

DUPLICATE

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

In the Matter of)
)
Amendment of Section 73.622(i)) RM- _____
Table of Allotments)
Digital Television Broadcast Stations)
(Buffalo, New York))

FILED/ACCEPTED
MAR - 5 2009
Federal Communications Commission
Office of the Secretary

To: Office of the Secretary
Attn: Chief, Video Services Division

PETITION FOR RULEMAKING

New York Television, Inc. ("New York TV"), licensee of WNYO-TV, channel 49 and WNYO-DT, channel 34, Buffalo, New York, by the undersigned attorneys, hereby requests that the Commission initiate a rulemaking proceeding to substitute and allot DTV channel 49 for its assigned DTV channel 34 at Buffalo, New York by amending the DTV Post Transition Table of Allotments, Section 73.622(i) of the Commission's rules.¹

As set forth in the attached engineering study of John E. Hidle, P.E. of Carl T. Jones Corporation, the instant proposal to allot DTV channel 49 to Buffalo, New York can be accomplished in complete conformity with all Commission allocation requirements. In addition, the instant proposal will serve the public interest because it will, among other things, allow WNYO-DT to (i) finally provide DTV service to approximately **190,000** viewers who reside within its analog service area and currently are not served by WNYO-DT on channel 34; (ii) replicate nearly 100% of WNYO-TV's current analog service, (iii) efficiently utilize the station's current analog technical facilities on Channel 49; and (iv) serve approximately **279,000**

¹ See 47 C.F.R. §76.622(i). The channel 49 DTV allotment reference coordinates are the same as the analog channel 49 reference coordinates of the Petitioner's licensed WNYO-TV, Buffalo, New York tower site.

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additional viewers over-the-air. Consequently, WNYO requests the following change in the DTV Table of Allotments:

	<u>Current</u>	<u>Proposed</u>
Buffalo, New York	14, 32, 33, 34, 38, 39, *43	14, 32, 33, 38, 39, *43, 49

If the proposal set forth herein is adopted, New York TV will promptly file the appropriate application for modification to specify operation on DTV Channel 49 at Buffalo, New York with facilities consistent with those specified in the attached engineering statement and, if authorized, will construct the facilities contemplated therein and place the station into operation.

For the foregoing reasons, New York TV respectfully requests that the Commission adopt the proposed changes to the DTV Table of Allotments.

Respectfully submitted,

New York Television, Inc.

By:

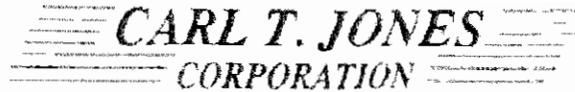


Clifford M. Harrington
Paul A. Cicelski

Its Attorneys

PILLSBURY WINTHROP SHAW PITTMAN LLP
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Washington, D.C. 20037-1128
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Dated: March 5, 2009



**STATEMENT OF JOHN E. HIDLE, P.E.
IN SUPPORT OF A PETITION TO AMEND
THE POST-TRANSITION DTV TABLE OF ALLOTMENTS
WNYO-DT - BUFFALO, NEW YORK
DTV - CH. 49 - 198 kW - 376 m HAAT**

Prepared for: New York Television, Inc.

I am a Consulting Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission. I am a Professional Engineer in the Commonwealth of Virginia, License No. 7418, and in the State of New York, License No. 63418.

GENERAL

This office has been authorized by New York Television, Inc., licensee of WNYO-TV, channel 49, and WNYO-DT, channel 34, both licensed to Buffalo, New York, to prepare this statement in support of a Petition to Amend the Digital Television (DTV) Post Transition Table of Allotments, §73.622(i) of the FCC Rules. The petitioner requests that §73.622(i) of the Commission's Rules be modified in the following manner:

	<u>Present</u>	<u>Proposed</u>
Buffalo, New York	14, 32, 33, 34, 38, 39, *43	14, 32, 33, 38, 39, *43, 49

DTV channel 34 is the channel currently specified in the Post-Transition DTV Table of Allotments for WNYO-DT. The petitioner requests herein to substitute DTV channel 49 for DTV channel 34. The proposed arrangement of allotments will permit WNYO-DT to significantly improve its service to the Buffalo DMA, since its current channel 34 facility's

coverage is severely limited by the extreme protection required toward a co-channel DTV allotment located in Peterborough, Ontario, Canada. Although the requested channel 49 is also required to protect Canadian TV facilities, the level of required protection is not nearly so severe as that required on channel 34. The license of WNYO-DT therefore requests the Commission to favorably consider its proposal to improve its service to the viewers in the Buffalo, New York DMA.

The requirement to provide the extreme protection to the Peterborough, Ontario channel 34 allotment and simultaneously provide the required 48 dBu DTV service to Buffalo, NY could not be achieved if WNYO-DT had remained at WNYO-TV's analog site. Therefore, to meet these requirements, WNYO-DT was relocated to the existing WUTV site and saddled with an inferior DTV facility on channel 34. The currently licensed WNYO-DT facility can not come close to replicating WNYO-TV's analog service area.

