

## **WAIVER REQUEST**

Roseland Broadcasting, Inc. (“Roseland”), by its attorney, hereby requests a waiver of the Commission’s Low Power Rural Policy, as articulated in the Public Notice, DA 09-1487, released June 29, 2009. That Public Notice stated, *inter alia*, the following:

“Beginning August 25, 2009, all interested parties including incumbent LPTV and TV translator stations, may begin filing applications for new digital-only LPTV and TV translator stations, for major changes to existing analog and digital facilities and, in the case of incumbent analog stations, for digital companion channels, where such applications specify transmitting antenna site coordinates (geographic latitude and longitude) located more than 121 kilometers (75 miles) from the reference coordinates of the cities listed in Appendix A. These applications will be filed on a first-come, first-served basis and will be ‘cut-off’ daily.”<sup>1</sup>

A copy of the construction permit which was the subject of Roseland’s acquisition permit, BNPDTL-20090825AWE was granted on April 9, 2020 (Attachment B). It is important to note that the permit did not reference any restrictive condition. Furthermore, the specific coordinates which were the subject of the construction permit and had been granted were inconsistent with the restrictions referenced in the June 29, 2009 Public Notice.<sup>2</sup>

The consummation of the permit by Roseland occurred on June 29, 2022. *See* Attachment C. At the time of the acquisition, Roseland was not aware that there would be a problem in moving to a site closer to Madison. Roseland identified a site closer to Madison, assuming that there would not be a problem in light of the Commission’s previous grant. In this regard, a site was identified in Mount Horeb, Wisconsin, engineering work was done to ensure that the site

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<sup>1</sup> The full text of the Public Notice is attached (Attachment A).

<sup>2</sup> No move closer than 75 miles to cities specified in Appendix A to the Public Notice. Madison, WI was specified.

was technically feasible, and money was spent to lease the space. In addition, Roseland purchased a transmitter and an antenna.

The existing construction permit site has technical problems. The site does not have an Internet delivery option to receive programming. The other problem is that Roseland has experienced a problem in obtaining a lease on the property, since all its attempts to communicate with the site owner have been unsuccessful. *See* Declaration of Matthew Davidge (Attachment D).

A waiver of the Commission's Rules is appropriate "only if special circumstances warrant a deviation from the general rule and such deviation will service the public interest. *WAIT Radio v. FCC*, 418 F.2d 1152 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972). Generally, the Commission may waive any rule for good cause shown. *See* 47 CFR § 1.3. A waiver is appropriate where particular facts make strict compliance inconsistent with the public interest. *See Northeast Cellular Tel Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In making the determination, the Commission may take into account consideration of hardship, equity, or more effective implementation of overall policy on an individual basis. *See WAIT Radio* and *Northeast Cellular*, *supra*. A waiver is therefore appropriate if special circumstances warrant a deviation from the general rule, such deviation will serve the public interest, and the waiver does not undermine the viability of the general rule. *See NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-28 (D.C. Cir. 2008); *Northwest Cellular*, 897 F.2d at 1166; *WAIT Radio*, 418 F.2d at 1158.

At the time of the acquisition of the permit, the Commission had already granted the prior permittee its application to move to a site which was already 63 km from Madison, WI. Thus, the Commission had already approved a move which was significantly greater than allowed by the

June 29, 2009 Public Notice. Specifically, the site was 58 km closer to Madison than theoretically allowed.

As previously stated, Roseland was unaware that it could not file for a modification to a new site consistent with moving toward Madison, Wisconsin. Roseland would not have acquired the permit had it been aware of the “restriction.”<sup>3</sup> In this regard, Roseland owns or co-owns eight (8) other TV stations that broadcast Hispanic programming. Roseland intends to broadcast Hispanic programming.<sup>4</sup> The proposed site would allow Roseland to broadcast to an Hispanic population of 17,770 persons. There is currently no Hispanic broadcast TV station. The current CP site would allow it to serve an Hispanic population of only 1,333 persons. Serving a greater Hispanic population would clearly be in the public interest. *See* the attached Engineering Statement of Ryan Wilhour (Attachment E).

It should be noted that Roseland was informally advised that the Commission would be open to considering a waiver under the circumstances presented herein. Arguably, grant by the Commission of the relocation to the present site was a strong indicia that the Commission was not concerned with the June 29, 2009 Public Notice dictate. Thus, in granting the application to move to the current site, the Commission had implicitly waived the prohibition.<sup>5</sup>

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<sup>3</sup> *See* the attached Declaration of Matthew Davidge (Attachment D).

<sup>4</sup> Roseland is considering a Telemundo affiliation.

<sup>5</sup> The basis for the prohibition, which was not formally articulated, to prevent stations from moving to large(r) markets and maintain rural service, is somewhat suspect in light of the Video Division’s April 20, 2019 ruling in *Venture Technologies Group, LLC* (Attachment F). There, the following was stated:

“Furthermore, the condition originally imposed in conjunction with the 2000 LPTV filing window that any future modifications to the construction permit not result in a relocation within 121 kilometers of the cities listed in the *LPTV Filing Window PN* applied only to future modifications of construction permits obtained through that window. Once constructed and licensed, the filing limitation no longer applied...”

# ATTACHMENT A



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <http://www.fcc.gov>  
TTY: 1-888-835-5322

DA 09-1487  
Released: June 29, 2009

## COMMENCEMENT OF RURAL, FIRST-COME, FIRST-SERVED DIGITAL LICENSING FOR LOW POWER TELEVISION AND TV TRANSLATORS BEGINNING AUGUST 25, 2009

AND

## COMMENCEMENT OF NATIONWIDE, FIRST-COME, FIRST-SERVED DIGITAL LICENSING FOR LOW POWER TELEVISION AND TV TRANSLATOR SERVICES BEGINNING JANUARY 25, 2010

To ensure continued service for viewers of low power television (LPTV) and TV translator stations in the rural portions of the United States and to assist stations in these areas with their transition to digital, we announce a rural digital filing opportunity for these services. Beginning **August 25, 2009** we will permit the filing of applications for new digital-only LPTV and TV translator stations in rural areas, for major changes to existing analog and digital LPTV and TV translator facilities in those areas, and, in the case of incumbent analog stations, for digital companion channels.<sup>1</sup> **No applications for new analog facilities will be accepted.** As outlined below, this filing opportunity will be subject to a geographic restriction and to first-come, first-served processing.

