

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:)
)
Amendment of Section 73.622(i),)
Final DTV Table of Allotments,)
Television Broadcast Stations)
(Buffalo, New York))
)

MB Docket No: 09-46
RM-11524

FILED/ACCEPTED

MAY - 1 2009

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

Federal Communications Commission
Office of the Secretary

COMMENTS

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 submits its Comments in the above captioned proceeding. In response to a Petition for Rule Making filed by New York TV on March 5, 2009 (the "Petition"), the Commission released a Notice of Proposed Rule Making proposing the substitution of DTV channel 49 for DTV channel 34 at Buffalo, New York.¹ New York TV hereby reaffirms its interest in the proposed channel substitution. As outlined in the Petition, the channel substitution will serve the public interest because it will allow the station to better replicate the current analog service of WNYO-TV, thereby allowing the station to improve program service to the station's current viewers.

As set forth in the engineering study of John E. Hidle, P.E. of Carl T. Jones Corporation attached to the Petition, the proposal to allot DTV channel 49 to Buffalo, New York can be accomplished in complete conformity with all Commission allocation

¹ See Notice of Proposed Rule Making, DA 09-739 (rel. March 26, 2009). The Federal Register Notice that set a May 4, 2009 comment deadline for this proceeding was released on April 17, 2009. See 74 Fed. Reg. 17811. Accordingly, the instant comments are timely filed.

requirements. The Petition also demonstrated that the proposal will 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** 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 construction permit to specify operation on DTV Channel 49 at Buffalo, New York with facilities consistent with those specified in the Petition's engineering statement and, if authorized, will construct the facilities contemplated therein and place the station into operation.

Respectfully submitted,

New York Television, Inc.

By: 
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Its Attorneys

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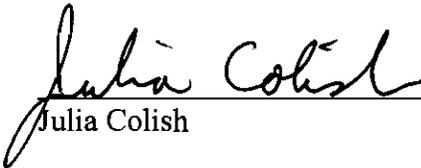
Dated: May 1, 2009

CERTIFICATE OF SERVICE

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that copies of the foregoing "**COMMENTS**" was served via Hand Delivery on this 1st day of May 2009 to the following:

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