crafted and executed a detailed plan to assure that all existing stations are provided with the best possible channel allotment before any consideration is given to possible new stations. TPT has followed the Commission's policies. DS has surfaced at the end of the transition process with a counterproposal that asks for an unprecedented waiver of those policies. DS's Counterproposal should be dismissed because it is in violation of the freeze and the express directions not to file petitions for new allotments in this proceeding. Moreover, the educational broadcasting authority for the State of Wisconsin that DS proposes to help has supported the allotment of Channel *38 to St. Paul.

It could not be clearer that the DTV channel substitution should be made as proposed in the *Notice*. Channel *38 should be allotted to St. Paul for use by TPT.

Respectfully submitted,

TWIN CITIES PUBLIC TELEVISION, INC.

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September 19, 2008

CERTIFICATE OF SERVICE

I, Nancy Marie Cassady, an Administrative Professional in the law firm of Schwartz, Woods & Miller, do hereby certify that I have, on this 19th day of September, 2008, sent by United States mail, postage prepaid, copies of the foregoing **REPLY COMMENTS** to

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