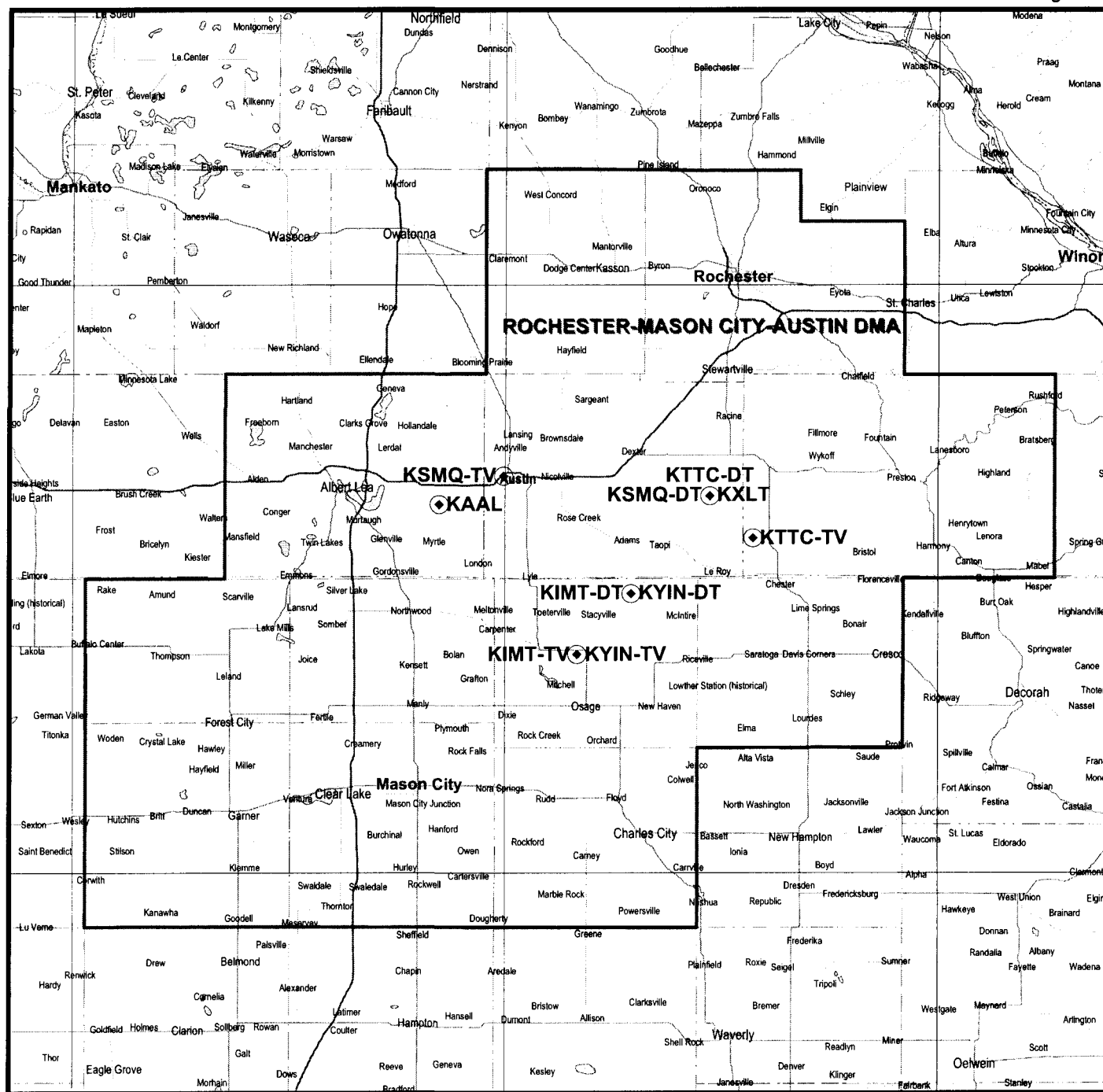


Figure 3

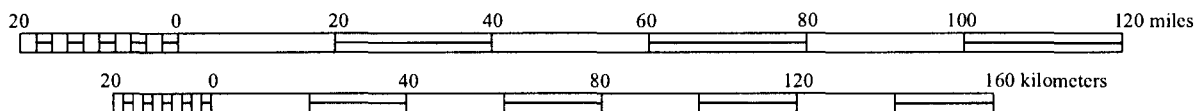
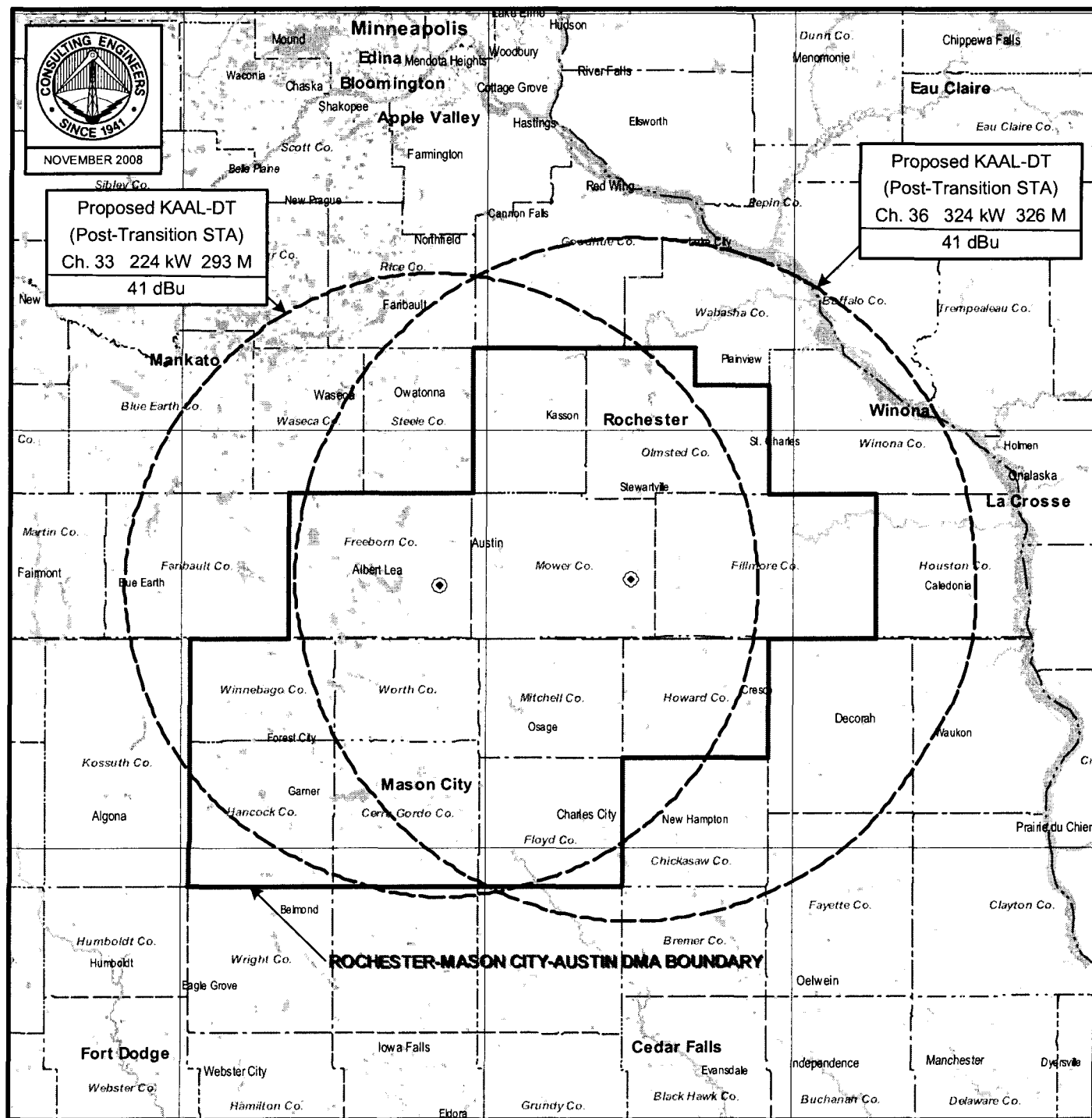


25 0 25 50 75 100 125 150
Kilometers

FULL SERVICE TV AND DTV SITES WITHIN THE ROCHESTER-MASON CITY-AUSTIN DMA

du Treil, Lundin & Rackley, Inc. Sarasota, FL 34237

Figure 4



FCC PREDICTED COVERAGE CONTOURS

STATION KAAL-DT

AUSTIN, MINNESOTA

du Treil, Lundin & Rackley, Inc Sarasota, Florida

EMERGENCY REQUESTS OF KAAL-TV, LLC

KAAL-TV, LLC, the licensee of KAAL(TV/DT), Austin, Minnesota ("KAAL"), a subsidiary of Hubbard Broadcasting, Inc., hereby submits two concurrent requests for Special Temporary Authority ("STA") to enable KAAL to complete its digital transition by the deadline of February 17, 2009. One STA would permit KAAL to begin its post-transition digital operation on Channel 36 at the current operating power on the collocated tower site it proposed more than a year ago. The other STA would permit KAAL to continue its current pre-transition digital operation on Channel 33 at its current operating power. Neither operation would cause impermissible interference. If these STA requests are not granted, then KAAL would have no authority to continue television broadcast operations, causing it to go dark and leaving all of its viewers without service. Grant of these requests ensures a timely DTV transition for KAAL, without interference issues, and with no loss of service to KAAL's digital viewers. These STA requests are consistent with the Commission's very recent decision authorizing STAs for distributed transmission systems ("DTS") in order to improve the provision of digital signals.¹

