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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

FILED/ACCEPTED

JUN - 3 2009

Federal Communications Commission
Office of the Secretary

In re:)
)
Community Broadcasting Service)
)
Petition For Rulemaking to Amend DTV)
Table Of Allotments for)
Station WABI-DT, Bangor, Maine)

MB Docket No. __ - __

RM No. _____

To: The Secretary
Attn: Chief, Media Bureau

PETITION FOR RULEMAKING

Community Broadcasting Service ("Community Broadcasting"), by and through its attorneys, and pursuant to Section 73.623 of the Commission's rules, 47 C.F.R. §73.623, hereby submits this Petition for Rulemaking to amend the DTV Table of Allotments (47 C.F.R. § 73.622(i)) to change the post-transition, DTV channel assignment of Station WABI(TV), Bangor, Maine (Facility Id. 17005) (the "Station" or "WABI") to Channel 13 and make related changes to the Station's technical parameters.

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As discussed in more detail below, the grant of the instant Petition will serve the public interest. In particular, the grant of this Petition will permit the Station to continue to provide the same high level of service to the public while also allowing the Station to utilize fewer resources to do so. These resources may then be used to continue and improve the provision of the Station's high level of programming and broadcasting services to the public.

BACKGROUND

The Commission has specified DTV Channel 19 for the Station in the proposed final DTV Table.¹ Community Broadcasting wishes to operate WABI on DTV Channel 13 as it appears available and operation on DTV Channel 13 would be beneficial to the public interest.²

DISCUSSION

A. The Proposed Channel Change Conforms With all Technical Requirements.

As discussed in the Engineering Statement of Ryan Wilhour of Kessler and Gehman Associates, Inc., attached hereto as Exhibit A, the proposed change in the post-transition DTV channel assignment for WABI from DTV Channel 19 to DTV Channel 13 complies with all relevant technical requirements for amendments to the DTV Table of Allotments.

¹ WABI-TV was assigned DTV Channel 19 by the Commission and is currently licensed and operating on that channel. BLCDDT-20050909AAM.

² Community Broadcasting had previously initiated a Petition for Rulemaking to move the Station to DTV Channel 12 after becoming aware that the licensee operating on analog channel 12 in WABI's operational area had moved to DTV Channel 9 (MB Docket No. 08-153; RM-11477). However, the proposal to move to DTV Channel 12 resulted in an objection from Canada. Accordingly, Community Broadcasting is presenting the current proposal in the belief that it is compliant with the FCC's rules relating to DTV operation and also will not cause interference to any Canadian facilities.

In particular, as demonstrated in Exhibit A, the requested change from DTV Channel 19 to Channel 13 will result in nearly identical contours while utilizing significantly less power. The proposed channel change meets the DTV station interference criteria by a large margin and the change in channel will comport with the Commission's requirement that any change to a post-transition DTV facility does not result in the loss of more than 5% of the currently-authorized post-transition service area and population.³ Therefore, the instant proposal conforms with all applicable FCC requirements for post-transition DTV operations.

B. The Proposed Channel Change is in the Public Interest.

Granting this request by Community Broadcasting to change to DTV Channel 13 would be in the public interest. WABI is an independently owned station which has had the longest continuous ownership of any station in the country, and is indeed still licensed to the initial and only licensee of the station. WABI's ability to sustain independent ownership in a world of mass consolidation is a direct result of serving the community with extensive hyper-local programming, diverse community engagement, and by uncovering cost-saving measures like this request which, if granted, will assist WABI in continuing this mission of service. Moreover, WABI has shown, and is showing with this request, a willingness to invest the necessary capital resources (approximately \$600,000) to build Channel 13 after already having invested several hundred thousand dollars for the construction of its current DTV Channel 19.⁴

³ *DTV Order*, ¶ 140. As demonstrated in the Engineering Statement, the proposed Digital Channel 13 contour projects a loss of only 201 people which would be less than one half of one percent of the total population loss. An OET69 analysis projects a loss of approximately 3,000 people with the proposed DTV Channel 13 operations which is approximately half of one percent of the total population of DTV Channel 19.

