

REQUEST FOR IMMEDIATE GRANT OF KAAL DTV MAXIMIZATION APPLICATION¹

To date, KAAL (an ABC Network affiliate) still has no authority to complete its DTV transition. Without prompt action, it will be forced to go dark on June 12, 2009. Pending before the Commission is the application of KAAL-TV, LLC for permanent DTV authority. (FCC File No. BPCDT-20080422AAE) Based upon the information provided below in this amendment, and in the attached Technical Statement, it should be granted immediately.

Summary

Grant of the KAAL application would be a public interest victory. As compared to its DTV Table of Allotments Appendix B allocation, KAAL's application proposal would serve tens of thousands more viewers. At the same time, almost no viewers would lose ABC broadcast service as compared to KAAL's current analog coverage.

KAAL's proposed DTV service would significantly improve its coverage in the eastern portion of its DMA, which is where the population is growing and would allow KAAL to site its permanent DTV antenna with, or near, all of the other DTV antennas serving the DMA. That alignment of antennas will permit viewers the ability to point their home antennas much more easily than is the case for analog service, in which KAAL's antenna is isolated from the analog signals of other market stations.

By adjusting its signal to the east and grouping with the other market stations, KAAL has the opportunity of increasing its viewership, and thereby, reversing its many years of financial losses. Granting its application would permit KAAL to compete more effectively in its market, supporting the chance to make it a healthier station able to survive and offer strong local service, including provision of local news, emergency announcements and coverage of weather emergencies.

Coverage

Technical Statement, Figure 1 displays the noise limited service contours of KAAL's DTV application proposal, its theoretical Appendix B coverage and its analog Grade B contour. Under its DTV application, KAAL would serve 564,613 persons as compared to 488,564 persons under Appendix B, an improvement of 76,049 persons. However, due to the laws of physics, by terminating its analog Channel 6 operation and converting to a digital Channel 36 operation, either KAAL digital signal would cover a smaller area. KAAL's analog Grade B contour covers 662,039 persons. Figure 2 shows these predicted populations.

In order to address public interest concerns about loss of ABC network broadcast service, KAAL has identified the ABC broadcast services to be provided by full power digital stations KSTP-DT, St. Paul, Minnesota and WOI-DT, Ames, Iowa, and also by three digital television translators rebroadcasting the signal of KSTP. They are: K43JE-D, K08OQ-D and K35IU-D.

¹ This Request is supported by a Technical Statement prepared by du Treil, Lundin & Rackley, Inc. and the Declaration of David Harbert, KAAL's General Manager.

In response to FCC staff concerns, KAAL will agree to construction of a new digital TV translator to serve the community of Garner, Iowa, and its vicinity, near Mason City, Iowa. As shown in Figure 2, the composite coverage of KAAL's digital proposed service, three existing translators and the proposed translator would be 748,817 persons. The composite coverage of the Appendix B digital service and the three existing translators would be 614,394 persons. Thus, under the application, 134,423 more persons would receive ABC coverage than under Appendix B. In addition, the proposed service would provide KAAL service for the first time to 4,529 persons within KAAL's DMA.²

It is unavoidable that transitioning KAAL's signal from Channel 6 to 36 results in a smaller coverage area. That inevitable loss of coverage is mitigated substantially by several factors. For example, the Commission has determined that the residents of several counties subject to some of the predicted KAAL loss area in fact receive KSTP and WOI over-the-air because those stations are significantly viewed in those counties.³ Thus, Le Sueur, Waseca and Blue Earth counties, Minnesota, with respect to KSTP, and Wright and Franklin counties, Iowa, with respect to WOI, would not experience ABC viewership loss due to grant of KAAL's DTV application. In addition, Nielsen Media determined that KAAL has no measurable viewership (0.0 viewership) in a number of counties, including Kossuth and Hancock counties, Iowa.⁴

Figure 3 is a coverage map which compares KAAL's analog Grade B contour to its noise limited contour under its DTV application, the noise limited contours of KSTP, WOI and the three TV translators, the noise limited contour of the TV translator to be constructed to serve near Mason City, Iowa, and the noise limited contours of other ABC affiliates in the region. Figure 4 shows the same contours, the county information described above, and shows the loss area as compared to KAAL's analog Channel 6 coverage. As shown there, if KAAL's DTV application is granted and implemented, 2,758 persons are predicted to lose ABC service. That represents about 0.4% of the population served by KAAL's analog signal. Under current DTV transition procedures, stations with coverage losses less than 2% do not have any additional local public notice requirements.

Moreover, that predicted loss is a "worst case" based upon very conservative consideration of translator coverage, relying on coverage with a minimum signal strength of 51 dBu. As shown in Figure 4A, if a signal strength of 41 dBu is used to predict translator coverage, which is the signal strength ordinarily applied to full power television stations, then there is no (zero) predicted ABC loss population for KAAL's proposed digital operation.

Figures 4 and 4A also show a gain in new ABC broadcast coverage under KAAL's proposed operation. Grant of the KAAL DTV application represents substantial gains in

² Technical Statement, p. 2.

³ See *Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004*, Report and Order, 20 FCC Rcd 17278, Appendix C (2005).

⁴ Declaration of David Harbert. These data were compiled by Nielsen over the July 2008 ratings period and are inclusive of the broadest possible measurement of viewing, the so-called sign on/sign off share of audience, measuring Sunday-Saturday, 7 a.m.- 1 a.m.

coverage in absolute terms and significant improvement within KAAL's DMA. As the coverage maps demonstrate, grant of the KAAL application would permit much improved service to the eastern portion of the DMA, which is the most populous and growing part of the DMA.