In addition, to further assist all LPTV and TV translator stations in their transition to digital, we will begin accepting applications on a nationwide, first-come, first-served basis for new digital-only LPTV and TV translators stations, for major modifications to existing analog and digital stations in these services, and, in the case of incumbent analog stations, for digital companion channels without geographic restriction<sup>2</sup> on **January 25, 2010**.<sup>3</sup> **No applications for new analog facilities will be accepted.**

We remind incumbent LPTV, TV translator, and Class A television stations that they may file an application for on-channel digital conversion or flash-cut at any time.<sup>4</sup> So that they may retain processing priority, we encourage those incumbent stations that have not already done so to file their flash-cut applications prior to the commencement of first-come, first-served digital licensing. We are providing

<sup>1</sup> Unlike the 2006 digital companion channel filing window, there is no deadline for the submission of digital companion channel applications and interested stations must submit a long-form application for their proposed digital companion channel. See "LPTV and TV Translator Digital Companion Channel Applications Filing Window for Auction No. 85," *Public Notice*, 21 FCC Rcd 4100 (MB/WTB 2006) (*Auction No. 85 Filing Window Public Notice*).

<sup>2</sup> *Id.*

<sup>3</sup> Applications for new Class A stations may not be filed.

<sup>4</sup> See 47 C.F.R. § 74.787(a)(1).

notice so that incumbent stations and their technical consultants will have sufficient time to prepare and to file their flash-cut applications prior to the commencements of both the rural and nationwide first-come, first-served digital licensing opportunities.

We also remind applicants that additional adjustments in the facilities and assigned channels of full-power television broadcast stations may be required as the transition of that service to digital mode is optimized. These adjustments, the extent of which is not fully known at this time, could have an adverse impact, including displacement, on applicants filing under the procedures in this Public Notice.

### **Filings Procedures**

**Beginning August 25, 2009**, all interested parties including incumbent LPTV and TV translator stations, may begin filing applications for new digital-only LPTV and TV translator stations, for major changes to existing analog and digital facilities and, in the case of incumbent analog stations, for digital companion channels,<sup>5</sup> where such applications specify transmitting antenna site coordinates (geographic latitude and longitude) located more than 121 kilometers (75 miles) from the reference coordinates of the cities listed in Appendix A. These applications will be filed on a first-come, first-served basis and will be “cut-off” daily.

**Beginning January 25, 2010**, all interested parties, including incumbent LPTV and TV translator stations, may begin filing applications for new digital-only LPTV and TV translator stations, for major changes to existing analog and digital LPTV and TV translator stations, and, in the case of incumbent analog stations, for digital companion channels without geographic restriction.<sup>6</sup> Such applications will be filed on a first-come, first-served basis and will be “cut-off” daily.

All applications for new digital-only LPTV and TV translator stations or for major changes to existing digital or analog LPTV and TV translator stations are subject to a \$705.00 filing fee. There is no application filing fee for the submission of a flash-cut or digital companion channel application, or for applications for replacement digital translator stations as these applications are for minor changes. Applicants must file their applications electronically using FCC Form 346. **Paper-filed applications will not be accepted.** Instructions for use of the electronic filing system are available in the CDBS User’s Guide, which can be accessed from the electronic filing web site at: <http://www.fcc.gov/mb/cdb.html>. For assistance with electronic filing, call the Media Bureau Help Desk at (202) 418-26MB (418-2662).

**Important Reminders.** All mutually exclusive applications will be resolved by competitive bidding (auctions).

Applications for new digital LPTV and TV translator stations and for replacement digital translators may only be filed for in-core channels 2-51.

Applicants proposing digital companion channels on channels 52-59 must certify in their long form application the unavailability of any suitable in-core channel.<sup>7</sup> “Suitable in-core channel” is defined as one that would enable the station to produce a digital service area comparable to its analog service

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<sup>5</sup> See *supra* n. 1.

<sup>6</sup> *Id.*

<sup>7</sup> See 47 C.F.R. § 74.786(d).

area.<sup>8</sup> In addition, Section 74.786(d) of the Commission's rules provides that applicants proposing digital companion channels on channels 52-59 must notify all potentially affected 700 MHz band wireless licensees of the spectrum comprising the proposed TV channel and the spectrum in the first adjacent channels thereto not later than 30 days prior to the submission of their long form application.<sup>9</sup> Specifically, notification is required to wireless licensees within whose licensed geographic boundaries a digital LPTV or TV translator station is proposed to be located.<sup>10</sup> Notification is also required to co-channel and first adjacent channel licensees whose geographic service area boundaries lie within 75 miles and 50 miles, respectively, of the proposed digital LPTV and TV translator station location.<sup>11</sup> The identity and contact information for all wireless entities in the 700 MHz band is available through the Universal Licensing System (ULS) on the Commission web site ([www.fcc.gov](http://www.fcc.gov)). Digital companion channel facilities on channels 52-59 may operate on a secondary basis as long as they do not technically conflict with the operations of a primary service licensee. Digital companion channel authorizations will be explicitly conditioned to that effect.

We remind applicants of the following important rules and policies that apply during this filing opportunity:

- Only existing low power station permittees and licensees are permitted to file for a digital companion channel;<sup>12</sup>
- Applicants for digital companion channels will be required to identify their associated analog station and must propose to serve the community of license of their associated analog facility;
- Incumbent stations may continue to file applications to flash-cut their existing analog stations to digital;
- Stations with a construction permit, license or pending application for a digital companion channel may not file for a second digital companion channel;<sup>13</sup>
- Stations seeking digital operation must choose between an on-channel digital conversion of their analog station or operating a digital companion channel station;
- Any station that has a license, construction permit, or pending application for on-channel digital conversion will not be eligible to submit an application for a companion digital channel for the same station, and any such companion digital channel application will be dismissed;
- Stations that receive a digital companion channel will be required at a future date to return either their analog channel or companion channel to the Commission;<sup>14</sup> and
- Class A stations are on notice that all digital companion channels will be licensed as LPTV channels on a secondary, non-interference basis.