Additional benefits accrue as a consequence of the instant proposal. WNYO-DT will be able to return to its long-term analog site, and thereby can, as shown in exhibit 1, essentially replicate its entire analog service area. The WNYO-DT facility as proposed herein on channel 49 will be able to utilize WNYO-TV's existing analog technical facility, including its analog antenna, its existing waveguide and transmitter system for WNYO-DT's post-transition digital operation. Most important, however, is that WNYO-DT will be able to finally provide DTV service, on channel 49, to those 192,083 persons who reside within its analog service area who are not presently served by WNYO-DT on channel 34.

TECHNICAL STUDY

An engineering study of all pertinent allotments, assignments, applications, construction permits and DTV licenses reveals that DTV channel 49 can be allotted to Buffalo, New York as the post-transition DTV facility to replace petitioner's existing channel 49 analog television broadcast station, WNYO-TV.

The allotment reference coordinates for DTV channel 49 at Buffalo, New York are: 42 46' 58" N.L.; 78 27' 28" W.L.¹ The allotment reference site meets the allotment standards in §73.616(b) with respect to the DTV to DTV geographic spacing requirements set forth in §73.623(d), the principal community coverage set forth in §73.625(a), the Class A TV analog and digital protection requirements set forth in §73.616(f), the land mobile requirements set forth in §73.623(e) and the FM radio protection requirement set forth in §73.623(f).

The petitioner proposes to utilize WNYO-TV's existing channel 49 analog directional antenna at its centerline height above mean sea level (AMSL) of 738 meters and above average terrain (HAAT) of 376 meters. The proposed effective radiated power (ERP) is 198 kW. The proposed antenna is WNYO-TV's current channel 49 analog antenna, which shall be re-purposed for post-transition digital operation by WNYO-DT on channel 49.

¹ The channel 49 DTV allotment reference coordinates are the same as the analog channel 49 reference coordinates of the petitioner's licensed WNYO-TV, Buffalo, New York tower site. (See FCC tower registration number 1045315).

ALLOCATION CONSIDERATIONS

Post-Transition DTV Considerations

A study was performed to determine if the instant petition to amend the post-transition Table of Allotments is predicted to cause any level of new prohibited interference to DTV stations, expansion construction permits or DTV allotments. Results of the study, utilizing the FCC's own application processing software, indicate that the instant petition is predicted to cause no unacceptable level (less than 0.5%) of new interference to the populations served by any DTV station, expansion construction permit or allotment.

Class A Television Allocation Considerations

As required in Section 73.616(f) of the FCC's Rules, a study was performed, using the FCC's application processing software. The study showed that the proposed WNYO-DT facility has "No Spacing violations or contour overlap to Class A stations".

Land Mobile and FM radio Considerations

Since the Land Mobile requirements pertain only to channels 14 to 20, and since the FM Radio requirements pertain only to DTV channel 6, these requirements are not pertinent to the instant petition to specify the substitution of channel 49 for channel 34 in Buffalo, New York.

International Allotment Considerations

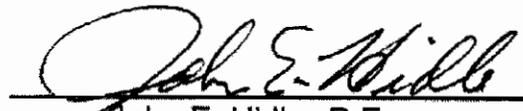
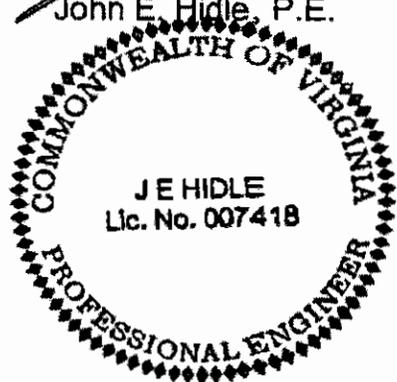
As required by international agreements, including the Letter of Understanding (LOU) implemented in September 2000 between Industry Canada and the U.S. Federal Communications Commission, a study was performed according to the principles set forth