Summary of coverage:

Analog Grade B Contour: 662,039

Appendix B noise limited contour: 488,564

DTV Application noise limited contour: 564,613

(76,049 more persons served than Appendix B)

Composite Appendix B noise limited contour: 614,394

Composite DTV Application noise limited contour: 748,817

(134,423 more persons served than composite Appendix B)

Worst case predicted loss of ABC viewers: 2,758 (0.4% of current analog coverage)

Probable loss of ABC viewers: ZERO

Viewers in the DMA gaining KAAL for the first time: 4,529

Additional Public Interest Factors

KAAL is a television station which has been failing financially for many years, not as a matter of accounting, but actual cash losses each year for many years.⁵ The Appendix B operation would worsen that situation by continuing broadcast operations from the same site from which KAAL has been failing but with 173,475 fewer viewers than it has now, a 35% reduction in viewership with no realistic prospect for improvement.

The DTV application is KAAL's best effort to survive by significantly improving its coverage in the eastern part of the DMA, which is experiencing long-term population growth and improved prosperity.⁶ KAAL's proposed antenna site has enormous public interest advantages, including that it would allow KAAL to collocate on the same tower with the permanent digital operations of KXLT-DT, Rochester, Minnesota, and KSMQ-DT, Austin, Minnesota, resulting in the collocation on the same tower of three of the six full-power television stations (four commercial, two noncommercial) licensed within the DMA. Austin, Minnesota is the community of license for two full-power television stations, KAAL and KSMQ-DT.⁷ It serves the public interest to collocate both of Austin's stations on the same tower, both of them easily serve their community of license, and KAAL would have a larger area of digital coverage.

KTTC-DT, a fourth full-power station, has its permanent DTV antenna authorized for a tower only about 15 kilometers away from the tower to be used by KXLT-DT, KSMQ-DT and KAAL.⁸ The other two full-power stations within the market (KIMT-DT and KYIN-DT) have

⁵ Declaration of David Harbert. In addition, KAAL filed confidential information to that effect earlier with the Commission.

⁶ David of Harbert Declaration

⁷ KSMQ-DT was granted authority to use that site for its post-transition DTV operation on May 22, 2002. See File No. BPEDT-20000501AGW.

⁸ See Technical Statement, Figure 5; see also BMPCDT-20080619ACY.

proposed an antenna site for their digital operations only about 25 kilometers from the other four digital stations.⁹ These digital antenna sites would result in antennas clustered far closer together for the six full-power stations than has been the case for their analog operations. Figure 5 to the Technical Statement shows the digital antenna groupings described here, as well as the current KAAL site, which is far to the west of the actual and proposed digital antenna sites. KAAL has suffered competitively because of an isolated antenna site, and if KAAL did not collocate with KSMQ-DT and KXLT-DT, it would suffer further competitive disadvantage in antenna pointing and associated losses of viewership by being far removed from the other stations serving the DMA.¹⁰ The economically strongest part of KAAL's DMA, with a growing population, is the eastern portion of the DMA. To hope to reverse KAAL's long history of financial loss, it must be able to provide improved service in the eastern part of the market and be more accessible to the antennas of viewers by being collocated with other market stations.¹¹

Collocation of a station's facilities with other television stations in the market was an objective the Commission specifically recognized during its DTV proceedings as a means to speed DTV conversion.¹² Such collocation of DTV antennas makes it easier for viewers to receive signals over-the-air by home antenna pointing¹³ and allows stations to share costs.¹⁴ Reception of KAAL by viewers in the eastern part of the DMA currently suffers because its antenna is significantly isolated from other stations in the market.¹⁵ Consumer antenna pointing is especially important for reception of UHF channels, such as Channel 36. Isolation of the KAAL antenna at the current site would cause viewer antenna pointing confusion and continuing competitive harm to KAAL.¹⁶ Indeed, KAAL has suffered competitively due to viewer antenna point problems up until now because of its isolated antenna site.¹⁷

Grant of KAAL's application would permit this financially struggling station to reduce capital expenditures because operation from the new site allows KAAL to "take over" the pre-transition digital facilities of KTTC on digital Channel 36 already installed there, avoiding the

⁹ See Technical Statement, Figure 5.

¹⁰ Declaration of David Harbert.

¹¹ *Ibid.*

¹² See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Memorandum Opinion and Order on Reconsideration of Sixth Report and Order, 13 FCC Rcd 7418, 7471 (1998); *KNTV License, Inc.*, Letter Decision, 19 FCC Rcd 15479, 15485 (2004); *KRCA License Corp.*, Memorandum Opinion and Order, 15 FCC Rcd 1794, 1800 (1999).

¹³ See *KNTV*, 19 FCC Rcd at 15485 (In granting KNTV's proposal to move its facilities, the Commission found that the station had demonstrated "that its DTV signal [was] not being received within its predicted contour because of antenna-pointing issues and interference.").

¹⁴ See *KRCA*, 15 FCC Rcd at 1801 (Permitting collocation because it would help the applicants "overcome the significant obstacles and costs they face in converting to DTV and will serve the public interest by ensuring that their DTV transition is successful.").

¹⁵ Declaration of David Harbert.