⁴ The Station has researched the prospective cost of the proposal and determined that this is the approximate cost of building out on DTV Channel 13. This estimated cost is a little higher

Community Broadcasting is the local CBS and CW network affiliate⁵ and is competing with affiliates and stations which are co-owned with adjacent market stations and which have substantially greater financial resources than Community Broadcasting.⁶ Community Broadcasting understands that the other network affiliates, Community Broadcasting's direct competitors, will be operating on their current channels Digital Channels 2 and 7.⁷ Operation on lower digital channels requires less power. Exhibit A shows that operating pursuant to this proposal results in WABI using 453 kW less ERP while not sacrificing any significant coverage area. Community Broadcasting estimates that operation on DTV Channel 19 would cost over \$100,000 per year more than operation on DTV Channel 13 at current rates, which rates are also rising.⁸ Additionally, should WABI be authorized to operate on DTV Channel 13, WABI could

than the amount estimated in the previous Petition for Rulemaking filed by the Station and that difference is due to updated research as to specific needs and requirements for the build out, such as the need for new transmission line, which was not anticipated in the earlier filing.

⁵ WABI carries the CW Network on its second tier digital only channel.

⁶ For example, WLBZ-TV, the NBC affiliate in Bangor, is licensed to Pacific and Southern Company, Inc., which is a wholly-owned subsidiary of Multimedia, Inc., which in turn is wholly-owned by Gannett Co., Inc. BOA-20060718AAN. Pacific and Southern Company, Inc. is also the licensee of WCSH-TV, Portland, Maine, Fac. Id. 39664. WLBZ-TV is able to access resources of WCSH in the Portland, Maine market for its operations in the Bangor market. This arrangement allows WLBZ to produce significantly less local news for broadcast in Bangor by utilizing the news produced by WCSH. WABI, on the other hand, must independently produce all its own local news consisting of approximately 60 half hours per week. As a result, WABI incurs approximately four times WLBZ's expense for local news production.

⁷ The other network affiliates were assigned Digital Channels 25 and 14 but it is Community Broadcasting's understanding that those stations intend to obtain authorization to remain on their analog channels of Channels 2 and 7 for their digital operations.

⁸ It should be noted that in addition to the cost, this amount represents a significant savings by the public in electricity and other natural resources required to be consumed to produce the

move toward utilizing a solid state transmitter rather than the tube transmitter which is currently being used. A tube transmitter requires 2 tubes and the tubes must be replaced every 3-5 years at \$30,000 per tube. Accordingly, the cost savings in tubes alone would be approximately \$15,000 per year. These amounts are substantial to a local independent operator such as Community Broadcasting.

Allowing WABI to operate on a lower channel more in line with the other stations in the market would provide similar operating conditions to WABI by allowing WABI to reduce the cost of electricity and other operations while resulting in less consumption of public resources. WABI's operation on DTV Channel 13 would help to alleviate any competitive disadvantages resulting from the DTV channel assignments and level the playing field among all the market stations by providing more similar operational and financial conditions while also providing for more efficient operation that will significantly reduce the amount of energy consumed.⁹

Providing exceptional programming and broadcast services to the public has always been the linchpin of Community Broadcasting's mission. WABI regularly independently produces and broadcasts many hours a week of local programming annually in addition to news programming

electricity. This is not an insignificant consideration in this time of environmental concerns and struggles.

⁹ Community Broadcasting has been active in a co-location initiative whose purpose is to work with other stations in the area to transition to DTV operations for the good of the DTV transition and public. This initiative resulted in the cooperation between WABI and Maine Public Broadcasting Corporation being co-located on the same tower for DTV operations. WABI also offered its tower site to WLBZ and WVII to allow WLBZ and WVII to more easily construct their DTV facilities. WABI's intent in making the proposal was to provide any member of the public with a rooftop antenna the ability to point an antenna at Community Broadcasting's transmitter site and receive the digital signals CBS, NBC, Maine Public TV, CW, ABC, Fox and WLBZ's weather channel. This is another example of Community Broadcasting's efforts to maximize the public's ability to receive digital service.

and WABI consistently produces and broadcasts 2 local telethons a year, 3 state high school football championships, approximately 20 University of Maine men's and women's athletic contests, holiday concerts with a local choir, debates and community forums. Additionally, WABI produces 5 hours of live programming every year of the Bangor American Folk Festival, a local cultural event. These local programming events far exceed the local programming provided by all other local stations, and may in fact exceed the local programming provided by all other stations combined. Community Broadcasting is able to produce and broadcast these local events by controlling expenses in other areas and grant of this request would result in Community Broadcasting being able to divert more financial and operational resources into providing additional and improved programming and broadcast services to the public.

The theoretical population loss which could result from the proposed DTV Channel 13 operations would be represented by a small band along the edge of the contour as demonstrated in Exhibit A. Any population loss area is theoretical in nature and due to terrain issues. Any theoretical loss would be less than 1% as demonstrated in the Engineering Statement, would not occur of any large well-defined service area and would be distributed around the edge of the contour area, so no one location would suffer a significant loss to viewers and the majority of the viewers who may experience a loss would be served by another network affiliate.¹⁰

As also demonstrated by Exhibit A, approximately one quarter of the Station's proposed and current digital contour is over the ocean and so will not have an adverse impact on any viewers.

