

**REQUEST FOR WAIVER OF SECTION 74.787(a)(4) OF THE COMMISSION'S  
RULES IN CONNECTION WITH APPLICATION OF STATION KSGA-LP**

The application of KSGA-LP, File No. BDISDTL-20081105ADS, licensed to KJLA, LLC ("KJLA") was filed more than seven years ago. At the time of the application's submission, KSGA-LP was operating on UHF Output Channel 64 as an analog low-power television station.

As part of the digital transition, which concluded on June 12, 2009, low-power television stations operating in the upper 700 MHz band, such as KSGA-LP, were placed on notice that they would be required to discontinue operations and, if they could find another channel, displace to such available channel. This displacement process has been in place as part of the digital transition rules.

Recognizing the impending termination of broadcast operations in the upper 700 MHz band, KSGA-LP filed its displacement application in late 2008. KSGA-LP requested displacement relief and in the pending application asked that it be permitted to operate on Channel 30 at a new transmitter site.<sup>1</sup>

Section 73.3572(a)(4)(ii) provided the basis upon which the KSGA-LP application was submitted. It provided that a 700 MHz LPTV displacement application could file for a change in output channel and allowed for technical modifications thereto in order to allow the Station to continue to operate. Such an application was to be treated as a minor change application, exempt from the customary rules applicable to LPTV modification applications.

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<sup>1</sup> KSGA-LP had to discontinue its operations on output Channel 64 as of June 1, 2010 in order to accommodate the use of that channel by public safety agencies in Riverside County, California. In order to continue to broadcast in service to the public, KSGA-LP has been continuously operating on the basis of special temporary authority, on output Channel 23, since being authorized to do so, on July 12, 2010, in File No. BSTA-20100615AGQ.

Another party, Alma Vision Hispanic Network, Inc. ('Alma Vision'), acting in File No. BDISTTL-20081209AEK, also requested displacement relief to output Channel 30 in the Los Angeles television market. In addition, Alma Vision filed a Petition to Dismiss the KSGA-LP application.<sup>2</sup>

By *Letter to Alma Vision Hispanic Network, Inc., et al.*, Ref. No. 1800E3-A, released February 24, 2010, the Associate Chief of the Video Division determined that the Alma Vision application for K55KD and the KJLA application for KSGA-LP were mutually exclusive, denied KJLA's request for an STA for operation of KSGA-LP on output Channel 30, and denied the pleadings submitted by both Alma Vision and KJLA. The result of this set of determinations was that the parties could not use Channel 30 and would have to await a competitive bidding process to resolve their mutual exclusivity.<sup>3</sup> See Section 74.787(a)(4).

The Media Bureau subsequently accepted for filing the KSGA-LP application and placed it on a proposed grant list. *Public Notice*, Report No. 10-2, released March 23, 2010.

Unlike KJLA, Alma Vision was unable to find another available output channel in the congested and spectrum-limited Los Angeles DMA and K55KD was forced to go silent on or about December 20, 2011, just days ahead of the December 31, 2011 deadline for low-power television stations in the 700 MHz band to cease operations. *Second Report and Order* in MB Docket No. 03-185, 26 FCC Rcd 10732 (2011). Application of Section 312(g) of the Communications Act resulted in the Media Bureau cancelling the K55KD license more than two years after K55KD went silent. *Letter to Alma Vision Network, Inc.* (MB, January 29, 2013). A Petition for Reconsideration of the K55KD license cancellation was denied in *Letter to Alma*

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<sup>2</sup> KJLA also submitted an Informal Objection to the Alma Vision application and a request for Special Temporary Authority to operate KSGA-LP on output Channel 30.

<sup>3</sup> The Commission has never held a competitive bidding process for the mutually exclusive applications arising from the clearing of the 700 MHz band.

*Vision Network, Inc., et al.* (MB November 9, 2015) and, owing to the absence of any further administrative or judicial review of that action, the cancellation of the K55KD license is now final and non-reviewable.