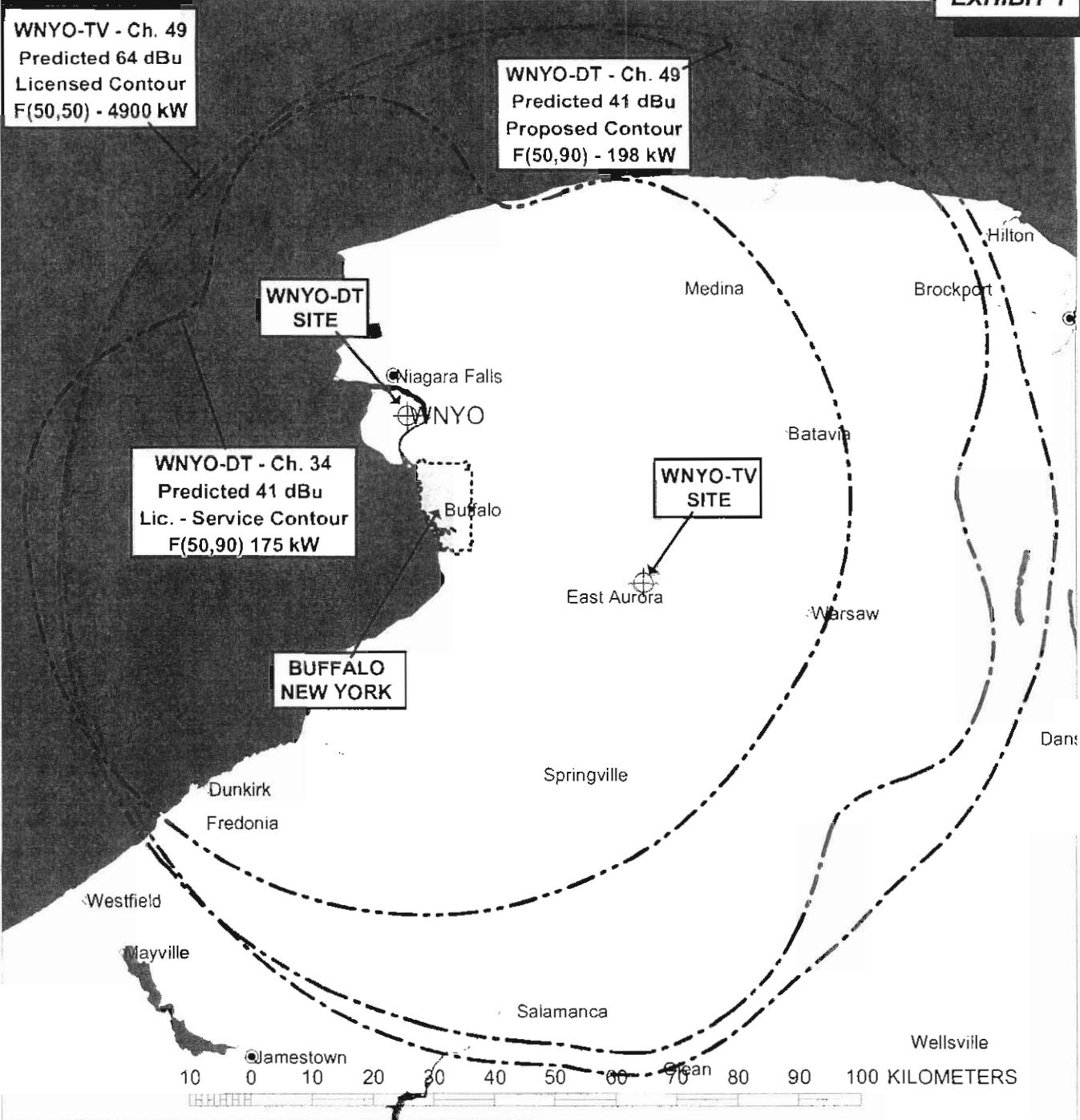
in the LOU. The results of that study indicate no unacceptable interference from the facility proposed in the instant petition to any existing Canadian facility.

SUMMARY

It is submitted that the instant Petition to Amend the Post-Transition DTV Table of Allotments to substitute DTV channel 49 for DTV channel 34 in Buffalo, New York, as described herein, complies with the Rules, Regulations and relevant Policies of the Federal Communications Commission. This statement was prepared by me or under my direct supervision and its contents are believed to be true and correct to the best of my knowledge and belief.

DATED: March 5, 2009


John E. Hidle, P.E.




PREDICTED COVERAGE CONTOURS

**WNYO-DT, BUFFALO, NEW YORK
NOISE LIMITED COVERAGE COMPARISON**

<p>PREDICTED 41 dBu F(50,90) WNYO-DT LICENSED - CH. 34 175 kW - 288.3 meters HAAT 2000 Population = 1,322,473</p>	<p>PREDICTED 41 dBu F(50,90) WNYO-DT PROPOSED - CH. 49 198 kW - 376 meters HAAT 2000 Population = 1,601,477</p>	<p>PREDICTED 64 dBu F(50,50) WNYO-TV LICENSED CH. 49 4900 kW - 376 meters HAAT 2000 Population = 1,514,556</p>
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MARCH 2009
 CARL T. JONES
 CORPORATION

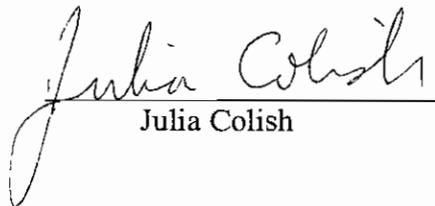
CERTIFICATE OF SERVICE

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that a copy of the foregoing "Petition for Rulemaking" was served via hand delivery on this 5th day of March, 2009 to the following:

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Julia Colish