

AMENDMENT

FACTS IN SUPPORT OF CONTOUR EXTENSION WAIVER

NBC Telemundo License Co. ("Telemundo"), licensee of Telemundo affiliate KNSO-DT, Merced, California (the "Station"), submits this amendment in further justification of a waiver of Section 73.622(f)(5) and prompt grant of the Station's maximization application, which is projected to (1) encompass approximately 400 persons who are not within any other station's projected noise-limited contour without the creation of any new interference and (2) reduce predicted interference to an existing Class A station. See FCC File No. BMPCDT-20080620ADF (the "Application").

On June 20, 2008, Telemundo submitted the Application in order to enhance the Station's service area. The facilities proposed in the Application offer multiple public interest benefits:

- The Station's digital noise-limited contour, as proposed in the Application, would encompass approximately 400 persons who are not within any other station's projected noise-limited contour. See Attachment 1.
- The digital facility proposed in the Application will not cause any new interference and will reduce existing projected interference. Compared to the Station's Appendix B facility, the Application is projected to reduce interference by 15 percent with respect to Class A Station K12OZ - without reducing the Station's projected coverage - by reducing the effective power and increasing the height of the proposed facility. The Appendix B facility is predicted to cause interference to 157,355 people in the K12OZ service area, compared with only 122,434 for the proposed facility.
- The Application will enable the Station to use a non-directional antenna to serve the entire Appendix B population of the Station, which will expedite construction and facilitate maintenance, consistent with past Commission pronouncements. See, e.g., 47 C.F.R. § 73.685(b). ("To provide the best degree of service to an area, it is usually preferable to use a high antenna rather than a low antenna with increased transmitter power [I]t is generally preferable to choose a site where a nondirectional antenna may be employed.") A rejection of the Application or other requirement that the Station's projected contour remain entirely within the Station's current contour also would obligate the Station to design and install a far more complicated directional antenna in order to maintain digital service to as many viewers as possible.

Against these public interest benefits, the Application proposes a very slight extension of its projected contour. Because the parameters of the Station's Appendix B facility were beyond the standard height and power level for the Station's market in order to match the Station's current digital operation on Channel 5, any practical antenna design that requires the Station not to exceed its current projected contour anywhere pursuant to an inflexible

reading of Section 73.622(f)(5) of the Commission's Rules is very likely to reduce the Station's overall digital coverage. As the early DTV conversion in Wilmington demonstrated, such a reduction of over-the-air television coverage can result in public confusion and is generally not consistent with the public interest.

Faced with these unusual circumstances, the Application proposes a projected contour that is less than five kilometers except over the sparsely populated rural areas north and east of the transmitter site, between the 305 degree and 150 degree radials. As a general matter, Commission precedent authorizes the Bureau to accept a proposed modification that would result in an increase of no more than five miles - approximately 8 kilometers - from a Station's Appendix B projected contours if certain other conditions are met. See *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, MB Docket No. 07-91 (released Dec. 31, 2007) ("*Third Periodic Review*").

Although the relevant section of the *Third Periodic Review* does not specifically address Section 73.622(f)(5), the Application complies with the requirements specified for the "rapid approval of minor expansion applications" detailed in paragraph 151 of the *Third Periodic Review*, including:

Different Post-Transition Channel. The Station's post-transition digital channel is Channel 11; the Station's pre-transition digital channel is Channel 5.

Available Antenna. The Application will enable the Station to use an existing antenna from a commonly-owned station with no significant post-transition reduction in its analog service area.

Create Less than 0.5% New Interference. The Application creates no new interference and reduces interference to K12OZ.

In addition to satisfying each of the identified factors, the rationale for this modest extension is consistent with a number of the concerns addressed in the *Third Periodic Review*. See *id.* at ¶ 152. The Application will enable the Station to use an existing antenna (from a commonly owned station), which will conserve resources, reduce demand on equipment suppliers and the need to design new and complicated antennas, and protect existing viewers of the Station's current digital operations.

In light of these unique factors, the Application best serves the Commission's overall goal of maintaining digital service through its proposal to reduce power by 13 kilowatts and increase antenna height by 47 meters. Accordingly, Telemundo hereby requests that the Application (including any necessary waiver of Section 73.622(f)(5)) be granted.