At this time, more than seven years after the commencement of KJLA's efforts to secure a displacement channel for its broadcast operations, KJLA requests that the Commission promptly grant its application and, in so doing, waive the provision in Section 74.787(a)(4) limiting transmitter site relocations to 30 miles from the Station's community of license.<sup>4</sup>

*Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, 19 FCC Rcd 19331 (2004).

The bases for a waiver of Section 74.787(a)(4) are as follows:

1. The KSGA-LP application was accepted for filing and proposed for grant more nearly six years ago. This is evidence that the Commission had reviewed the application and found that there was a basis for the application to be granted, either in the ordinary course or through a competitive bidding process. This determination should be honored and should take into consideration that KJLA has had to wait more than seven years for action on its application while it had to operate KSGA-LP on a special temporary authority basis, without the customary operating facilities it had before its displacement and what normal operations would have allowed for.

2. KLJA chose its proposed site taking into consideration the limited availability of spectrum and transmitter sites in the Los Angeles area. The proposed transmitter site is the principal transmitter site in the Los Angeles DMA and a well-known antenna farm: Mt. Wilson.

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<sup>4</sup> The proposed modification is approximately 43 miles, depending on the applicable coordinates for San Bernardino, California.

At Mt. Wilson, there is no issue as to site availability, construction of facilities or dealing with the unusual topography of Los Angeles. Elsewhere in Los Angeles, the ability to secure a transmitter site that can provide adequate service is questionable. Accordingly, permitting a move to Mt. Wilson, given the unusual circumstances of the Los Angeles area, is both necessary and proper.

A waiver permitting an applicant to relocate to Mt. Wilson is consistent with the waiver granted by the Commission in *KRCA License Corp.*, 15 FCC Rcd 1794 (1999). In that proceeding, the Commission waived spacing provisions in the rules so that three Los Angeles independent television stations could relocate their analog operations with their digital operations, by relocating them to Mt. Wilson. In this regard, the Commission reasoned (*id.* at 1801):

To overcome these significant hurdles and ensure a successful transition to DTV, we believe that KRCA, KSCI and KDOC should be permitted to collocate their NTSC and DTV facilities so that they may enjoy cost savings and other efficiencies....We recognize that the viability of DTV by non-network affiliated television stations in the Los Angeles market requires that these stations invest millions of dollars to convert to DTV and, as we have previously stated, we believe that our rules must be made to strengthen and not hamper the possibilities for DTV's success in this market. Permitting collocation of their NTSC and DTV facilities by waiving our separation requirements will help the Applicants overcome the significant obstacles and costs they face in converting to DTV and will serve the public interest by ensuring that their DTV transition is successful. We recognize that allowing the Applicants to operate their NTSC facilities from the Mt. Harvard/Mt. Wilson area will also enable them to compete against other television stations in the Los Angeles market, however we do not grant their applications for that reason, as suggested by the Applicants. Rather, we believe that their proposals will reap substantial public interest benefits with no concomitant cost. (citations omitted)

3. Allowing operation of KSGA-LP from the Mt. Wilson antenna farm also provides a public interest benefit for the local viewing market in Los Angeles. It is well recognized that a significant amount of television viewing is on a cable television or DBS basis. In the Los

Angeles DMA, Nielsen Media Research, Inc. has concluded that only 14.4% of television households are over-the-air viewers.<sup>5</sup> This limited number of viewers who do not have cable or DBS service are, in the Los Angeles market, pointing their antennas in the direction of Mt. Wilson, where nearly all of the broadcast signals are being transmitted from. Thus, not only will Los Angeles over-the-air viewers have KSGA-LP available to them, but KSGA-LP will have a better chance of providing service to its viewing public which, because low-power stations lack must-carry rights, is entirely over-the-air based.

4. As described in the attached Statement of Byron St. Clair, engineering consultant to KJLA, the use of the Mt. Wilson site is required in order to provide for a viable broadcast service. The situation involving Alma Vision evidences that Channel 30 was the only available broadcast output channel in Los Angeles. Alma Vision was unable to find another available output channel and, as a result, forfeited its broadcast station. Hence, only Channel 30 is an available output channel and due consideration had to be given to making use of that channel and any constraints posed thereby.