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</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, *Report and Order*, 19 FCC Rcd 19331, 19383 (2004) (*Digital LPTV Order*).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

If you have any questions, please contact Hossein Hashemzadeh (technical) or Shaun Maher (legal) of the Video Division, Media Bureau at (202) 418-1600.

**-- FCC --**



## APPENDIX A

Applications for new digital low power television and TV translator stations and analog and digital major changes to existing low power television and TV translator stations filed during the limited filing opportunity beginning **August 25, 2009** may not propose new or modified facilities located within 121 kilometers (75 miles) of the reference coordinates listed below for the following cities. Source of cities: January 1, 2008 Nielsen Media Research Estimates. Source of coordinates: Section 76.53 of the Commission's Rules.

<b>DMA RANKING</b>	<b>MARKET</b>	<b>NORTH LATITUDE</b>	<b>WEST LONGITUDE</b>
1	New York City, New York	40-45-06	073-59-39
2	Los Angeles, California	34-03-15	118-14-28
3	Chicago, Illinois	41-52-28	87-38-22
4	Philadelphia, Pennsylvania	39-56-58	75-9-21
5	Dallas/Fort Worth, Texas	32-47-09	096-47-37
6	San Francisco, California	37-46-39	122-24-40
7	Boston, Massachusetts	42-21-24	71-3-25
8	Atlanta, Georgia	33-45-10	84-23-37
9	Washington, District of Columbia	38-53-51	77-0-33
10	Houston, Texas	29-45-26	95-21-37
11	Detroit, Michigan	42-19-48	83-2-57
12	Phoenix, Arizona	33-27-12	112-4-28
13	Tampa, Florida	27-56-58	82-27-26
14	Seattle, Washington	47-36-32	122-20-12
15	Minneapolis, Minnesota	44-58-57	93-15-43
16	Miami, Florida	25-46-37	80-11-32
17	Cleveland, Ohio	41-29-51	81-41-50
18	Denver, Colorado	39-44-58	104-59-22
19	Orlando, Florida	28-32-42	81-22-38
20	Sacramento, California	38-34-57	122-23-34
21	St. Louis, Missouri	38-37-45	90-12-22
22	Pittsburgh, Pennsylvania	40-26-19	80-0-0
23	Portland, Oregon	45-31-6	122-40-35
24	Baltimore, Maryland	39-17-26	76-36-45
25	Charlotte, North Carolina	35-13-44	80-50-45
26	Indianapolis, Indiana	39-46-7	86-9-46
27	San Diego, California	32-42-53	117-9-21
28	Raleigh, North Carolina	35-46-38	78-38-21
29	Hartford, Connecticut	41-46-12	72-40-49
30	Nashville, Tennessee	36-9-33	86-46-55
31	Kansas City, Missouri	39-4-56	94-35-20
32	Columbus, Ohio	39-57-47	83-0-17
33	Cincinnati, Ohio	39-6-7	84-30-35
34	Milwaukee, Wisconsin	43-2-19	87-54-15
35	Salt Lake City, Utah	40-45-23	111-51-26
36	Greenville, South Carolina	34-50-50	82-24-1
37	San Antonio, Texas	29-25-37	98-29-6
38	West Palm Beach, Florida	26-42-36	80-3-5

39	Grand Rapids, Michigan	42-58-3	85-40-13
40	Birmingham, Alabama	33-31-1	86-48-36
41	Harrisburg, Pennsylvania	40-15-43	76-52-59
42	Norfolk, Virginia	36-51-10	76-17-21
43	Las Vegas, Nevada	36-10-20	115-8-37
44	Albuquerque, New Mexico	35-5-1	106-39-5
45	Oklahoma City, Oklahoma	35-28-26	97-31-4
46	Greensboro, North Carolina	36-4-17	79-47-25
47	Memphis, Tennessee	35-8-46	90-3-13
48	Louisville, Kentucky	38-14-47	85-45-49
49	Jacksonville, Florida	30-19-44	81-39-42
50	Buffalo, New York	42-52-52	78-52-21
51	Austin, Texas	30-16-9	97-44-37
52	Providence, Rhode Island	41-49-32	71-24-41
53	New Orleans, Louisiana	29-56-53	90-4-10
54	Scranton, Pennsylvania	41-24-32	75-39-46
55	Fresno, California	36-44-12	119-47-11
56	Albany, New York	42-39-1	73-45-1
57	Little Rock, Arkansas	34-44-52	92-16-37
58	Knoxville, Tennessee	35-57-39	83-55-7
59	Richmond, Virginia	37-32-15	77-26-9
60	Tulsa, Oklahoma	36-9-12	95-59-34
61	Mobile, Alabama	30-41-36	88-2-33
62	Dayton, Ohio	39-45-32	84-11-43
63	Fort Myers, Florida	26-38-42	81-52-6
64	Lexington, Kentucky	38-2-50	84-29-46
65	Huntington, West Virginia	38-25-12	82-26-33
66	Flint, Michigan	43-0-50	83-41-33
67	Roanoke, Virginia	37-16-13	79-56-44
68	Tucson, Arizona	32-13-15	110-58-8
69	Wichita, Kansas	37-41-30	97-20-16
70	Green Bay, Wisconsin	44-30-48	88-0-50
71	Des Moines, Iowa	41-35-14	93-37-0
72	Toledo, Ohio	41-39-14	83-32-39
73	Honolulu, Hawaii	21-18-36	157-51-48
74	Springfield, Missouri	37-13-3	93-17-32
75	Omaha, Nebraska	41-15-42	95-56-14
76	Portland, Maine	43-39-33	70-15-19
77	Spokane, Washington	47-39-32	117-25-33
78	Rochester, New York	43-9-41	77-36-21
79	Paducah, Kentucky	37-5-13	88-35-56
80	Syracuse, New York	43-3-4	76-9-14
81	Columbia, South Carolina	34-0-2	81-2-0
82	Shreveport, Louisiana	32-30-46	93-44-58
83	Huntsville, Alabama	34-44-18	86-35-19
84	Champaign, Illinois	40-7-5	88-14-48
85	Madison, Wisconsin	43-4-23	89-22-55
86	Chattanooga, Tennessee	35-2-41	85-18-32
87	Cedar Rapids, Iowa	41-58-48	91-39-48
88	Harlingen, Texas	26-11-29	97-41-35

