

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In re:

|                                      |   |                        |
|--------------------------------------|---|------------------------|
| Amendment of DTV Table of Allotments | ) |                        |
| Noncommercial Educational TV Station | ) | MB Docket No. 21 - ___ |
| WYES-TV, New Orleans, LA             | ) | RM-_____               |
|                                      | ) |                        |
| (Facility ID 25090)                  |   |                        |

**PETITION FOR RULEMAKING**

The Greater New Orleans Educational Television Foundation (“GNOETV”), the licensee of noncommercial educational PBS member television station WYES-TV, Channel \*11, New Orleans, Louisiana (“WYES”), by its counsel and pursuant to Section 1.401 of the Commission’s Rules, petitions the Commission to amend the DTV Table of Allotments by substituting UHF Channel \*28 for WYES in place of its current VHF Channel \*11 at New Orleans, Louisiana with the technical parameters set forth in the attached Engineering Statement of William R. Meintel, Senior Partner, Meintel, Sgrignoli & Wallace, LLC. Substituting UHF Channel \*28 for VHF Channel \*11 would serve the public interest by improving the ability of WYES to serve its viewers and its community, particularly in terms of over-the-air reception.

Currently, WYES is the only VHF channel in the market, which puts WYES at a distinct disadvantage. Moving to a VHF channel would put WYES on par with the other broadcast stations in the market. Moreover, moving to a VHF channel would improve the viewers access to WYES’s PBS and other public television programming by improving indoor reception and resolving VHF reception issues.

## **I. BACKGROUND.**

WYES traces its roots to 1953, when a group of civic leaders formed The Greater New Orleans Educational Television Association. The FCC had allotted VHF Channel 8 to New Orleans, Louisiana and reserved it for noncommercial educational use. GNOETV sought and was awarded the broadcast license for VHF Channel \*8. WYES signed on the air on April 1, 1957. Later, as part of the analog to digital transition, WYES transitioned to VHF Channel 11 in June 2009. As the Engineering Statement explains, WYES is the only VHF TV station in the market.

## **II. THE SUBSTITUTION OF CHANNEL \*28 IN NEW ORLEANS, LOUISIANA SATISFIES TECHNICAL AND REGULATORY REQUIREMENTS.**

GNOETV proposes that the Commission substitute UHF Channel \*28 for WYES's existing VHF Channel \*11. As shown in the attached Engineering Statement of William R. Meintel, Senior Partner, Meintel, Sgrignoli & Wallace, LLC, this channel substitution meets the technical requirements in the Commission's rules, satisfies the minimum geographic spacing requirements with regard to all other DTV stations, and complies with the community coverage requirements of Section 73.625(a) of the Commission's rules. See Engineering Statement.

The Engineering Statement also studies the population loss predicted by TVStudy, demonstrating that the apparent loss areas are all served by other stations in New Orleans or adjacent markets; moreover, the loss is entirely at the fringes of the WYES service area with much of it outside the New Orleans DMA. The Engineering Statement also shows that the terrain limited service area on Channel \*28 is slightly larger than the existing Channel \*11 facility. GNOETV believes the overall public interest benefits to the channel substitution justify any minor "predicted" loss in population served based on TVStudy predictions. Therefore,

GNOETV submits that the channel substitution complies with the technical and regulatory requirements of the Commission's Rules.

### **III. SUBSTITUTING CHANNEL \*28 WOULD IMPROVE A VALUABLE SOURCE OF NONCOMMERCIAL EDUCATIONAL TV PROGRAMMING.**

At present, WYES is the only VHF station in the New Orleans market. Given the difference in propagation characteristics of VHF and UHF television, being the only VHF station places WYES at a distinct disadvantage. The Commission has recognized that "VHF channels have certain characteristics that have posed challenges for their use in providing digital television service," including "propagation characteristics of these channels [that] allow undesired signals and noise to be receivable at relatively farther distances," the tendency of "nearby electrical devices ... to emit noise in this band that can cause interference," and the fact that "reception of VHF signals requires physically larger antennas that are generally not well suited to the mobile applications expected under flexible use, relative to UHF channels."<sup>1</sup> The Commission further noted that independent studies by a private engineering firm and the Commission's own staff both found "large variability in the performance (especially intrinsic gain) of indoor antennas available to consumers, with most antennas receiving fairly well at UHF and the substantial majority not so well to very poor at high-VHF."<sup>2</sup> Substituting an available UHF channel would improve WYES's VHF propagation issues and improve TV signal reception.

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<sup>1</sup> *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, NPRM, 25 FCC Rcd 16498, 16511 ¶ 42 (2010) ("*VHF Improvements NPRM*").

<sup>2</sup> *Id.* at 16512 ¶ 44. See also *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*, Second R&O, 25 FCC Rcd 10732, 10750 ¶ 37 (2011)

Moreover, the Communications Act supports FCC action to improve WYES's noncommercial educational service to citizens in its community of license and service area:

It is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies.<sup>3</sup>

Grant of this Petition would help to achieve that goal. The proposed channel substitution would enhance the ability of WYES to serve its community with PBS and other public television/telecommunications programming and services.

WYES provides the type of high quality, local programming that the Commission has long expected from noncommercial educational stations. *See, e.g., Educational TV Assignment at Terre Haute, Indiana*, 19 RR 2d 1850, 1853 (1970) (“We have repeatedly announced our policy to forward local programming in the broadcast services. Local programming is essential particularly in the field of education in that local programming can most effectively deal with the specific problems, needs, and interests in the community being served.”) WYES currently broadcasts several important, locally produced programs focused on local New Orleans issues in addition to PBS programs and children’s programming.<sup>4</sup> The proposed substitution will allow WYES to improve signal reception and expand its service using UHF TV capabilities. GNOETV respectfully requests, based on long-standing, consistent and ample past Commission precedent regarding maintaining TV allotments reserved for noncommercial educational use, that

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<sup>3</sup> 47 U.S.C. § 396(a)(9).

<sup>4</sup> *See, e.g.*, <https://www.wyes.org/tv/wyes-originals/>

the UHF Channel 28 (substituted for VHF Channel 11) continue to be reserved for noncommercial educational use, as shown by the “\*” designation.<sup>5</sup>

**Conclusion**

For all of these reasons, GNOETV requests that the Commission institute a rulemaking proceeding to substitute UHF Channel \*28 for VHF Channel \*11 in the DTV Table of Allotments.

Respectfully submitted,

THE GREATER NEW ORLEANS  
EDUCATIONAL FOUNDATION



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<sup>5</sup> See, e.g., *Television Channel Assignments*, 60 RR2d 784 (1986); *Ogden, Utah*, 42 Fed. Reg. 40302 (1977); *Mansfield and Marion, Ohio*, 48 RR2d 1003 (1980).