While output Channel 30 is a viable frequency it has, as Mr. St. Clair notes, its own limitations. A potential user of Channel 30 cannot freely locate its transmitter, even if that was a viable proposition. Rather, a transmitter for Channel 30 that will not interfere with other broadcast stations must be situated in a limited number of locations. One of those locations is the Mt. Wilson antenna farm. Channel 30 is non-interfering at Mt. Wilson but its use in other locations would only have resulted in impermissible interference.

All of this points to the inherent limitations that any low-power television station faces in seeking to locate facilities in the Los Angeles DMA. While the 30-mile rule is appropriate from

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<sup>5</sup> [http://www.tvb.org/research/184839/4729/ads\\_cable\\_dma](http://www.tvb.org/research/184839/4729/ads_cable_dma)

the perspective of not allowing applicants to undertake minor modifications that are unnecessary, it is a policy that is not well suited for Los Angeles. In Los Angeles, the issue facing the low-power television licensee community is not which transmitter site to choose, but what possible site is available so that the applicant can somehow find an output channel that does not cause interference to otherwise protected Station operations.

Mr. St. Clair also notes that the Commission has licensed another low-power television station, Station KCIO-LD, to operate on Channel 30 in the Los Angeles DMA. Were KSGA-LP to move closer to its former transmitter site, the presence of Station KCIO-LD would block any attempt to do so. By granting the requested waiver, the Commission will allow for both KSGA-LP and KCIO-LD to continue to operate and serve their viewing publics. This is a clear benefit for both licensees.

In this case, KJLA found Mt. Wilson to be the viable site for KSGA-LP based on the combination of it being a recognized antenna farm, where a transmitter site could be located without site availability and zoning issues, and offering transmission service that would comply with Commission requirements and not cause interference to other broadcasters entitled to protection from KSGA-LP. Consequently, KJLA submits that it has met the burden of establishing the necessary public interest basis for its requested waiver and the waiver should be granted, consistent with Commission precedent involving the use of the Mt. Wilson antenna farm to accommodate television stations in the large and spectrum congested Los Angeles DMA.<sup>6</sup>

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<sup>6</sup> KJLA requests that if the Commission does not grant the waiver, that KJLA be permitted to amend its application to a site that complies with the 30-mile rule. KSGA-LP was displaced from its upper 700 MHz service in order to accommodate the digital transition and public safety operations. KJLA should be given the chance to find another transmitter site, as difficult as that process might be.

## **STATEMENT OF BYRON ST. CLAIR**



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*B. W. St. Clair*

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## **ENGINEERING STATEMENT IN SUPPORT OF WAIVER REQUEST IN APPLICATION IN FILE NO. BDISDTL-20081105ADS**

### **INTRODUCTION**

At the time in 2008 when it was necessary to displace Station KSGA-LP from Channel 64 to an "in-core" channel, the only possible channels that would be useful for an LPTV station were determined to be adjacent to at least one full- service television station. Channel 30 was just becoming available because it was soon to be vacated by analog full service television Station KPXN<sup>1</sup> which has Channel 38 as its digital channel.

Channel 30 was chosen by KSGA-LP as the best available displacement channel even though it has the adjacent channel limitation. It is situated between two full service stations: KFTR-DT, Channel 29 and KTLA, Channel 31. This imposes limitations on its location.

### **DISCUSSION**

When an LPTV station must accept a channel that is adjacent to a full service television station it must, as a practical necessity, have an ERP of close to, and preferably fully at, 15.0 kW in order to avoid being overwhelmed by the full service television station. This, in turn, requires the LPTV station to be nearby, if not exactly, co-located with the full service television station in order to ensure that the interference from the LPTV station to the full service television station is below the allowable limit.<sup>2</sup>

Thus, to displace KSGA-LP in a manner that will result in a useful station in the Los Angeles DMA, of which San Bernardino, California is a part, requires accepting an output channel adjacent to at least one full service television station and this, in turn, requires locating it within the extended Mt. Wilson antenna farm, the transmitter site for nearly all of the Los Angeles DMA full-service television stations.