89	South Bend, Indiana	43-40-33	86-15-1
90	Jackson, Mississippi	32-17-56	90-11-6
91	Johnson City, Tennessee	36-19-4	82-20-56
	Burlington, Vermont/		
92	Plattsburgh, New York	44-28-34	73-12-46
93	Colorado Springs, Colorado	38-50-7	104-49-16
94	Baton Rouge, Louisiana	30-26-58	91-11-0
95	Waco, Texas	31-33-12	97-8-0
96	Davenport, Iowa	41-31-24	90-34-21
97	Savannah, Georgia	32-4-42	81-5-37
98	El Paso, Texas	31-45-36	106-29-21
99	Johnstown, Pennsylvania	40-19-35	78-55-3
100	Charleston, South Carolina	32-46-35	79-55-53

# ATTACHMENT B

# Federal Communications Commission

## LOW POWER TELEVISION BROADCAST STATION CONSTRUCTION PERMIT

**Licensee/Permittee**

CASEY C. PETERSON  
8588 Dreamscape Rd  
RAPID CITY, SD, 57701

**Call Sign File Number**

NEW BNPDTL-20090825AWE

Facility ID: 182499

NTSC TSID:

Digital TSID:

<b>Grant Date</b> 04/09/2020	<b>Expiration Date</b> 04/08/2023	
<b>Hours of Operation</b> Unlimited		
<b>Station Location</b> City SIOUX FALLS State SD	<b>Frequency (MHz)</b> 488.0 - 494.0	<b>Station Channel</b> 17

<b>Antenna Structure Registration Number</b> 1051548	
<b>Transmitter</b> Type Accepted. See Sections 74.750 of the Commission's Rules.	<b>Transmitter Output Power(kW)</b> As required to achieve authorized ERP.
<b>Antenna Coordinates</b> Latitude 42-42-15.0 N Longitude 89-59-42.0 W	<b>Antenna Type</b> Non-Directional
<b>Description of Antenna</b> Make JAM Model JA/LS-OM-16	<b>Major Lobe Directions</b> N/A
<b>Antenna Beam Tilt (Degrees Electrical)</b> Not Applicable	<b>Antenna Beam Tilt (Degrees Mechanical @ Degrees Azimuth)</b> Not Applicable

<b>Maximum Effective Radiated Power (Average)</b> 3 kW 4.77 DBK	
<b>Height of Radiated Center Above Ground (Meters)</b> 50	<b>Height of Radiated Center Above Mean Sea Level (Meters)</b> 373.7
<b>Out-Of-Channel Emission Mask</b> Full Service	<b>Overall Height of Antenna Structure Above Ground (Meters)</b> See the registration for this antenna structure.

### Waivers/Special Conditions

- This authorization is subject to the condition that low power television is a secondary service, and that low power television and television translator stations must not cause interference to the reception of existing or future full service television stations on either allotted NTSC or DTV channels, and must accept interference from such stations.

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

# ATTACHMENT C



# Licensing and Management System

Approved by OMB (Office of Management and Budget) 3060-0031  
March 2019

## Notification of Consummation

[Reference Copy](#)

[FAQ](#)

File Number: 0000194142 | Submit Date: 06/29/2022 | Lead Call Sign: **NEW** | FRN: 0028087013  
Service: **Low Power Digital TV** | Purpose: **Notification of Consummation** | Status: **Accepted** | Status Date: 06/29/2022 | Filing Status: **Active**

### Application Sections

### General Information

[General Information](#)

[Applicant Information](#)

[Contact Representatives Information](#)

[Consummation Notification Details](#)

[Certification](#)

[Attachments](#)

Section	Question	Response
Attachments	Are attachments (other than associated schedules) being filed with this application?	No

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### Applicant Information

#### Applicant Name, Type, and Contact Information

Applicant	Address	Phone	Email	Applicant Type
CASEY C. PETERSON Applicant Doing Business As: CASEY C. PETERSON	8588 Dreamscape Rd RAPID CITY, SD 57701 United States	+1 (605) 348-1930	CASEY@CASEYPETERSON.COM	Other

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### Contact Representatives Information (1)

Contact Name	Address	Phone	Email	Contact Type
John Kyle CONSULTANT King Forward, Inc.	John Kyle 1671 NW 144th Ter Sunrise, FL 33323 United States	+1 (954) 646-9456	johnnk@bellsouth.net	Consultant

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### Consummation Notification Details

#### Details

Date of Consummation	FRN of Licensee Post-consummation
2022-06-29	0028087013

Consummate the Following Authorizations:



Select all the authorizations in the table below that will **not** be consummated

Call Sign	Facility ID	File Number	Will Not Consummate
NEW	182499	0000190456	

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## Certification

Section	Question	Response
Authorized Party to Sign	<p>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, §1001) AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, §312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, §503).</p> <p>I declare, under penalty of perjury, that I am an authorized representative of the above-named applicant for the Authorization(s) specified above.</p>	<p>Casey Peterson</p> <p>06/29/2022</p>

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## Attachments

Information not provided.

 [Submit a help request for assistance or contact \(877\) 480-3201 or TTY: \(717\) 338-2824](#) | [Pay Fees](#)

Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

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# ATTACHMENT D

### **DECLARATION**

Matthew Davidge, Chief Financial Officer of Roseland Broadcasting, Inc. ("Roseland"), hereby states, under penalty of perjury, the following:

Roseland acquired construction permit File No. 0000194142 on June 29, 2022. It would not have acquired that permit had it been aware that it could not move to a site closer to Madison, Wisconsin. In this regard, Roseland intended to broadcast Hispanic programming, and, thus, there was no way that the station was viable with the minimal Hispanic audience which would be present from the construction permit site. Not knowing that there would be a problem, upon acquisition of the permit, Roseland entered into a lease at a new site. Moreover, it also acquired a transmitter and an antenna to effectuate the move to the new site.

It should also be noted that attempts have been made to communicate with the owner of the construction permit site, but those attempts were unsuccessful.

In addition, due to Internet access problems at the current construction permit site, there are significant problems relative to its use.

