

February 3, 2009

VIA COURIER

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

FILED/ACCEPTED
FEB - 3 2009
Federal Communications Commission
Office of the Secretary

Attention: Video Division
Media Bureau

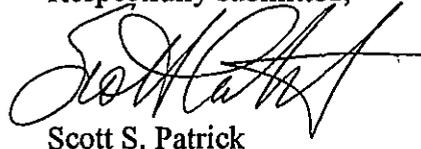
Re: KYLE-DT, Bryan, Texas
Facility I.D. No. 60384
Petition to Amend the DTV Table of Allotments

Dear Ms. Dortch:

On behalf of Comcorp of Bryan License Corp., licensee of commercial television station KYLE-DT, Bryan, Texas, we hereby transmit an original and four copies of a *Petition for Rule Making* requesting the substitution of Channel 28 for Channel 29 at Bryan, Texas in the DTV Table of Allotments. The attached *Petition for Rule Making* requests that the Commission return the allotment for KYLE-DT to the station's initially allotted post-transition DTV channel using the parameters of its existing DTV construction permit (BMPCDT-20080620AKH).

If any additional information is needed in connection with this matter, please contact me.

Respectfully submitted,



Scott S. Patrick

Enclosure

cc: Ms. Joyce Bernstein (FCC; *via e-mail*)
Mr. Ron Graser (FCC; *via e-mail*)

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ORIGINAL

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

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Section 73.622(i))
Post-Transition Table of Allotments,)
Digital Television Broadcast Stations)
(Bryan, Texas))
)

MB Docket No. _____
RM-_____

To: Office of the Secretary
Attn: Chief, Video Division
Media Bureau

**PETITION FOR RULE MAKING
TO AMEND THE DTV TABLE OF ALLOTMENTS**

By its attorneys and pursuant to Sections 1.401, 73.616, and 73.622(a) of the Commission's Rules,¹ Comcorp of Bryan License Corp. ("Licensee"), licensee of KYLE-DT, Bryan, Texas (the "Station"), hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(i), the Post-Transition DTV Table of Allotments, to revert the Station's post-transition DTV channel back to its initially allotted Channel 28.

On June 20, 2008, Licensee submitted a Petition for Rule Making requesting that the Commission amend Section 73.622(i), the Post-Transition DTV Table of Allotments, by substituting Channel 29 as the Station's post-transition DTV channel in lieu of Channel 28. The Commission instituted such a rule making proceeding and amended the Post-Transition DTV

¹ 47 C.F.R. §§ 1.401, 73.616, 73.622(a) as amended by Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 23 FCC Rcd 2994, ¶ 128 (rel. Dec. 31, 2007) ("*Third DTV Periodic Review*").

Table of Allotments accordingly.² Due to deteriorating economic conditions, however, Licensee has determined that it cannot move the Station from DTV Channel 28 to DTV Channel 29.

Instead, Licensee plans to operate KYLE-DT on the initially allotted DTV channel. Licensee developed its channel substitution proposal and filed its prior Petition for Rule Making before the current national financial turmoil arose. Licensee now has determined that it must abandon the proposed channel change.

Licensee thus respectfully requests that the Commission amend the Post-Transition DTV Table of Allotments to return to the Station's initially allotted Channel 28 using the parameters of its existing DTV maximization construction permit (BMPCDT-20080620AKH). Because the time period for a Petition for Reconsideration of the original amendment to the Post-Transition DTV Table of Allotments has passed,³ Licensee submits this request as a new Petition for Rule Making.⁴

Licensee emphasizes that the relief sought by the instant Petition for Rule Making merely returns to the initially allotted channel at the parameters of the Station's granted post-transition DTV construction permit. Licensee proposes to implement these facilities on February 17, 2009,⁵ and Licensee will continue to operate with these facilities upon grant of the instant Petition. Thus, Licensee only proposes that the Commission amend the Post-Transition DTV

² *Bryan, Texas*, 23 FCC Rcd 16440 (2008).

³ 73 Fed. Reg. 71,561 (Nov. 25, 2008) (to be codified at 73.622(i)).

⁴ *Cambridge and St. Michaels, Maryland*, 17 FCC Rcd 20425 (2002) (noting that because the time to file a Petition for Reconsideration in an allotment proceeding had passed, "the appropriate procedure would be for CWA Broadcasting to file a petition for rule making proposing the reallocation" back to the initially allotted community of license).

⁵ BLSTA-20090122ACW (notifying the Commission that the Station will terminate analog operations on February 17, 2009).

Table of Allotments to match the Station's authorized DTV facilities. Moreover, no one who is receiving DTV service from the Station will lose DTV service as a result of this change.

Specifically, the Post-Transition DTV Table of Allotments would be amended as follows:

	<u>Present</u>	<u>Proposed</u>
Bryan, TX	<u>29</u> , 50	<u>28</u> , 50

Because the proposed facility utilizes the initially allotted channel and parameters of the Station's existing granted DTV construction permit, the proposed facility complies with the Commission's rules for post-transition DTV operation. The Station's proposed service area encompasses its community of license, and the proposed parameters comply with the Commission's interference standards.⁶

For the convenience of the Commission, we hereby provide the present and proposed "Appendix B" parameters:

Present:

Facility ID	State and City		DTV						
			NTSC		ERP kW	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)
Ch	Ch	Ch	Ch						
60384	TX	BRYAN	28	29	1000	451		303316N	960151W

Proposed:⁷

60384	TX	BRYAN	28	<u>28</u>	<u>50</u>	<u>220</u>	<u>87841</u>	<u>304118N</u>	<u>962535W</u>
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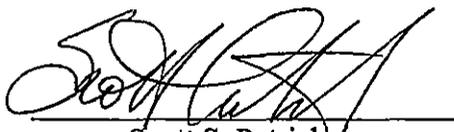
⁶ FCC File No. BMPCDT-20080620AKH, *Engineering Statement*; See also *Third DTV Periodic Review*. at 2; 47 C.F.R. §§ 73.616(b),(e), 73.623(d), 73.625(a).

⁷ See FCC File No. BMPCDT-20080620AKH.

For the foregoing reasons, Licensee respectfully requests that the Commission amend the Post-Transition DTV Table of Allotments as proposed. Adoption would serve the public interest by providing television service to 270,139 people.

Respectfully submitted,

COMCORP OF BRYAN LICENSE CORP.

By: 
Scott S. Patrick
Robert J. Folliard, III

Its Attorneys

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Dated: February 3, 2009