Another approximately one quarter of the theoretical loss area in the proposed DTV contour

¹⁰ As discussed above in Footnote 3, the proposed Digital Channel 13 contour projects a loss of only 201 people which would be less than one half of one percent of the total population loss. An OET69 analysis projects a loss of approximately 3,000 people with the proposed DTV Channel 13 operations which is approximately half of one percent of the total population of DTV Channel 19.

occurs in the Portland, Maine DMA and is served by WGME-DT, Portland, Maine (Fac. ID 25683) which, like WABI, is a CBS affiliate.¹¹ It should also be noted that 78% of viewers in WABI's DMA now have alternative delivery systems available and so any viewer in the theoretical local area could have access to programming through these other delivery systems.¹² Therefore, approximately half of the area which might experience a theoretical loss of service is served by a different CBS network affiliate, is not populated, or may obtain programming through an alternate delivery system.

The remainder of the theoretical loss area along the perimeter of the proposed Channel 13 digital contour is over the northern half of the digital contour area. As approximately half of Maine's population resides in the Portland metropolitan area which is toward the southern end of the contour, the theoretical loss coverage to the northern half of the digital contour area is not as significant. The U.S. Census Bureau shows that the population density for Cumberland County, in which Portland is located, is 318 persons per square mile.¹³ In contrast, the counties in which the border area is to the north of WABI and in WABI's DMA, are Somerset, Piscataquis, Penobscot, Hancock, and Waldo Counties.¹⁴ According to the U.S. Census Bureau, Somerset and Piscataquis Counties have a population density of only 4-26 persons per square mile, and the counties of Penobscot, Hancock, and Waldo have a population density of only 33-50 persons per

¹¹ TV & Cable Factbook, 2008 Edition.

¹² See Penetration Estimates p.1, Nielsen Media Research, March 2009 for the Bangor, Maine DMA.

¹³ U.S. Census Bureau, Census 2000, <http://factfinder.census.gov>.

¹⁴ *Id.*

square mile.¹⁵ Accordingly the majority of any actual service loss is most likely compensated for by the coverage of WGME-DT.

The proposed change, even with the possible minimal loss area, is clearly in the public interest and the advantage to the public far outweighs any theoretical loss area. WABI has an impressive record of public service and wants to continue providing superior service. As noted above, the change in the post-transition DTV Table of Allotments conforms with all relevant technical parameters for digital TV facilities and results in a more efficient use of the spectrum by reducing the consumption of natural resources while continuing to provide a high level of service to the community.

CONCLUSION

As set forth herein, the grant of the Petition for Rulemaking complies with all Commission technical requirements, and would be in the public interest by providing for more level competitive conditions for all stations in the area, enabling WABI to direct its limited financial resources to invest in programming and broadcasting operations for the public benefit. As demonstrated by the Engineering Statement, the public would continue to be served and there should be no adverse impact on other broadcasters or broadcast service in the area. For the foregoing reasons, Community Broadcasting requests that the Commission grant the Petition for Rulemaking.

¹⁵ *Id.*

Respectfully submitted,

COMMUNITY BROADCASTING SERVICE

By:  _____

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Its Attorneys

June 3, 2009

Exhibit A

ENGINEERING STATEMENT

ENGINEERING STATEMENT PREPARED BY RYAN WILHOUR OF THE FIRM
KESSLER AND GEHMAN ASSOCIATES, INC., TELECOMMUNICATIONS
CONSULTING ENGINEERS IN CONNECTION WITH COMMUNITY
BROADCASTING SERVICE IN SUPPORT OF A PETITION FOR RULEMAKING
WHICH SEEKS AUTHORIZATION TO AMEND THE DTV TABLE OF
ALLOTMENTS WABI-DT FACILITY ID NO.: 17005
BANGOR, ME

Community Broadcasting Service has been allotted the following technical parameters in Appendix B¹:

DTV Channel	DTV Power	DTV Service Pop.	Antenna ID
19	465 kW	488 k	74868

It is proposed to amend the above referenced channel from 19 to 13, the DTV power from 465 kW to 12 kW² and change the above referenced pattern from antenna ID number 74868 to omni-directional. Hence the following parameters are being sought in the instant petition:

DTV Channel	DTV Power	DTV Service Pop.	Antenna ID
13	12 kW	485 k	Omni

The proposed facility meets the Section 73.616 post transition DTV station interference protection criteria by a large margin. Although not required it is worth mentioning that the proposed facility also meets the more stringent geographic spacing requirements used for new DTV facilities in Section 73.623(d). Selection of the proposed ERP was calculated and capped pursuant to Section 73.622(f)(ii) and was not limited by interference considerations. Exhibit E1 demonstrates a red and green noise limited contour for WABI Channel 19 and Channel 13 respectively. As illustrated the contours are nearly identical and a population count within the contours indicate a loss of only 201 people due to the channel change; however, according to an OET69 analysis, the proposed channel 13 facility covers approximately 3,000 less people than the channel 19 allotment. Inbound interference is predicted to affect 688 people and the remaining population loss is mostly due to inherent propagation differences between VHF and UHF channels. Exhibit E2 attached hereto highlights red area within the proposed contour which constitutes lost coverage due to VHF and UHF propagation differences. Some of the difference area is within the WGME-DT coverage contour which is a WABI network

¹ "Seventh Report and Order and Eighth Further Notice of Proposed Rule Making" Re: In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service. (MB Docket No. 87-268, FCC 07-138) adopted August 1, 2007 and released August 6, 2007

² Pursuant to Section 73.622(f), the maximum allowable ERP for a given HAAT is determined by $ERP_{max} = 97.35 - 33.24 * \log_{10}(HAAT)$; hence, $ERP_{max} = 97.35 - 33.24 * \log_{10}(402) = 11.9826 \text{ kW}$ which was then rounded to 12.0 kW

affiliate. If not already capped to Section 73.622(f)(ii), more ERP would be proposed to compensate for the losses. As demonstrated, a significant portion of the calculated population loss areas are subject to theoretical propagation model differences some of which lie within an affiliated broadcast stations coverage contour.

The public interest would be served by the proposed channel substitution since it would clearly permit WABI-DT to drastically reduce its power consumption from the grid and not sacrifice any significant coverage area. Therefore, it is respectfully requested that the DTV table of allotments be amended to reflect the requested parameters above.

I, Ryan C. Wilhour, am an associate of Kessler and Gehman Associates, Inc. with offices in Gainesville, Florida. I am a graduate of the University of Florida with a Bachelor of Science Degree in electrical engineering. The forgoing statement and the report regarding the aforementioned engineering work are true and correct to the best of my knowledge Executed on June 2, 2009.

KESSLER AND GEHMAN ASSOCIATES, INC.

A handwritten signature in black ink that reads "Ryan Wilhour". The signature is written in a cursive, flowing style.

Ryan Wilhour
Consulting Engineer



- WABI-DT Allotted Channel 19 Contour (509,350 people within)
- WABI-DT Proposed Channel 13 Contour (509,149 people within)

WABI-DT-PROPOSED
 Latitude: 44-42-13 N
 Longitude: 069-04-47 W
 ERP: 11.98 KW
 Channel: 13
 Frequency: 213.0 MHz
 AMSL Height: 516.72 m
 Elevation: 298.741 m
 Horiz. Pattern: Omni
 Vert. Pattern: Yes
 Elec Tilt: 0.0
 Prop Model: None

WABI-DT-ALLOT
 ALLOTMENT
 Latitude: 44-42-13 N
 Longitude: 069-04-47 W
 ERP: 465.00 KW
 Channel: 19
 Frequency: 503.0 MHz
 AMSL Height: 521.0 m
 Elevation: 298.74 m
 Horiz. Pattern: Directional
 Vert. Pattern: Yes
 Elec Tilt: 0.0
 Prop Model: None

Exhibit E1

WABI-D
 ALLOTMENT
 Latitude: 44-42-13 N
 Longitude: 069-04-47 W
 ERP: 465.00 kW
 Channel: 19
 Frequency: 503.0 MHz
 AMSL Height: 521.0 m
 Elevation: 298.741 m
 Horiz. Pattern: Directional
 Vert. Pattern: Yes
 Elec Tilt: 0.0
 Prop Model: None

WABI-D
 Latitude: 44-42-13 N
 Longitude: 069-04-47 W
 ERP: 11.98 kW
 Channel: 13
 Frequency: 207.0 MHz
 AMSL Height: 516.72 m
 Elevation: 288.741 m
 Horiz. Pattern: Omni
 Vert. Pattern: Yes
 Elec Tilt: 0.0
 Prop Model: None

WGME-D
 Latitude: 43-55-28 N
 Longitude: 070-29-28 W
 ERP: 1000.00 kW
 Channel: 38
 Frequency: 617.0 MHz
 AMSL Height: 606.0 m
 Elevation: 121.69 m
 Horiz. Pattern: Directional
 Vert. Pattern: Yes
 Elec Tilt: 0.0
 Prop Model: None