The current modification would allow Roseland to broadcast to an Hispanic population of 35,232 persons versus the original construction permit site, which would allow Roseland to broadcast to an Hispanic population of only 680 persons.

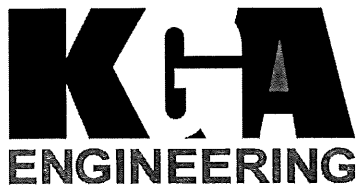
Upon grant of the modification, Roseland is prepared to immediately and expeditiously construct the facility.

Matthew Davidge

Matthew Davidge

Dated: March 10, 2023

# ATTACHMENT E



**Kessler and Gehman Associates**  
Consultants • Broadcast • Wireless

# MINOR MODIFICATION TO A PENDING DIGITAL LPTV APPLICATION

CALL SIGN: K1700-D  
FCC File No.: 0000201121  
FACILITY ID: 182499  
LOCATION: Sioux Falls, SD

## **Prepared For:**

Roseland Broadcasting, Inc.  
888c 8th Avenue  
Suite 733  
New York, NY 10019

## **Prepared By:**

Ryan Wilhour  
Consulting Engineer  
Kessler and Gehman Associates  
507 NW 60<sup>th</sup> Street, Suite D  
Gainesville, FL 32607-2055  
352-332-3157 Extension 3  
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March 7, 2023

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## **1.0 EXECUTIVE SUMMARY**

Roseland Broadcasting, Inc. is the licensee of a digital low power television broadcast station having call sign K1700-D. K1700-D has a construction permit<sup>1</sup> and a pending application<sup>2</sup>. It is proposed to amend the pending application to:

- replace the CL-1469B directional antenna with a Kathrein 78010325
- change the relative field pattern values,
- change the antenna rotation from 150 to 355
- increase the ERP from 0.05kW to 4.7kW,
- change the polarization from horizontal to elliptical,

No other changes are proposed.

## **2.0 MINOR MODIFICATION CLASSIFICATION**

Pursuant to § 74.787(b) the proposed changes in Section 1.0 are considered “minor” since there is there is

- no change in frequency output proposed,
- no change in location where the protected contour resulting from the change does not overlap some portion of the protected contour of the authorized facility of the existing station,
- or no change in transmitting antenna location greater than 30 miles (48 kilometers) from the reference coordinates of the existing station's antenna location.

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<sup>1</sup> FCC File No.: BNPDTL-20090825AWE

<sup>2</sup> FCC File No.: 0000201121

**3.0 STATION TRANSMITTER LOCATION AND REQUEST FOR WAIVER**

During the 2009-2010 rural translator filing window<sup>3</sup> the FCC accepted an application<sup>4</sup> for an original construction permit for a facility located at NAD83 coordinates 43° 27' 28.0" North Latitude and 96° 40' 15.0" West Longitude and was later amended and granted a construction permit at NAD83 site coordinates 42° 42' 15.0" North Latitude and 089° 59' 42.0" West Longitude. The amended application was filed as a "minor" modification; however, it proposed a 340.7 mile (548.2 km) site change and was erroneously granted a construction permit by the Commission in clear violation of § 74.787(b) which allows a site change up to 48km. The granted permit is also 64.4km from the reference coordinates of Madison, WI which is a violation of the 121km distance restriction as specified in Appendix A of the rural translator public notice.

The instant applicant assumed transfer of control of K1700-D after the construction permit was granted. The applicant was not aware that the facility was subject to the rural filing window site restrictions since the facility is well within 121km of Madison, WI with a long-standing construction permit; furthermore, there seems to be no official record of stations subject to the rural translator filing window restrictions to reference. The applicant assumed control of K1700-D with the intent of filing a minor modification compliant with § 74.787(b) specifically to provide programming to Hispanic populations in Madison, WI. The construction permit and herein proposed modification application serves 1,333 and 17,770 Hispanic populations respectively according to 2010 census data. Since the Commission granted a construction permit in significant violation of § 74.787(b) and in violation of the 2009-2010 rural translator filing window rural guidelines and the instant application is requesting a minor modification with a *de minimis* site change to provide a significant Hispanic population coverage gain, it is respectfully requested to waive the 2009-2010

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<sup>3</sup> DA 09-1487 Released June 29, 2009

<sup>4</sup> FCC File No.: BNPDTL-20090825AWE



rural translator filing window rural site location guideline and grant the instant application.

#### **4.0 ALLOCATION ANALYSIS**

Appendix A are the summarized results from TVStudy V2.2.5 which illustrate that there are no interference failures to other facilities.

#### **5.0 RADIO FREQUENCY RADIATION (RFR) COMPLIANCE.**

A theoretical analysis has been conducted of the human exposure to radio frequency radiation ("RFR") using the calculation methodology described in OET Bulletin 65, Edition 97-01. The RFR analysis is conducted pursuant to the following methodology:

Terrain extraction is compiled from the support structure site, if the support structure is on a rooftop with no higher elevations (e.g., elevator shaft) then flat terrain is compiled. Terrain is extracted using radial lengths of 0.25 miles in 0.001-mile increments for 360 radials. The power density is calculated for each terrain point at 6 feet above ground level using the elevation and azimuth pattern of the proposed broadcast antenna. The power density calculations are conducted using the lower edge of the proposed channel frequency. To account for ground reflections, a coefficient of 1.6 was included in the calculation.

The resulting cylindrical polar analysis is then summarized into a coordinate plane graph using the following methodology:

Starting from the origin the maximum calculated RFR value is determined among the 360-degree radials for each 0.001-mile increment, the value is then converted into a percentage of the maximum allowable general

population or uncontrolled exposure and plotted as a function of perpendicular distance from the tower.

The resulting RFR study in Appendix C demonstrates that the peak exposure is 94.7% of the most restrictive permissible exposure threshold and there are no other sources of RF to consider. The instant application is compliant with the FCC limits for human exposure to RF radiation and thus is excluded from further environmental processing.

## **6.0 CERTIFICATION**

The foregoing statement and the report regarding the engineering work are true and correct to the best of my knowledge. Executed March 7, 2023.

Kessler and Gehman Associates, Inc.