¹⁶ See *KRCA*, 15 FCC Rcd at 1801 (Recognizing that allowing the applicants to collocate their facilities would enable them to compete against other television stations in the market); see also Declaration of David Harbert.

¹⁷ See Declaration of David Harbert.

need for new construction. Such use of Channel 36 would assist viewers who have become accustomed to receiving Channel 36 and, importantly, significantly reduce confusion associated with repositioning of their current home antennas.

KAAL examined the possibility of abandoning its plans to serve its market from the proposed antenna location and remain at its current site, providing its permanent digital service on Channel 36 from there, as currently authorized in Appendix B to the DTV Table of Allotments. If KAAL built its DTV Appendix B facilities from its current site, it would cost at least \$1,270,000 to construct the facility. That cost could increase substantially if the tower required reinforcement, which is likely. Also, that construction would force KAAL to stop broadcast operations for a lengthy period of time in order to construct the new antenna, for most or all of at least 10-14 days, with an estimated loss of revenues in excess of \$100,000. On the other hand, the cost to acquire and construct facilities at the proposed site would be approximately \$855,000.¹⁸ In addition, there would be no interruption of KAAL service and the public and KAAL would benefit from collocation with other stations in the market.

Therefore, remaining at its current site not only would reduce coverage by 134,423 persons, it also would force KAAL to face initial construction costs almost 50% higher than for its proposed site. Even worse, DTV service from KAAL's current antenna site would exacerbate KAAL's many years of financial distress by failing to serve, and compete for, the viewers in the growing eastern portions of the market, and instead, by shrinking coverage overall. It would not provide the opportunities of improved coverage in the market, collocation with other stations, and much improved viewer antenna pointing. Rather, it would significantly reduce the number of persons served.

It is an inevitable consequence of the physical laws of signal propagation that a UHF channel, such as 36, will not cover as large an area as a "low" VHF channel, such as 6. That fact is amply demonstrated by the DTV coverage information posted by the Commission on its website: "Map of All Full-Power Digital Television Stations Authorized by the FCC." (*See* <http://www.fcc.gov/dtv/markets/>) For example, as that information shows, other television stations converting from a low VHF channel to a UHF channel will have reduced coverage areas, including, for example, television stations KALB-TV, Alexandria, Louisiana (analog Channel 5, digital Channel 35), KBJR-TV, Superior, Wisconsin (analog Channel 6, digital Channel 19), WAGA(TV), Atlanta, Georgia (analog Channel 5, digital Channel 27), WSB-TV, Atlanta, Georgia (analog Channel 2, digital Channel 39), KOCT(TV), Carlsbad, New Mexico (analog Channel 6, digital Channel 19).

The Commission's Executive Summary to the Digital Television Service Maps states that:

Although the Commission tried to maximize the ability of TV stations to replicate their analog coverage areas as closely as possible, TV stations were not required to do so. Indeed, it has always been recognized that some stations and viewers would experience changes in their coverage. As early as 1997, in adopting the initial DTV Table of

¹⁸ See Declaration of David Harbert.

Allotments, the Commission observed that not all stations would replicate their existing coverage areas.¹⁹

The Executive Summary goes on to offer the following factual observations:

- 196 television stations, approximately 11% of all stations, will have an overall net loss in total viewer population served.²⁰
- 196 television stations, approximately 11% of all stations, are predicted to experience population coverage losses of 2% or more in existing viewers as a result of changes in their service area.²¹
- 319 television stations, approximately 18% of all stations, are predicted to lose coverage of 2% or more of the existing viewer population they have reached with their analog signals.²²
- In most instances, losses in service area are a result of a station seeking to reach more overall viewers or better conform to its local market.²³

Conclusion

The KAAL DTV application should be granted immediately because it is a significant public interest victory. It would permit the station substantially expanded broadcast coverage, as compared to Appendix B, especially in the growing and most populous part of the market, and group its antenna with all of the other digital television stations in the market. This service proposal would offer the opportunity to KAAL of mitigating its many years of financial distress and survive as a vibrant local service. Taking into account the composite coverage of ABC network stations in the area, under a worst case analysis, only about 2,700 persons would lose service, about 0.4% of those receiving KAAL's analog signal now. KAAL's proposed service is vastly superior to the service that would be offered under its DTV Table of Allotments Appendix B allotment. KAAL's proposed composite digital proposal would serve 134,423 more people than composite Appendix B, including 4,529 persons in the DMA who have not been receiving KAAL.

¹⁹ *Digital Television Service Maps*, Report, p. 1 (available at http://www.fcc.gov/dtv/markets/DTV_Report_1.pdf).

²⁰ *Id.* We understand that this means an overall net reduction in service, comparing analog to digital.

²¹ *Id.* We understand that this means that 2% or more of the current population receiving analog service will be lost due to the DTV conversion based upon a change in the station's service area, for example, relocation of the antenna, or a change in its height or power.

²² *Id.*

²³ *Id.* at 2.

DECLARATION OF DAVID HARBERT

David Harbert, subject to the penalty of perjury, declares the following:

I am a citizen of the United States of America more than 18 years of age and competent to testify. I am the General Manager of KAAL(TV), Austin, Minnesota, a position that I have held since approximately September 11, 2006.

I have been closely involved in the planning, and efforts to implement, the DTV transition of KAAL. I have participated in the preparation of KAAL's DTV maximization application to the FCC and its requests to the FCC for authority to transition KAAL to the digital service, including that I participated in creating the Request for Immediate Grant of KAAL DTV Maximization Application ("Request") and I have read a substantively final version of it.