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<sup>1</sup>KPXN, licensed to the community of San Bernardino, California, had its analog transmitter and now has its digital transmitter in the Mt. Wilson antenna farm. Its analog allotment was Channel 30, but it vacated this channel in favor of Channel 38 as its digital output channel. This application of KSGA-LP, which also specifies San Bernardino as its community of license, is also requesting a location in the Mt. Wilson antenna farm.

<sup>2</sup>OET Bulletin 69 limits the interference caused by an LPTV station to a full service station to 0.5%.



While the KSGA-LP application has been pending, LPTV Station KCIO-LD has obtained a digital construction permit and been granted a license <sup>3</sup> to cover at a transmitter site approximately 30 km northwest of the licensed KSGA-LP analog site. While KCIO-LD has agreed to accept interference from KSGA-LP's pending application, its presence, presumably, would block any attempt to move the transmitter site for KSGA-LP back closer to the licensed analog transmitter site. See attached Exhibit 1 which shows the locations of the licensed KCIO-LD and KSGA-LP analog transmitter sites.

### **CONCLUSION**

For KSGA-LP to serve the public interest as a viable digital low-power television station, it is necessary for its transmitter site to be located in the Mt. Wilson antenna farm and a move of approximately the proposed 74.5 km is, therefore, unavoidable. Not only would a location closer to the licensed analog transmitter site jeopardize the ability of KSGA-LP to operate in digital and with a broadcast signal that would reach over-the-air viewers, but it would cause interference issues for KCIO-LD, perhaps necessitating a change in transmitter site for that Station as well. The grant of the proposed application serves the public interest by allowing for the operation of two viable digital LPTV stations in the highly congested Los Angeles DMA.

### **ENGINEER'S STATEMENT**

This Engineering Statement is based on information derived from the FCC databases and supplied by the client. It is true and correct to the best of my knowledge and belief.

Respectfully submitted and signed.



B. W. St. Clair, PhD  
Engineering Consultant  
Dated: January 4, 2016

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<sup>3</sup> File No. 0000004783, granted October 5, 2015.

### KSGA-LP

BLTT120020806AAB  
Latitude: 34-01-20 N  
Longitude: 117-17-46 W  
ERP: 64.40 kW  
Channel: 64-  
Frequency: 772.5 MHz  
AMSL Height: 755.0 m  
Elevation: 740.0 m  
Horiz. Pattern: Directional  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Prop Model: Longley-Rice  
Climate: Cont temperate  
Conductivity: 0.0050  
Dielec Const: 15.0  
Refractivity: 311.0  
Receiver Ht AG: 10.0 m  
Receiver Gain: 0 dB  
Time Variability: 50.0%  
Sit. Variability: 50.0%  
ITM Mode: Broadcast

### KCIO-LD-D

BLANK0000004783  
Latitude: 34-11-15.90 N  
Longitude: 117-41-53.70 W  
ERP: 0.50 kW  
Channel: 30  
Frequency: 569.0 MHz  
AMSL Height: 1672.8 m  
Elevation: 1654.8 m  
Horiz. Pattern: Directional  
Vert. Pattern: Yes  
Elec Tilt: 0.0  
Mech Tilt: 2.0  
Tilt Azi: 90.0  
Prop Model: Longley-Rice  
Climate: Cont temperate  
Conductivity: 0.0050  
Dielec Const: 15.0  
Refractivity: 311.0  
Receiver Ht AG: 10.0 m  
Receiver Gain: 0 dB  
Time Variability: 90.0%  
Sit. Variability: 50.0%  
ITM Mode: Broadcast

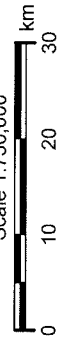
### Exhibit 1

Protected Contours  
KSGA-LP Analog CH 64  
KCIO-LD Digital CH 30

KCIO-LD-D

KSGA-LP

Scale 1:750,000



01/02/2016

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