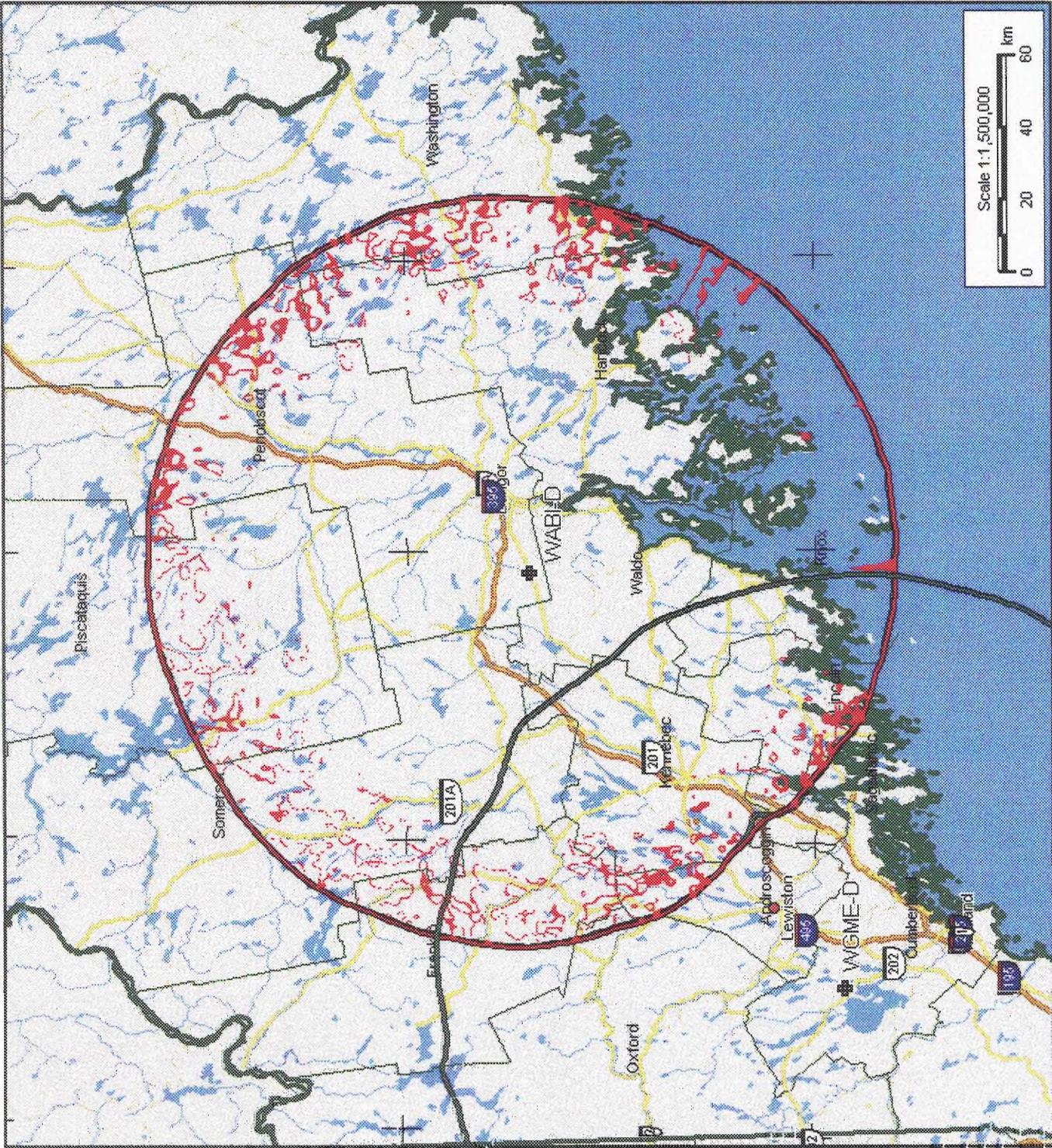


EXHIBIT E2

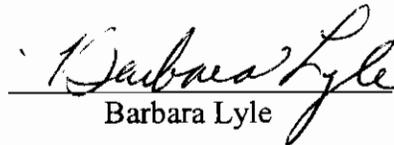
CERTIFICATE OF SERVICE

I, Barbara Lyle, hereby certify that on June 3, 2009, a copy of the foregoing Petition for Rulemaking was sent by email to the following individuals:

Joyce Bernstein, FCC (joyce.bernstein@fcc.gov)

Nazifa Sawez, FCC (nazifa.sawez@fcc.gov)

Ron Graser, FCC (ron.graser@fcc.gov)


Barbara Lyle