The assertions of fact in the Request concerning the economic, operational and competitive circumstances of KAAL are accurate based upon my knowledge, including projection of construction costs and the competitive harm which KAAL suffers due to antenna pointing problems. The economically strongest part of KAAL's DMA, with a growing population, is the eastern portion of the DMA. KAAL's current antenna site is isolated from those eastern areas and is less readily received by viewers there due to antenna pointing and signal strength issues. Those competitive problems would continue, or could be made worse, if KAAL's permanent DTV operation remained at the current site. On the other hand, I believe that KAAL's competitive deficiencies would be improved if it collocates with other DMA television stations as part of the DTV transition, becoming more readily received and accessible to the antennas of viewers in the eastern part of the DMA by being colocated with other market stations. It is my belief that location of KAAL's DTV operation, as requested in its pending FCC application, is KAAL's best, possibly only, opportunity to reverse its many years of financial losses.

The assertions in the Request about the lack of viewership of KAAL to the west of KAAL's DMA, outside the DMA and in counties in Iowa, are accurate based upon my knowledge. KAAL asked Nielsen Media to conduct a Significantly Viewed study in order to determine viewership of KAAL in the counties to the west of its current site. In its Significantly Viewed study, Nielsen determined that KAAL has no measurable viewership (0.0 viewership) in the following counties: Le Sueur, Waseca, Kossuth, Hancock, Wright, Butler and Franklin. These data were compiled by Nielsen over the July 2008 ratings period and are inclusive of the broadest possible measurement of viewing, the so-called sign on/sign off share of audience, measuring Sunday-Saturday, 7 a.m.- 1 a.m.

The foregoing is true and correct based upon my knowledge, subject to the information and support cited within the Request and its associated Technical Statement, and to matters of which the FCC may take judicial notice.

May 8, 2009

By: _____

David Harbert

TECHNICAL STATEMENT
PREPARED IN SUPPORT OF
THE KAAL-DT MAXIMIZATION APPLICATION
(BPCDT-20080422AAE)
DTV STATION KAAL-DT
AUSTIN, MINNESOTA
CH 36 620 KW 326 M

This technical statement has been prepared in support of the pending KAAL-DT maximization application (BPCDT-20080422AAE) for DTV operation on channel 36 at Austin, Minnesota. Specifically, this statement has been prepared to address the extent of the loss of over-the-air broadcast service that would occur based on the grant of the KAAL-DT maximization application.

Station KAAL-TV is licensed (BLCT-2236) for analog operation on channel 6 with a non-directional effective radiated power (ERP) of 100 kW and an antenna radiation center height above average terrain (HAAT) of 320 meters. Station KAAL-DT also has a pending application (BPCDT-20080422AAE) for post transition digital operation on channel 36 from an alternate transmitter site location. The application proposes operation on channel 36 with a non-directional ERP of 620 kilowatts and an HAAT of 326 meters. Figure 1 is a map displaying the FCC Predicted Grade B contour (47 dBu)¹ for the KAAL-TV licensed analog operation, and the FCC Predicted noise limited contours (41 dBu) for the KAAL-DT pending maximization application, and KAAL-TV's Appendix B facility. The Rochester-Mason City-Austin designated market area (DMA) is identified. The 2000 U.S. Census population within the KAAL-TV licensed Grade B contour is 662,039, the population within the KAAL-DT Appendix B noise limited contour is 488,564, and the population within KAAL-TV's proposed noise limited contour is 564,613. These values are tabulated in Figure 2.

Figure 3 is a map displaying the FCC Predicted contours of ABC network affiliated low power digital stations

¹ It is noted that the FCC Predicted coverage contours were generated based on the U.S.G.S. 3-second terrain database and employing radials every 10° of azimuth (36 radials).

K43JE-D, K08OQ-D, K35IU-D, and other full service ABC network affiliated digital stations that provide coverage into the KAAL-TV loss area. In addition, KAAL-TV is proposing to construct a new low power digital translator near Mason City, Iowa, to reduce the KAAL-TV viewership loss. The proposed 51 dBu contour of the proposed digital translator is shown on Figure 3. The total population within the composite coverage of the proposed KAAL-DT and the four translators was calculated to be 748,817 persons (see Figure 2). The proposed KAAL digital facility will provide coverage to 4,529 persons within the DMA that are currently not served by KAAL-TV current analog operation.

Figure 4 is a map showing the ABC network service loss area once the new digital low power facility is operating, and recognizing that ABC affiliated station KSTP is considered significantly viewed in Le Sueur, Blue Earth, and Waseca counties, and ABC affiliated station WOI is considered significantly viewed in Wright and Franklin counties. In addition, Nielsen Media has determined that KAAL has no measurable viewership in Kossuth and Hancock Counties. Therefore, the remaining loss area is a tiny portion in Martin County and a small region in Cerro Gordo County. It has been determined that there are 2,758 persons in the remaining loss area (shaded yellow). There are 666 persons within the ABC Gain area (shaded blue).

Figure 4A is the same as Figure 4 except the predicted contours for the LP-DTV stations are the same as for a full service DTV station. For instance, the predicted 41 dBu contour for K35IU-D is shown on Figure 4A, where as, the 51 dBu contour is shown on Figure 4. It seems reasonable to assume the same contour values for service regardless if the station is full service DTV or LP-DTV since the potential viewer (receiver) within the service area does not care whether the ABC network signal is from a full service or LP-DTV source. On this basis, there is a small ABC service loss area (shaded yellow) in the southern portion of Cerro Gordo County, however there is no population associated with the small area (i.e., 0 people).