Ryan Wilhour  
Consulting Engineer

## K1700-D – Construction Permit Minor Modification

Sioux Falls, SD

### APPENDIX A – TVStudy V2.2.5 Allocation Analysis

Study created: 2023.03.06 07:47:51

Study build station data: LMS TV 2023-03-05

Proposal: NEW D17 LD APP SIOUX FALLS, SD  
File number: BLANK0000201121  
Facility ID: 182499  
Station data: User record  
Record ID: 1238  
Country: U.S.

Build options:  
Protect pre-transition records not on baseline channel

Search options:  
Non-U.S. records included

Stations potentially affected by proposal:

IX	Call	Chan	Svc	Status	City, State	File Number	Distance
No	WTVO	D16	DT	LIC	ROCKFORD, IL	BLCDT20021024AAS	92.3 km
No	W16DU-D	D16	LD	LIC	BLOOMINGTON, WI	BLANK0000062263	99.7
No	WYTU-LD	D16	LD	LIC	MILWAUKEE, WI	BLANK0000084618	146.5
No	K17MH-D	D17	LD	LIC	CEDAR FALLS, IA	BLANK0000177243	253.0
No	KWQC-TV	D17	DT	LIC	DAVENPORT, IA	BLANK0000097891	173.8
No	KDIT-CD	D17-	DC	LIC	Des Moines, IA	BLANK0000199021	344.7
No	KDIT-LD	D17	LD	LIC	FORT DODGE, IA	BLANK0000176977	363.4
No	WLCF-LD	D17	LD	LIC	DECATUR, IL	BLANK0000121247	347.4
No	W17EH-D	D17	LD	LIC	QUINCY, IL	BLANK0000169061	365.8
No	W17EH-D	D17	LD	CP	QUINCY, IL	BLANK0000185140	362.9
No	WYIN	D17	DT	CP	GARY, IN	BLANK0000210997	266.2
No	WYIN	D17	DT	LIC	GARY, IN	BLEDT20040206AAA	266.2
No	WPBI-LD	D17	LD	LIC	LAFAYETTE, IN	BLANK0000088160	375.5
No	WOTV	D17	DT	LIC	BATTLE CREEK, MI	BLANK0000141782	350.8
No	WMNN-LD	D17	LD	LIC	LAKE CITY, MI	BLANK0000118076	380.4
No	K17MX-D	D17	LD	LIC	FROST, MN	BLANK0000062750	345.7
No	KMWE-LD	D17	LD	APP	SAINT CLOUD, MN	BLANK0000203353	344.4
No	KMWE-LD	D17	LD	LIC	SAINT CLOUD, MN	BLANK0000163947	390.5
No	WEAU	D17	DT	LIC	EAU CLAIRE, WI	BLANK0000120880	208.7
No	WGBD-LD	D17	LD	LIC	GREEN BAY, WI	BLANK0000068358	209.0
No	WBME-CD	D17	DC	LIC	MILWAUKEE, WI	BLANK0000086894	146.5
No	W17DZ-D	D17	LD	LIC	SISTER BAY, WI	BLANK0000086983	325.0
No	KYIN	D18	DT	LIC	MASON CITY, IA	BLEDT20090612AHJ	246.7
No	KRIN	D18	LD	APP	WATERLOO, IA	BDRTEDT20120604AFO	90.8
No	WMEU-CD	D18	DC	LIC	CHICAGO, IL	BLANK0000086889	212.7
No	WMEU-CD	D18	DC	CP	CHICAGO, IL	BLANK0000196962	212.3
No	DWMKB-LP	D18z	LD	APP	Rochelle, IL	BLANK0000054707	120.6
No	WLUK-TV	D18	DT	LIC	GREEN BAY, WI	BLANK0000199689	209.0
No	WMSN-TV	D18	DT	LIC	MADISON, WI	BLANK0000113879	16.6

No non-directional AM stations found within 0.8 km

No directional AM stations found within 3.2 km

Record parameters as studied:

Channel: D17  
Mask: Full Service  
Latitude: 43 0 33.90 N (NAD83)  
Longitude: 89 43 45.30 W  
Height AMSL: 381.0 m (Adjusted based on actual ground elevation calculation)  
HAAT: 65.1 m  
Peak ERP: 4.70 kW  
Antenna: Kathrein 75010325 355.0 deg  
Elev Pattn: Generic

49.0 dBu contour:

## K1700-D – Construction Permit Minor Modification

Sioux Falls, SD

Azimuth	ERP	HAAT	Distance
0.0 deg	0.022 kW	82.2 m	11.9 km
45.0	1.12	61.5	26.8
90.0	4.52	69.7	34.9
135.0	0.596	78.2	26.0
180.0	0.010	50.6	7.7
225.0	0.000	69.3	4.2
270.0	0.000	14.7	1.7
315.0	0.001	95.2	6.5

Distance to Canadian border: 546.5 km

Distance to Mexican border: 1800.5 km

Conditions at FCC monitoring station: Allegan MI  
Bearing: 97.0 degrees Distance: 310.9 km

Proposal is not within the West Virginia quiet zone area

Conditions at Table Mountain receiving zone:  
Bearing: 261.4 degrees Distance: 1324.8 km

No land mobile station failures found

Proposal is not within the Offshore Radio Service protected area

Study cell size: 1.00 km  
Profile point spacing: 1.00 km

Maximum new IX to full-service and Class A: 0.50%  
Maximum new IX to LPTV: 2.00%

