

WITHERS BROADCASTING COMPANY OF WEST VIRGINIA
WDTV(DT), WESTON, WV
ENGINEERING STA REQUEST
EXHIBIT NO. 21

WDTV, Weston, West Virginia ("Station WDTV") respectfully submits this request for a Special Temporary Authority ("STA"), to operate with a power level higher than currently authorized by the FCC. Station WDTV respectfully requests authorization to operate with an effective radiated power ("ERP") of 39 kW. Although this power level would exceed the benchmark power level established by Section 73.622(f) of the Commission's rules (47 C.F.R. § 73.622(f)), grant of the requested relief would be in the public interest and consistent with the Commission's rules as well as recent FCC actions granting similar STA requests for, among others, WCYB-TV in Bristol, Virginia (File No. BDSTA-20090708AGZ, granted July 15, 2009) and WPVI-TV in Philadelphia, Pennsylvania (File No. BLDSTA-20090619ABQ, granted June 19, 2009).

Since the June 12, 2009 sign-off of analog service on Channel 5 and the substitution of the digital facility constructed in its place on Channel 5, the Station has received numerous reports from viewers of reception problems with respect to the Station's digital signal. WDTV station management estimates that WDTV has been receiving between 2 and 5 telephone calls per day on this issue, and from between 5 to 10 e-mails per month. WDTV's 12 county "DMA" market is estimated by the Nielsen organization to have roughly 110,050 television households. WDTV has received anecdotal evidence from a local cable television operator and a direct broadcast satellite operator that its digital signal cannot be received in areas which once satisfactorily received WDTV's analog signal.

Approximately 4.6 percent of the television households in WDTV's DMA rely on over-the-air television signals (Source: TVB Research Center, Market Watch, July, 2009, <http://www.tvb.org/rcentral/markettrack/archivebymarket.asp?marketid=41>). This is a significant percentage and one that is at risk of losing critical and timely emergency information and news from the Station. WDTV serves a hilly, and, to the east, low mountainous area in north central West Virginia.

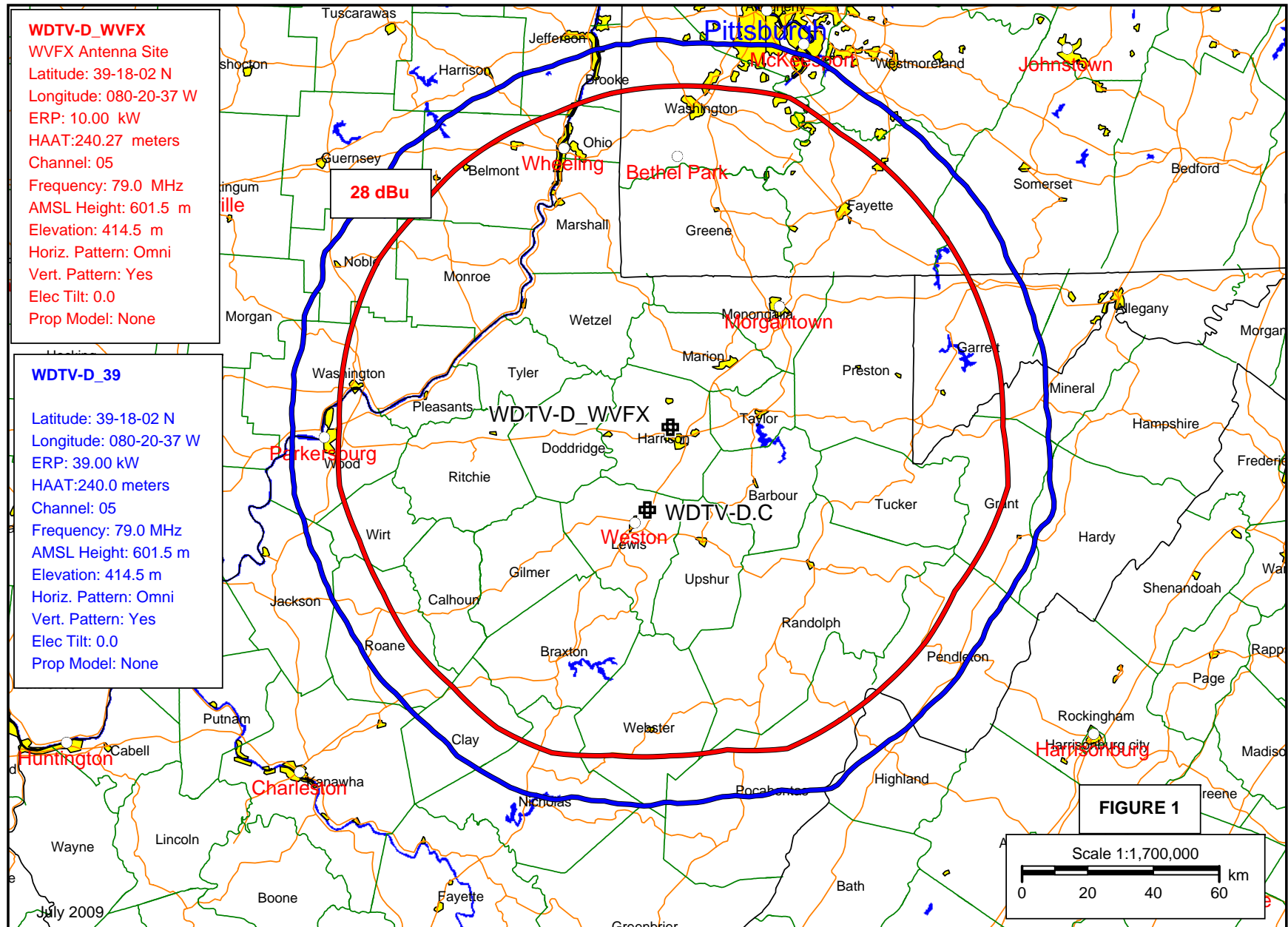
WDTV seeks authorization to operate with an effective radiated power ("ERP") of 39 kW. The Station's consulting engineer, Robert Guill of Khanna and Guill, Inc., has advised that no lower power level would suffice to provide adequate digital television service to the Station's viewers. Mr. Guill also advises that **WDTV operating at 39 kW meets the FCC interference guidelines to all stations and including WCYB-TV's STA operations with ERP of 29.9 kW**. A map prepared by Mr. Guill showing the present and proposed coverage contours of the WDTV digital operation is attached.

A rule waiver "is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule." *Douglas-Omaha Tech. Comm'n*, 21 FCC Rcd 9277 at para. 5. See also *WAIT*

Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969); 47 C.F.R. § 1.3 (providing for waiver of FCC rules “for good cause shown”).

WDTV submits that special circumstances are present here which warrant a deviation from the power limit specified in § 73.622(f). This is because WDTV’s actual coverage is severely limited due to the unique characteristics of the VHF spectrum. WDTV believes that increased power would enable it to overcome the significant coverage difficulties described above and provide a more robust digital television signal to the public. Second, strict adherence to § 73.622(f) would deprive a significant number of viewers of the free, over-the-air television service that they used to receive. The FCC has recognized that “it is a priority of the Commission that all Americans continue to receive the television broadcast service that they are accustomed to receiving following the digital transition.” *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations, Notice of Proposed Rulemaking*, 23 FCC Rcd 18534, at para. 3 (2009)

Therefore, Withers Broadcasting Company of West Virginia urges that a waiver of Section 73.622(f) of the FCC’s Rules would serve the public interest, convenience and necessity and that the FCC grant the requested Special Temporary Authorization



Computed 28 dBu Contours For WDTV-DT Weston, West Virginia At WVFX Antenna Site