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Federal Communications Commission
 Office of the Secretary

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October 25, 2013

2317.104

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

Re: Petition for Rulemaking to Amend the Final DTV Table of Allotments and
 Request for Waiver of Freezes
 LeSEA Broadcasting of South Bend, Inc. (FRN 0016237976)
 WHME-DT, South Bend, Indiana (Fac Id 36117)

Dear Ms. Dortch:

Pursuant to Section 1.104 of the Commission's rules, enclosed please find the original and four (4) copies of a Petition for Rulemaking to Amend the Final DTV Table of Allotments and for Waiver of Freezes filed on behalf of LeSEA Broadcasting of South Bend, Inc for the above-captioned station. Should you have any questions about this filing, please do not hesitate to contact me.

Very truly yours,



Joseph C. Chautin, III

Encl

cc: Peter Sumrall
 Wes Hylton
 Joyce Bernstein (e-copy)

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

ORIGINAL

July 23, 2010

Federal Communications Commission
Office of the Secretary

In re: _____)
_____)
_____)

LeSEA Broadcasting of South Bend, Inc.)

MB Docket No. _____

Amendment of Section 73.622(i))
Final DTV Table of Allotments)
Television Broadcasting Stations)
(South Bend, Indiana))
_____)

**Petition for Rulemaking to Amend the Final DTV Table of Allotments
& Request for Waiver of May 2011 and April 2013 Freezes**

Pursuant to 47 C.F.R. § 1.401, LeSEA Broadcasting of South Bend, Inc. (“LeSEA”), the licensee of full-power digital television station WHME-TV, South Bend, Indiana (Fac. Id. 36117), hereby submits this Petition for Rulemaking to amend the final DTV Table of Allotments at 47 C.F.R. § 73.622(i) (the “Table”) to restore WHME-TV’s facilities to those licensed as of February 22, 2012. Specifically, LeSEA seeks to substitute channel 48 for WHME-TV’s current post-transition DTV Table of Allotments allocation of channel 46.¹ To the extent that substitution of channel 48 for channel 46 in South Bend may also require a waiver of

¹ WHME-TV was originally assigned Channel 48 in South Bend in the post-transition table of Allotments. On June 19, 2008, LeSEA filed a Petition for Rulemaking to substitute channel 46 for channel 48 for WHME-TV in South Bend, Indiana. On July 1, 2008, the Media Bureau issued a Notice of Proposed Rulemaking seeking comment on the proposal. LeSEA filed the only comments in the proceeding on August 15, 2008. The staff then issued a Report and Order granting the petition on May 18, 2009 and directing that the Table be amended effective immediately to substitute channel 46 for 48 in South Bend. It also directed LeSEA to file a minor change application for a construction permit to specify channel 46 in lieu of channel 48 within 45 days of the grant of the petition. LeSEA filed the necessary Form 301 application on July 16, 2009 in file BPCDT-20090716AAZ which was granted on March 8, 2011. The permit issued from this grant will expire on March 8, 2014.

the freezes instituted by the Commission in May 2011 and April 2013, LeSEA also respectfully requests that the FCC grant it the necessary waiver.²

Despite holding a permit to build the facilities on channel 46, LeSEA has operated and continues to operate WHME-TV on channel 48 at the parameters licensed as of 2006 in file BLCDDT-20060109ABG. Now, in light of the television spectrum auction authorized by Congress, and the post-auction re-packing of remaining television stations into less spectrum, LeSEA has determined that it does not serve the public interest or make economic sense to expend the resources to build WHME-TV's channel 46 facilities, at substantial cost, when it is not certain that its new facilities will receive interference protection,³ and another channel change likely awaits during re-packing. Given the uncertainty, potential lost investment, and the disruption to the public from having to channel change again after the spectrum auctions, it is best for LeSEA continue operations on WHME-TV on channel 48 and maintain the facilities that have been licensed since 2006.

In connection with this petition, LeSEA requests a waiver of the Commission's May 2011 and April 2013 freeze notices. A waiver would serve the public interest in that it would not undermine the purpose of the freeze since LeSEA has been operating WHME-TV's facilities on channel 48 continuously since 2006 and is seeking nothing more than to amend the Table to reflect the stations' current operation, which is also WHME's licensed facilities as of February

² Public Notice, "Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately", 26 FCC Rcd 7721 (rel. May 31, 2011)(hereinafter "May 2011 Freeze PN") and Public Notice, "Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate", DA 13-618 (rel. April 5, 2013)(hereinafter "April 2013 Freeze PN").

³ Notice of Proposed Rulemaking, "*Expanding the Economic and Innovative Opportunities of Spectrum Through Incentive Auctions*", 27 FCC Rcd 12357, 12398 (2012) ("Spectrum NPRM"). In its freeze notice of April 5, 2013, the Commission reminded stations with non-covered facilities who were considering additional investments in those non-covered facilities that it is unknown how much, if any, of a station's non-covered facilities will be preserved in the repacking process because the process for repacking has yet to be established. The staff even offered to process applications for permittees modifying their non-covered facilities to revert to the service area of the station's facilities as they were licensed on February 22, 2012. See April 2013 Freeze PN, p.2.

22, 2012. Allowing LeSEA to amend the Table would bring certainty not only to LeSEA but to the repacking process as LeSEA would have covered facilities that are easily defined as of February 22, 2012.

DTV Channel 48 can be substituted for DTV Channel 46 at South Bend, Indiana in compliance with the principle community coverage requirements of Section 73.625(a) of the Commission's rules, at coordinates 41-35-43 N and 86-09-38 W, with an effective radiated power of 300 kW and antenna height above average terrain (center radiation) of 295 meters (the same parameters under its current license BLCDT-20060109ABG).

Based on the foregoing, LeSEA respectfully requests that the Commission amend the DTV Table of Allotments to process the substitution of channel 48 for WHME-TV's current digital post-transition channel 46 allotment at South Bend, Indiana.

Respectfully submitted:

LeSEA Broadcasting of South Bend, Inc.

By: 

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Dated: October 25, 2013