---- Below is IX received by proposal BLANK0000201121 ----

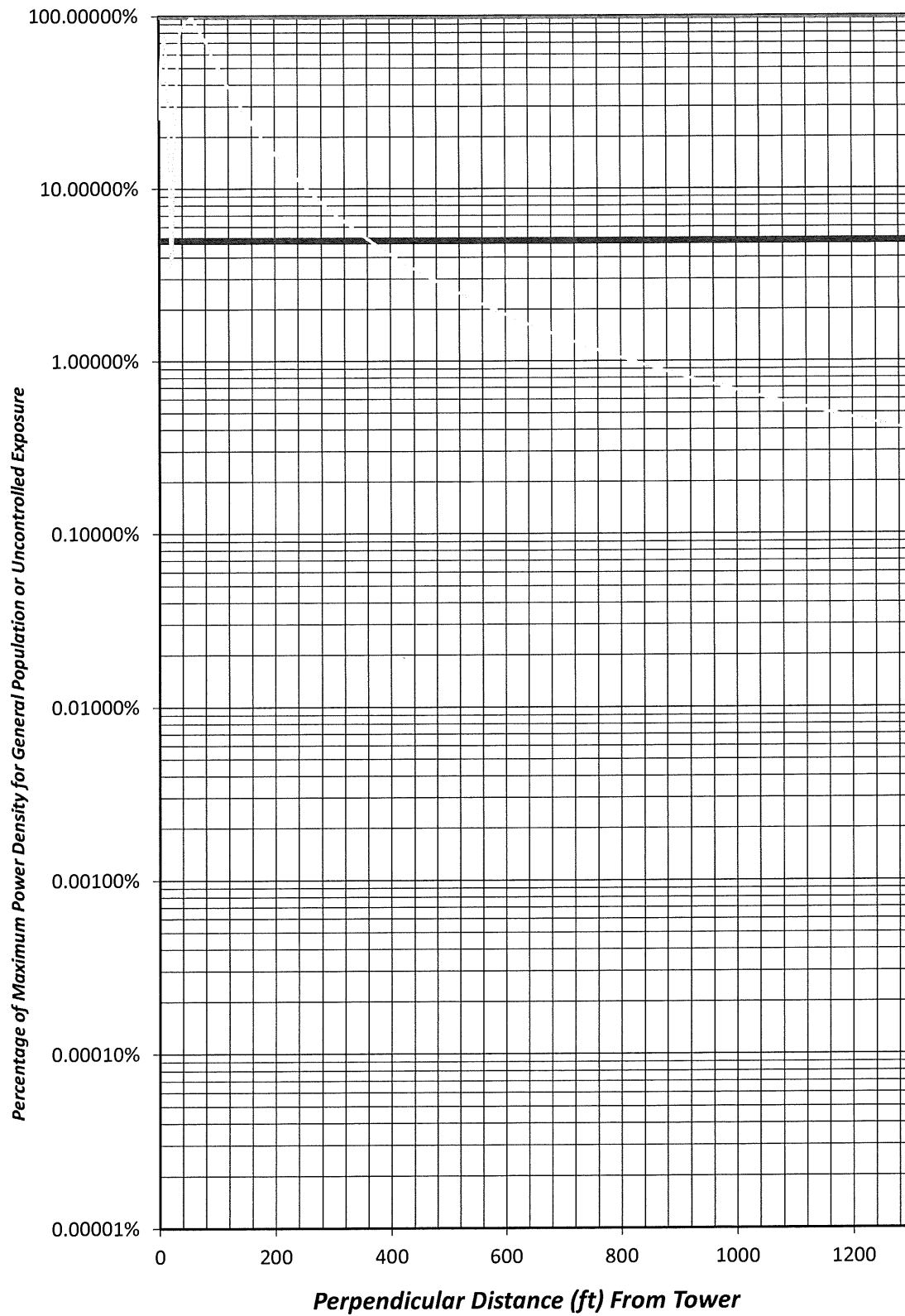
Proposal receives 67.50% interference from scenario 1  
Proposal receives 67.50% interference from scenario 2  
No IX check failures found.

**Legend**

- K1700 30mi (48km) Section 74.787(b)(1)(iii) Minor Modification Maximum Movement Radius
- K1700 Construction Permit 51 dBμV/m F(50,90) Contour
- K1700 Proposed 51 dBμV/m F(50,90) Contour
- K1700 Proposed Amended 51 dBμV/m F(50,90) Contour

The map displays the K1700 project area, centered on the K1700 Construction Permit site. It shows the 30mi (48km) maximum movement radius, the construction permit 51 dBμV/m F(50,90) contour, and the proposed 51 dBμV/m F(50,90) contour. The map includes various geographical features, roads, and nearby towns. Key locations include Dodgeville, Mineral Point, Darlington, Shullsburg, Warren, Stockton, Freeport, and Madison. The map also shows the K1700 Proposed Amended 51 dBμV/m F(50,90) Contour and the K1700 Construction Permit site. The map is titled "K1700 Project Area" and includes a legend, a north arrow, and a scale bar.

APPENDIX C – Far Field Exposure to RF Emissions



# ATTACHMENT F



Federal Communications Commission  
Washington, D.C. 20554

April 26, 2019

Venture Technologies Group, LLC  
5670 Wilshire Blvd, Suite 1620  
Los Angeles, CA 90036

RE: W34DI-D, New York, NY  
W25FA-D, West Orange, NY  
WNJJ-LD, New York, NY  
Applications for Construction Permit  
LMS File Nos. 0000054804, 0000054811  
and 0000054813  
Fac. ID Nos. 127812, 130475 and 167314

Dear Applicant:

This concerns the above-referenced low power television (LPTV) displacement applications filed by Venture Technologies Group, LLC (Venture), licensee of W34DI-D, New York, New York; W25FA-D, West Orange, New York; and WNJJ-LD, New York, New York (Stations). New York Spectrum Holding Company, LLC (NYSH) filed informal objections (NYSH Objections) to the W25FA-D and WNJJ-LD applications and K Licensee, Inc. (KLI) filed an informal objection (KLI Objection) to the W34DI-D application.<sup>1</sup> For the reasons set forth, we deny the informal objections.

*Background.* The Stations were displaced as a result of the incentive auction and repacking process and Venture submitted the above-referenced applications in the Commission's post-incentive auction special displacement application filing window (Special Displacement Window).<sup>2</sup> Venture's displacement applications for W34DI-D and WNJJ-LD were deemed mutually exclusive and placed into MX Group 51 in Auction 104 along with NYSH's displacement application for WYXN-LD, New York, New York, and KLI's displacement application for W26DC-D, New York, New York.<sup>3</sup> Venture's displacement application for W25FA-D was deemed mutually exclusive and placed into MX Group 90 in Auction 104 along with NYSH's displacement application for WXNY-LD, New York, New York.<sup>4</sup>

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<sup>1</sup> We shall refer to these two parties collectively as the Objectors. Also before us are Venture's consolidated opposition to all three informal objections (Venture Consolidated Opposition) and NYSH's separate replies (NYSH Replies).