Hubbard Broadcasting, Inc., KAAL's parent, is a family owned, Minnesota-based company, now in its third generation of providing broadcast services to the public. Hubbard Broadcasting has decades of experience in television broadcasting and deep commitments to supporting the public interest, including service to the KAAL viewers. The grant of these STAs will allow additional time in which Hubbard and the Commission's staff can reach decisions about permanent service while avoiding interruptions in present broadcast services. Hubbard is prepared to explore available service options quickly, including new opportunities potentially made possible by DTS technologies.

Because the DTV transition deadline is imminent, and so far KAAL has not been able to provide necessary and detailed information to its viewers about its permanent DTV service, KAAL requests emergency processing of these STA requests. The following facts have been on file with the Commission for a lengthy period of time and have not been challenged.²

More than a year ago, KAAL proposed a new permanent DTV antenna site to the FCC for its post-transition digital Channel 36 operation.³ The new site has enormous public interest advantages, including that it would allow KAAL to collocate on the same tower with the permanent digital operations of KXLT-DT, Rochester Minnesota, and KSMQ-DT, Austin,

¹ *Digital Television Distributed Transmission System Technologies, Report and Order*, FCC 08-256 (released November 7, 2008).

² See FCC File No. BPCDT-20080422AAE.

³ See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order, 23 FCC Rcd 4220, 4251, ¶ 71 (2008). The Commission did not grant that request, essentially for procedural reasons. In August 2007, the Commission authorized digital Channel 36 to be KAAL's permanent post-transition channel. See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, 22 FCC Rcd 15581, 15647, App. A (2007).

Minnesota, resulting in the collocation on the same tower of three of the six full-power television stations (four commercial, two noncommercial) licensed within the market. Austin, Minnesota is the community of license for two full-power television stations, KAAL and KSMQ-DT.⁴ It serves the public interest to collocate both of Austin's stations on the same tower, both of them easily serve their community of license, and KAAL would have the larger area of coverage.

KTTC-DT, a fourth full-power station, has its permanent DTV antenna authorized for a tower only about 15 kilometers away from the tower to be used by KXLT-DT, KSMQ-DT and KAAL.⁵ The other two full-power stations within the market (KIMT-DT and KYIN-DT) are proposing an antenna site for their digital operations only about 25 kilometers from the other three digital stations. These digital antenna sitings would result in antennas far closer together in the market than has been the case for their analog operations. Figure 3 of the Engineering Exhibit associated with this STA request shows the digital antenna groupings described here. As Figure 3 indicates, if KAAL did not collocate with KSMQ-DT and KXLT-DT, it would suffer great competitive disadvantage in antenna pointing and associated losses of viewership.

Collocation of a station's facilities with other television stations in the market was an objective the Commission specifically recognized during its DTV proceedings as a means to speed DTV conversion.⁶ Such collocation of DTV antennas makes it easier for viewers to receive signals over-the-air by home antenna pointing and allows stations to share costs. Reception of KAAL by viewers currently suffers because its antenna is significantly isolated from other stations in the market.⁷ Consumer antenna pointing is especially important for reception of UHF channels, such as Channel 36. This isolation, and resulting antenna pointing confusion, would harm coverage to existing KAAL viewers during the transition and possibly beyond.

Operation from the new site allows KAAL to "take over" the current pre-transition operation of KTTC on digital Channel 36, avoiding the need for new construction. Such use of Channel 36 would assist viewers who have become accustomed to receiving Channel 36 for the past several years and, importantly, significantly reduce confusion associated with repositioning of their current home antennas.

The new, collocated antenna site also improves broadcast service to the area. Under KAAL's pending application, operation from the new site would reduce some digital coverage to

⁴ KSMQ-DT was granted authority to use that site for its post-transition DTV operation on May 22, 2002. See File No. BPEDT-20000501AGW.

⁵ See BMPCDT-20080619ACY.

⁶ See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Memorandum Opinion and Order on Reconsideration of Sixth Report and Order, 13 FCC Rcd 7418, 7471 (1998); *KNTV*, 19 FCC Rcd at 15485; *KRCA*, 15 FCC Rcd at 1800.