Figure 5 is a map showing the location of the KAAL-TV licensed analog transmitter site, and the authorized transmitter site locations of all the other full service DTV stations within the Rochester-Mason City-Austin DMA. Stations included in the DMA are KIMT, KAAL, KTTC, KSMQ-TV, KYIN, and KXLT-TV.

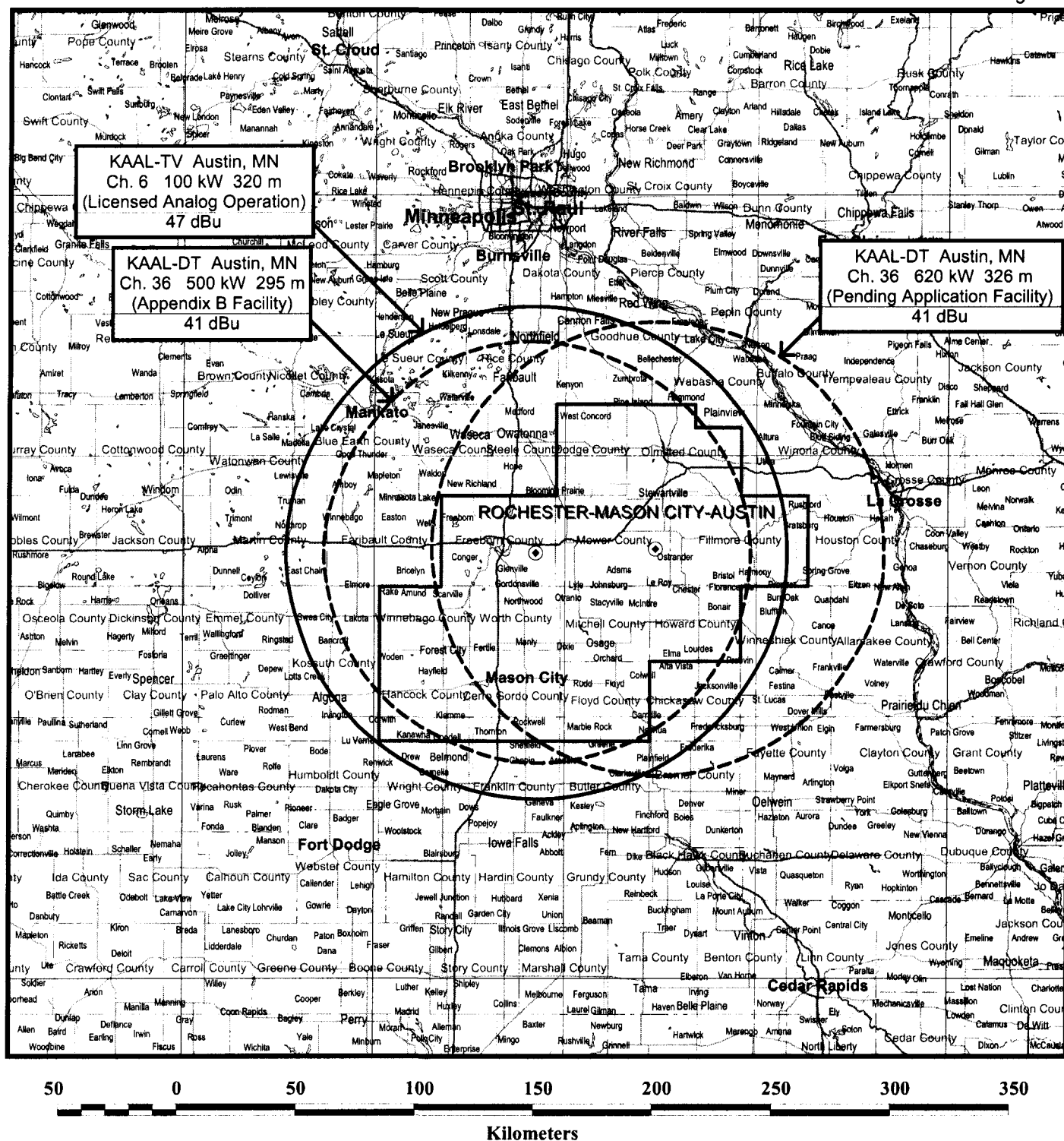


Jerome J. Manarchuck

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May 8, 2009

Figure 1



FCC PREDICTED COVERAGE CONTOURS

DTV STATION KAAL-DT
AUSTIN, MN

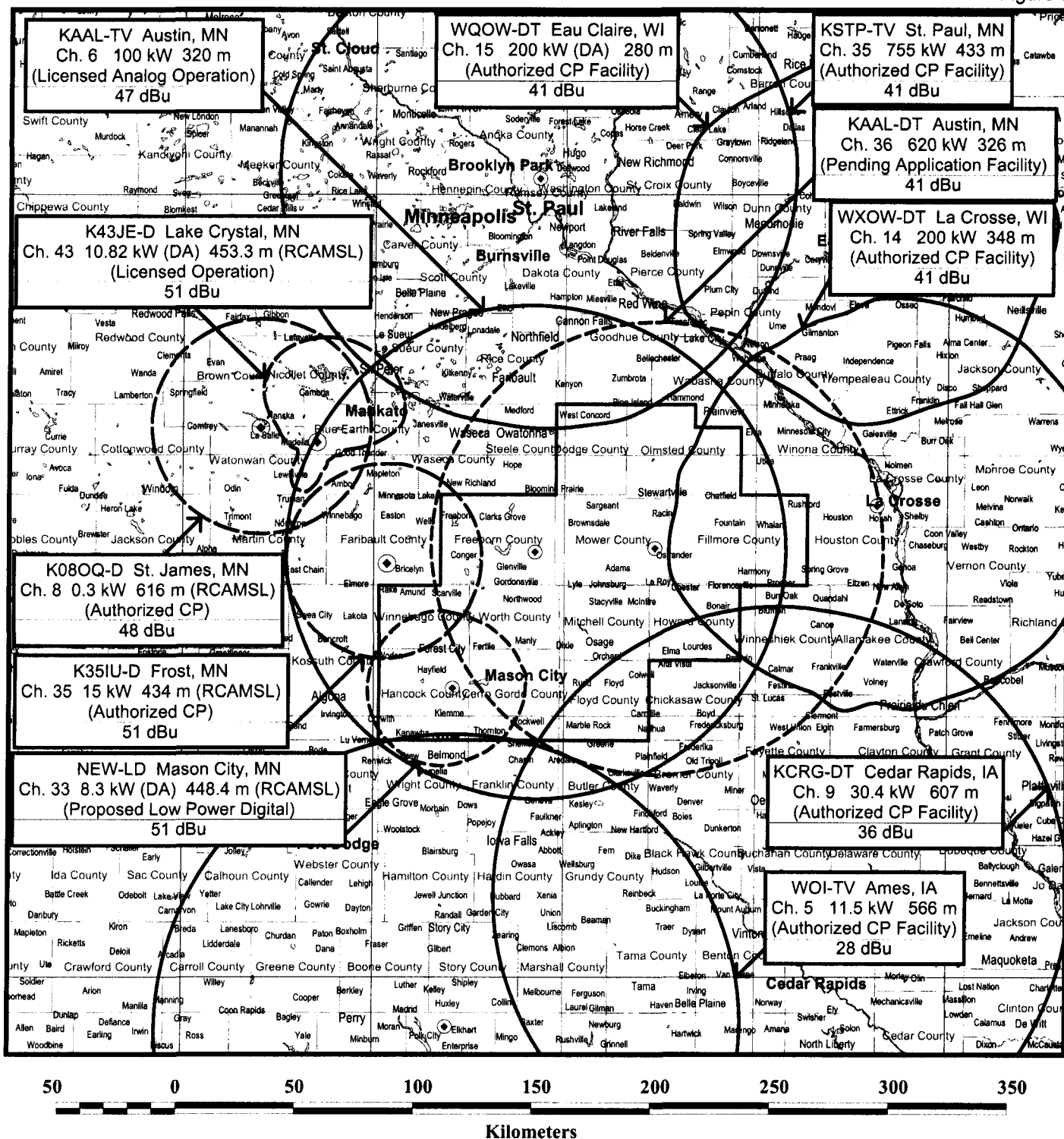
du Treil, Lundin & Rackley, Inc. Sarasota, Florida 34237

Figure 2

KAAL-TV/KAAL-DT 2000 U.S. POPULATION NUMBERS

| Facility/Operations | 2000 U.S. Census Population within |
|--|---------------------------------------|
| KAAL-TV Licensed Analog Grade B Contour | 662,039 |
| KAAL-DT Proposed Ch. 36 Digital Noise-Limited Contour | 564,613 |
| Composite Coverage of Proposed KAAL-DT and digital translators K43JE-D, K08OQ-D, K35IU-D, and NEW-LD | 748,817 |
| KAAL-DT Appendix B Facility – Ch. 36 from current site | 488,564 |
| Composite Coverage of KAAL-DT Appendix B Facility and digital translators K43JE-D, K08OQ-D, and K35IU-D | 614,394 |

