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**SONSHINE FAMILY TELEVISION CORPORATION**

**LICENSEE OF WBPH-DT**

**DTV CHANNEL 9**

**BETHLEHEM, PENNSYLVANIA**

**FAC ID# 60850**

**FCC FILE # BPCDT-20080619ALA**

**APPLICATION FOR A MINOR AMENDMENT TO A PENDING  
APPLICATION TO FURTHER INCREASE POWER AND CHANGE  
DIRECTIONAL ANTENNA**

**EXHIBIT 45 - WAIVER REQUEST WITH REGARD TO 73.622(f)(7) AND  
REQUEST FOR PROCESSING UNDER 73.625(f)(5)**

**October 2, 2008**

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**EXHIBIT 45**

**WAIVER OF 73.622(f)(7) AND REQUEST FOR PROCESSING UNDER 73.622(f)(5)**

**WAIVER OF 73.622(f)(7) IF REQUIRED**

73.622(f)(7) limits the maximum power permitted in Zone 1 on channels 7-13 to 30 kW at 305 meters HAAT or less. However, we request processing under 73.622(f)(5) which applies in the instant case. We do not believe a waiver of 73.622(f)(7) is required in this case but if the Commission determines that a waiver is required, we hereby request said waiver and a waiver of any other rule the Commission deems necessary.

73.622(f)(5) states:

(5) Licensees and permittees assigned a DTV channel in the initial DTV Table of Allotments may request an increase in either ERP in some azimuthal direction or antenna HAAT, or both, that exceed the initial technical facilities specified for the allotment in Appendix B of the Memorandum Opinion and Order (referenced in paragraph (c) of this section), up to the maximum permissible limits on DTV power and antenna height set forth in paragraph (f)(6), (f)(7), or (f)(8) of this section, as appropriate, or up to that needed to provide the same geographic coverage area as the largest station within their market, whichever would allow the largest service area. Such requests must be accompanied by a technical showing that the increase complies with the technical

criteria in Sec. 73.623(c), and thereby will not result in new interference exceeding the de-minimis standard set forth in that section, or statements agreeing to the change from any co-channel or adjacent channel stations that might be affected by potential new interference, in accordance with Sec. 73.623(f). In the case where a DTV station has been granted authority to construct pursuant to Sec. 73.623(c), and its authorized coverage area extends in any azimuthal direction beyond the DTV coverage area determined for the DTV allotment reference facilities, then the authorized DTV facilities are to be used in addition to the assumed facilities of the initial DTV allotment to determine protection from new DTV allotments pursuant to Sec. 73.623(d) and from subsequent DTV applications filed pursuant to Sec. 73.623(c). The provisions of this paragraph regarding increases in the ERP or antenna height of DTV stations on channels in the initial DTV Table of Allotments shall also apply in cases where the licensee or permittee seeks to change the station's channel as well as alter its ERP and antenna HAAT. Licensees and permittees are advised that where a channel change is requested, it may, in fact, be necessary in specific cases for the station to operate with reduced power, a lower antenna, or a directional antenna to avoid causing new interference to another station. (Emphasis added).

WBPH-DT is located in the Philadelphia, PA ADI. WBPH-DT was assigned a digital channel (Channel 59) in the initial Table of Allotments and thus is qualified under the provisions of 73.622(f)(5)<sup>1</sup>. An engineering study is included in Exhibit 44 showing that the proposed operation of WBPH-DT at 89 kW will not cause impermissible interference to any other facility as required by 73.623(c). A review of existing DTV licensees and granted Construction Permits has shown that WPVI-DT is the largest station in the Philadelphia television market. WPVI, Channel 6 DTV, returning to its analog channel on February 18, 2009, is authorized an ERP of 7.56 kW at 332 meters HAAT (File No. BPCDT-20080208ADW). The current WPVI-DT Construction Permit has a 28 dBu F(50,90) service area of 35,290.7 square kilometers. WBPH-DT, operating on Channel 9 with 30 kW (DA) covers an area of 30,246.9 square kilometers within its protected service contour. With the facilities proposed herein, the WBPH-DT,

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<sup>1</sup> The undersigned is aware of at least one precedent for this request, and there may be others. See grant of application of WHRE-DT, Facility ID#82574, Virginia Beach, VA, Zone 1, BMPCDT-20080821ADP, granted on June 25, 2008.

Channel 9, 36 dBu F(50,90) service area is 33,478.8 square km, still not up to that of WPVI-DT but the WBPH-DT proposed 89 kW, HAAT, and directional antenna is the maximum possible and still comply with the requirements of 73.623(c). Thus the facilities proposed are the “best fit” with respect to 73.622(f)(5).