⁷ That problem can be seen on Figure 3 to the Engineering Exhibit. See also *KNTV License, Inc.*, Letter Decision, 19 FCC Rcd 15479, 15485 (2004) (In granting KNTV's proposal to move its facilities, the Commission found that the station had demonstrated "that its DTV signal [was] not being received within its predicted contour because of antenna-pointing issues and interference.").

the west. Figure 4 to the Engineer Exhibit demonstrates that reduced coverage to the west would be primarily outside of the Rochester-Austin-Mason City DMA. Presumably, service to such areas would be by ABC affiliates other than KAAL. KAAL has demonstrated that operation from the new, collocated site would provide a net gain in persons receiving KAAL's digital signal of 117,425 persons, an improvement of more than 26% over digital service from the current site.⁸ That improvement in coverage is to the eastern portion of the market, inside of the DMA, with its growing population based in and around Rochester, Minnesota. However, by continuing operation of Channel 33 as sought by KAAL's in its STA requests, there would be no loss of digital coverage at all.

In addition, KAAL has demonstrated to the Commission with confidential financial information that KAAL has suffered serious economic distress for many years.⁹ KAAL's proposed operation from the new, collocated site is KAAL's best chance to reverse its current dire situation through the efficiencies of collocation, consumer antenna pointing and vastly improved coverage, especially over the part of the market with a growing population. KAAL believes that expanded coverage in its market is the lynchpin to its future. Without such improvements, the immediate viability of KAAL, including its locally produced news and other locally produced public interest programming, is in serious doubt.

While the FCC has grappled for several years with the extreme complexities of the DTV transition, as of today, the FCC has never granted KAAL any authority for post-transition digital operations. It is now November 2008, and winter weather in Minnesota precludes most construction work on tall transmission structures, including the installation of new digital television station antennas. Such construction cannot be seriously contemplated until late Spring. Therefore, by relying on digital broadcast facilities that already are in place, KAAL submits two STA requests, seeking the following authority.

1) Initiate digital broadcast service on Channel 36 from the proposed, collocated tower site with operation at the current operating power at the end of the day on February 17, 2009. That service can be initiated during the winter because it does not require any new construction. The Engineering Exhibits, provided by the consulting engineering firm of du Treil, Lundin & Rackley, Inc. as part of these STA requests, establish that the temporary Channel 36 operation will provide digital service to the substantial majority of KAAL's current viewers, including its community of license, and complies with the FCC's post-transition interference criteria.¹⁰

2) Continue operating KAAL's current pre-transition operation on digital Channel 33 from its current tower site. Doing so will provide additional coverage in the market, especially to the west, to ensure that KAAL viewers continue to receive service over-the-air after the transition. There is no need for new construction because that Channel 33 operation is in place

⁸ See FCC File No. BPCDT-20080422AAE.

⁹ See Declaration of C. Thomas Newberry, Hubbard Broadcasting Vice President and Controller, filed July 30, 2008; Declaration of C. Thomas Newberry, Hubbard Broadcasting Vice President and Controller, filed August 27, 2008, both filed under requests that they be withheld from public inspection in FCC File No. BPCDT-20080422AAE.

¹⁰ See also FCC File No. BPCDT-20080422AAE.

already. The Engineering Exhibits demonstrate that keeping the Channel 33 operation in place provides expansive digital coverage while complying with the FCC's post-transition interference criteria.

KAAL submits that expedited grant of its STA requests is warranted in order to meet the DTV transition deadline and provide viewers advance notice. KAAL has worked diligently to obtain permanent DTV authority, first proposing use of the collocated tower site more than a year ago.¹¹ In April 2008, it again requested authority for post-transition authority for its Channel 36 operation at the new, collocated tower site. KAAL requested that authority in an application that was filed with a request for waiver of the DTV filing freeze which had been in place for the preceding several years. The Commission never acted on that application. When the Commission lifted the DTV filing freeze for all television stations in June 2008, KAAL filed its application again. KAAL has offered the Commission's staff additional information about its proposed digital Channel 36 operation in three additional submissions and in discussions with the staff. Unfortunately, the Commission has never acted on its proposal. As of the filing of these STA requests, KAAL has no authority to provide digital television broadcast services after February 17, 2009.

By granting these requests, the public interest will be served by ensuring that KAAL can complete the digital television transition by the deadline. There would be no loss of service to KAAL's digital viewers.

Therefore, KAAL urges emergency processing and grant of these STA requests so that it immediately can provide the necessary, detailed information to its viewers of how they can continue to receive KAAL over-the-air without disruption, complete its DTV transition on time, and quickly offer solutions to the Commission for permanent digital service.

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¹¹ As noted above, KAAL first proposed use of the new tower site to the Commission on October 26, 2007 in *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*. It next proposed it by application and waiver request filed April 22, 2008 in FCC File No. BPCDT-20080422AAE. KAAL re-filed that proposal on June 20, 2008, also in FCC File No. BPCDT-20080422AAE. KAAL responded to Commission staff requests for further information by amending that application on July 17, 2008 and then submitting the two confidential declarations of Mr. Newberry cited in the previous footnote.