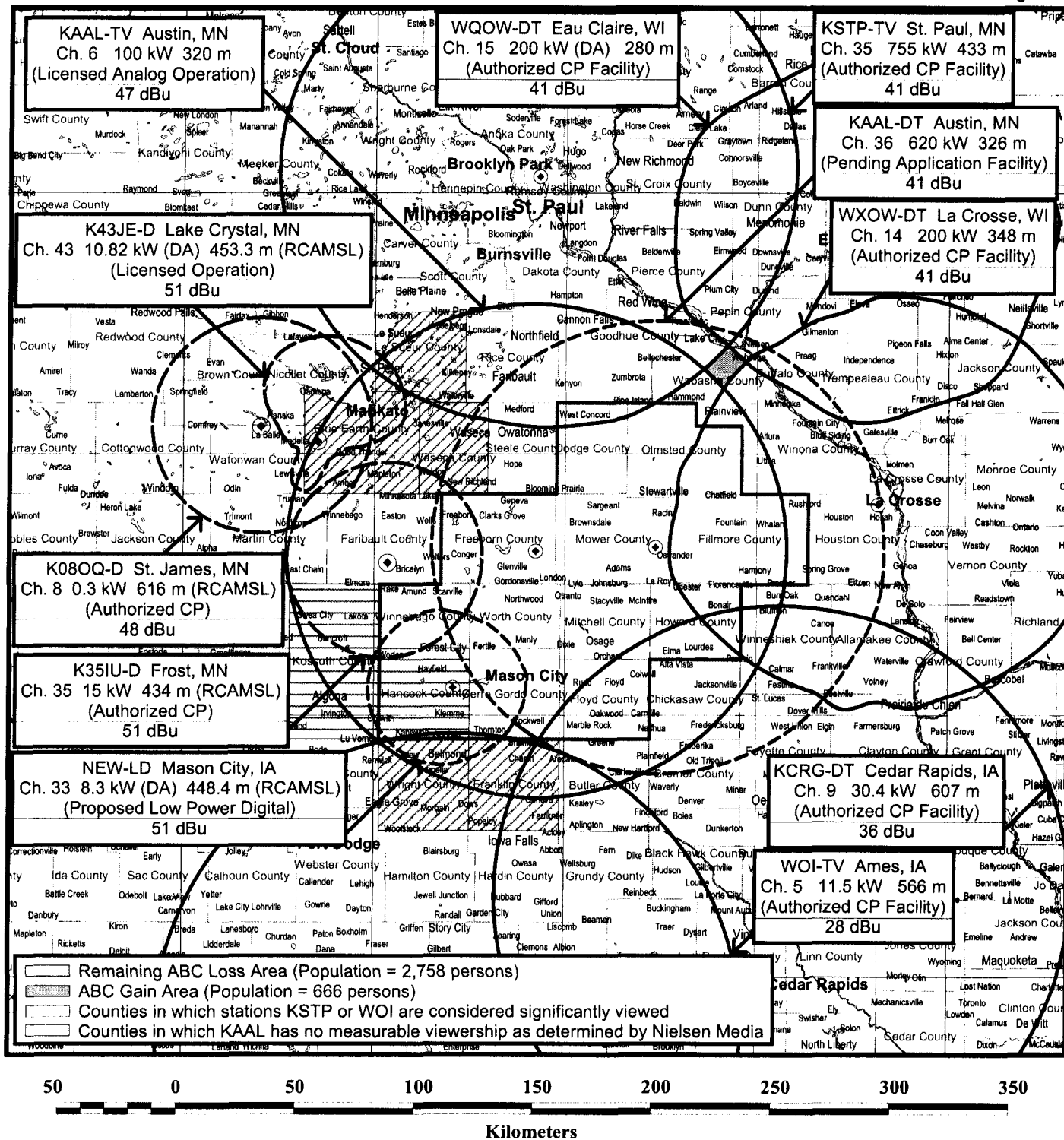
Figure 3



KAAL-DT LOSS AREA COVERED BY OTHER ABC AFFILIATES

DTV STATION KAAL-DT
AUSTIN, MN

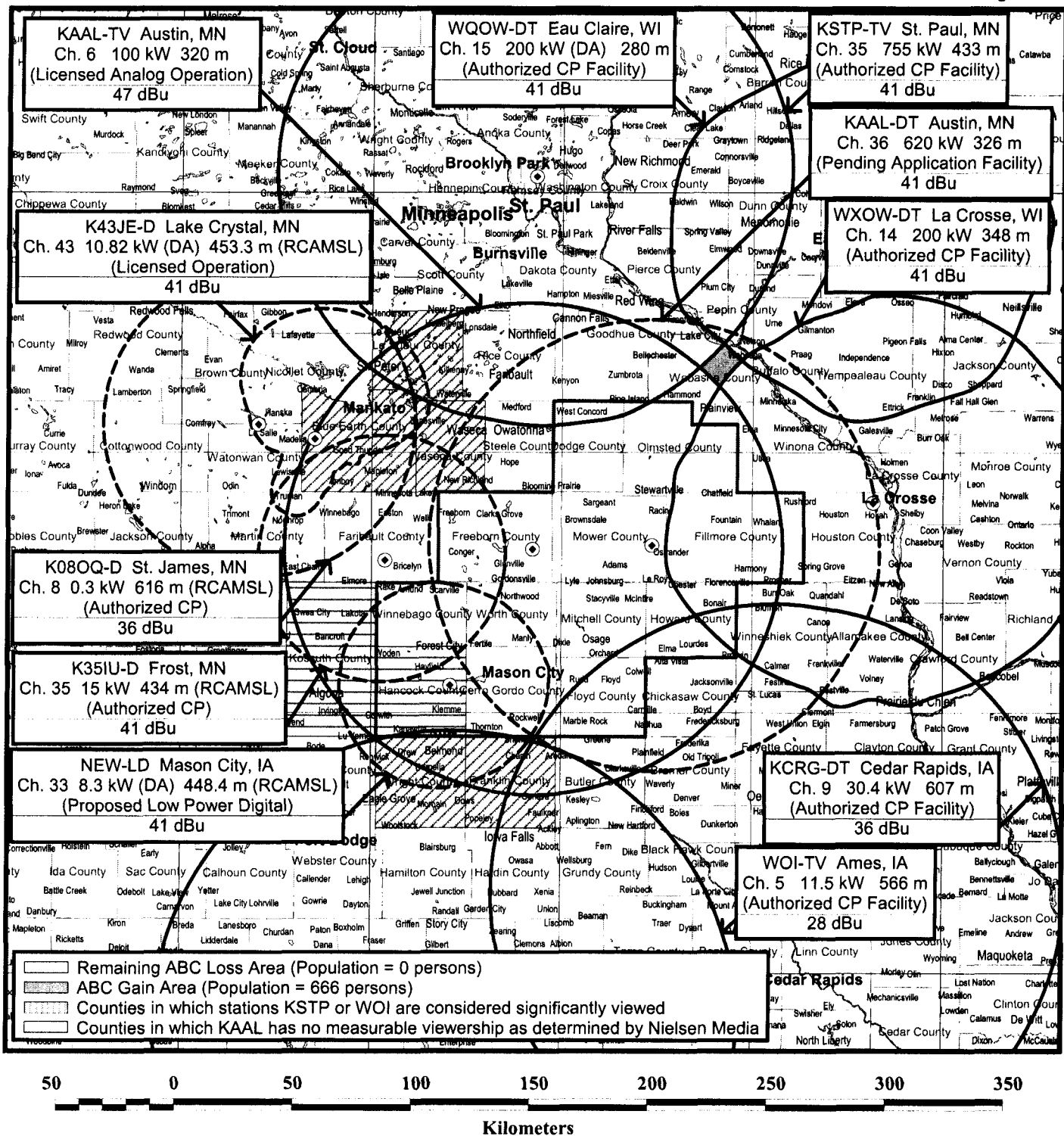
Figure 4



KAAL-DT LOSS AREA COVERED BY OTHER ABC AFFILIATES

DTV STATION KAAL-DT
AUSTIN, MN