<sup>2</sup> See *Incentive Auction Task Force and Media Bureau Announce Post Incentive Auction Special Displacement Window April 10, 2018, Through May 15, 2018, and Make Location and Channel Data Available*, Public Notice, 33 FCC Rcd 1234 (IATF/MB 2018) (*Special Displacement Window PN*); *Incentive Auction Task Force and Media Bureau Extend Post Incentive Auction Special Displacement Window Through June 1, 2018*, Public Notice, 33 FCC Rcd 3794 (IATF/MB 2018).

<sup>3</sup> See *Auction of Construction Permits For Low Power Television and TV Translator Stations Schedule For September 10, 2019*, Public Notice, DA 19-229 (rel. March 29, 2019). KLI subsequently requested that its application be dismissed and they are no longer a part of MX Group 51. We will, however, consider the matters raised in their objection.

<sup>4</sup> *Id.*



Objectors oppose Venture's applications on similar grounds. They argue that Venture's applications fail to comply with the limit for transmitter site changes contained in Section 73.787(a)(4) of the rules.<sup>5</sup> That rule provides that digital stations may propose a change in transmitter site of not more than 48 kilometers from the reference coordinates of the existing station's community of license.<sup>6</sup> Although the transmitter sites for each of Venture's proposed displacement facilities comply with the 48-kilometer limit, Objectors argue that the proposed facilities are greater than 48 kilometers from the communities of license specified in each Stations' original analog construction permit.<sup>7</sup>

Objectors also argue that the applications do not comply with limits imposed in the *LPTV Filing Window PN*.<sup>8</sup> They point out that the Commission restricted applications filed in the window to locations more than 121 km (75 miles) from the reference coordinates of the cities listed in an attachment to the public notice. Objectors note that, for each of the Stations, Venture requested a waiver of this limit arguing that the proposed community of license is terrain shielded from cities listed in attachment and does not directly receive a television signal from any full-power station in these applicable cities. The Media Bureau granted the waivers and issued a construction permit for each of the Stations. The construction permits were subject to the condition that any future modifications to the construction permit would not result in a relocation within 121 km of the cities specified in the public notice. Objectors argue that allowing Venture to further relocate its transmitter sites would eviscerate the waivers granted when the Stations were first authorized.<sup>9</sup>

Venture responds that each of its displacement applications complies with the plain language of Section 74.787(a)(4) of the rules.<sup>10</sup> Venture maintains that W25FA-D and W34DI-D are licensed to West Orange, New Jersey, and their proposed transmitter sites are located within 48 kilometers of West Orange, while WNJJ-LD is licensed to Paterson, New Jersey, and its proposed transmitter site is located within 48 kilometers of Paterson.<sup>11</sup> Venture argues that the Objectors are asking that the Commission adopt a new rule that would arbitrarily prevent a displaced station from moving more than 48 kilometers in the aggregate since its initial construction permit.<sup>12</sup> Venture notes that it has operated each of the Stations from the permanent facilities proposed in its respective construction permit and license applications for an extended period of time—more than five years for W25DA, more than two years for WNJJ, and more than 20 months for W34DI—before making any technical changes.<sup>13</sup>

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<sup>5</sup> NYSH Objections at 2-3 and KLI Objection at 4-5.

<sup>6</sup> See 47 CFR § 74.787(a)(4).

<sup>7</sup> NYSH Objections at 2-3 and KLI Objection at 4-5. Objectors cite to the decision in *DTV America Corporation*, 32 FCC Rcd 9129 (MB 2017) where the Media Bureau found that an LPTV licensee had engaged in a pattern of repeated station moves in order to circumvent certain of the Commission's geographic filing limitations.

<sup>8</sup> NYSH Objections at 4 and KLI Objection at 2.

<sup>9</sup> *Id.*

<sup>10</sup> Venture Consolidated Opposition at 9.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 10-11.

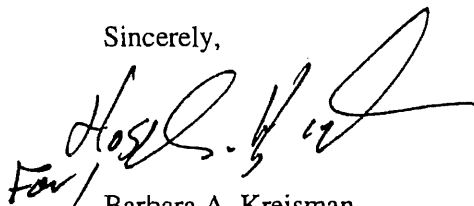
As for Objectors' arguments concerning the 2000 LPTV filing window, Venture responds that there is no basis to extend the geographic restriction that applied to applications filed in that window to the instant displacement applications.<sup>14</sup> Venture argues that the filing restriction applied only the applications filed during the window and to any subsequent modifications to the construction permits obtained through that window.<sup>15</sup> Venture argues that the geographic restrictions applicable to the Stations were satisfied when licenses were granted for the facilities proposed in the 2000 LPTV filing window.<sup>16</sup> Accordingly, Venture concludes, it was under no obligation to comply with the conditions on its original construction permits when it filed the instant displacement applications.<sup>17</sup>

*Discussion.* We conclude that Objectors have failed to demonstrate that Venture's displacement applications do not comply with the Commission's rules. Objectors' assertion that the applications failed to comply with the 48-kilometer geographic limitation for digital transmitter site moves is factually incorrect. All three applications propose changes to the Stations' transmitter sites that are within 48 kilometers of the communities of license of the Station's current licensed facilities, as required by Section 74.787(a)(4) of the rules.

Furthermore, the condition originally imposed in conjunction with the 2000 LPTV filing window that any future modifications to the construction permit not result in a relocation within 121 kilometers of the cities listed in the *LPTV Filing Window PN* applied only to future modifications of construction permits obtained through that window.<sup>18</sup> Once constructed and licensed, the filing limitation no longer applied. As Venture is seeking to modify its licensed digital facilities, the conditions imposed on its original analog construction permits is no longer binding.

Accordingly, for the foregoing reasons, the Informal Objections filed by New York Spectrum Holding Company, LLC and K Licensee, Inc. **ARE DENIED**. Venture's applications remain mutually exclusive and will be resolved in Auction 104.

Sincerely,

  
For / Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Ari S. Meltzer, Esq. – Counsel for Venture  
Peter Tannenwald, Esq. – Counsel for NYSH  
Melodie A. Virtue, Esq. – Counsel for KLI

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<sup>14</sup> *Id.* at 11.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> This is demonstrated by the fact that when Venture attempted to modify the construction permits obtained during the window, it was required by the Media Bureau to once again request waiver of the filing limitation.