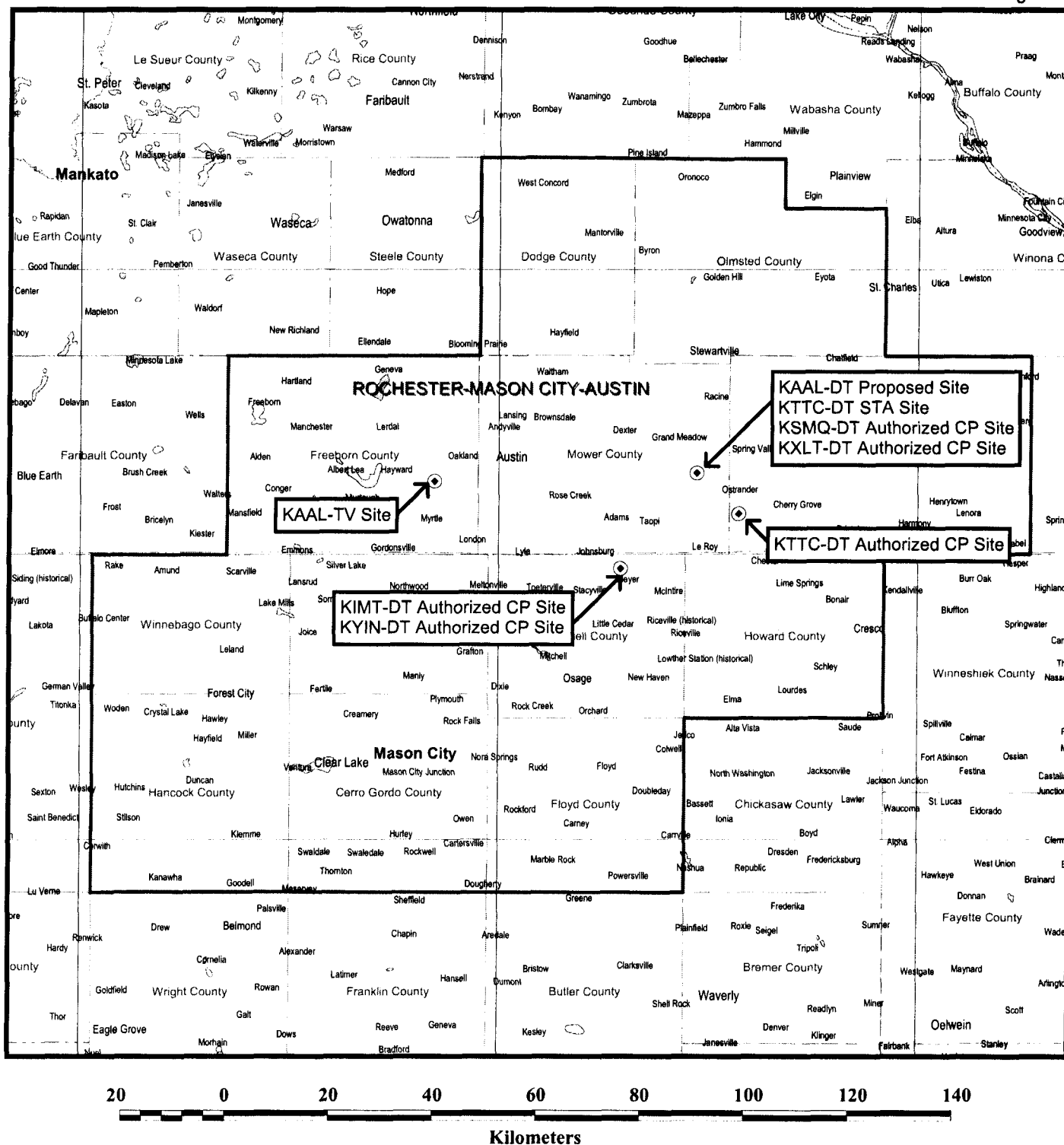
Figure 4A



KAAL-DT LOSS AREA COVERED BY OTHER ABC AFFILIATES

DTV STATION KAAL-DT
AUSTIN, MN

Figure 5



TRANSMITTER SITES OF DTV STATIONS IN THE ROCHESTER-MASON CITY-AUSTIN DMA

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