

DELAWDER COMMUNICATIONS, INC.

P.O. Box 1095
Ashburn, Virginia 20146-1095
(703) 299-9222

ENGINEERING REPORT

Iglesia Jesuchristo es mi Refugio, Inc.
KPFW-LP: Digital Channel Displacement with Site Move, Dallas, TX (ch 33d)

EXHIBIT 11
LPTV DIGITAL CHANNEL DISPLACEMENT:
INTERFERENCE STUDIES AND WAIVER REQUEST

1. Iglesia Jesuchristo es mi Refugio, Inc. ("Applicant") is the licensee of KPFW-LP, Gainesville, TX, analog channel 61(z). By this digital channel displacement application, Applicant proposes to operate on channel 33 as digital from a new transmitter site located south of the licensed KPFW-LP site. The community of license is also being changed to Dallas, Texas.

2. Attached as Figure 1 is a map showing that the proposed digital 51 dBu F50,90 noise-limited service contour overlaps with the licensed 74 dBu F50,50 service contour of KPFW-LP. Because KPFW-LP is currently licensed to operate on an out-of-core channel, this application qualifies for channel displacement relief as a minor change proposal pursuant to 47 CFR Section 73.3752(a)(4)(ii).

3. Attached as Figures 2 and 3 are the OET-69 study results for the proposed facility (as the referenced station) for the current TV database (the current TV environment) and for the post-transition TV database, respectively. These studies were determined on a Sun Computer using a Solaris (Unix-based) operating system and using the same OET-69 software as developed for use by the FCC. (According to the software developer, the program used herein provides identical results as the FCC's OET-69 processing program.) As demonstrated by Figure 2, a worst-case increase in population interference above the allowed 0.5% de minimus standard is predicted to KDAF-TV (channel 33 analog; BLCT-20000821ACP). *Since the KDAF-TV analog channel 33 facility will no longer operate once the transition to digital is made, the predicted interference to KDAF-TV will not exist post-transition. For this reason,* Applicant hereby respectfully requests a temporary waiver, to and including June 12, 2009 (the effective post-transition date) or a later date should KDAF-TV require protection of its channel 33 analog facility beyond this date, of 47 CFR Sections 74.705 and 74.793 regarding the increase in predicted interference by this proposal to KDAF-TV channel 33 analog above the 0.5% de minimus standard. See the additional engineering waiver support statement at the end of this document. (Additionally, a separate statement in support of the waiver request may be included from the attorney and/or Applicant.)

4. Except for those stations also licensed, authorized or proposed by the

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applicant, or those stations that have consented to predicted interference from this proposal, the proposed facility adequately protects all other US broadcast stations (other than the pre-transition operation of KDAF-TV) as required by the FCC Rules. All studies are conducted in accordance with current FCC Rules and Regulations.

5. The applicant accepts any interference that is predicted to exist to the proposed facility by any licensed, authorized or previously proposed primary TV station. The applicant also accepts any interference that is predicted to exist to the proposed facility by any licensed or authorized secondary TV station, or by any secondary TV facility that is given preferential status by the FCC over the Applicant's herein proposed facility.

Additional Engineering Waiver Support

6. As mentioned in paragraph 3, above, a temporary waiver of 47 CFR Sections 74.705 and 74.793 are respectfully requested regarding the slight increase in predicted interference by this proposal to KDAF-TV channel 33 analog facility above the 0.5% de minimus standard. However, since the predicted interference will not exist to KDAF-TV post-transition, Applicant will be frustrated by strict adherence to the current protection rules and policies regarding protection to the pre-transition service of KDAF-TV. The Applicant agrees to not operate the proposed facility until KDAF-TV no longer operates its analog channel 33 service.

7. The Commission assesses waiver requests according to the standards set forth in *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969). See also, *2002 Biennial Regulatory Review*, 18 FCC Rcd 13620 at para. 85 n. 130 (2002) (citing *WAIT Radio* as "setting out criteria for waivers of Commission Rules"). In that case, as here, the applicant sought to operate in contravention of the rules while explaining how it would nonetheless accomplish the purpose of the rules. In this case, however, unlike *WAIT*, the waiver is for an exceptionally short term, given the timetable for grant of the instant application, and given the imminent nature of the June 12, 2009 DTV transition

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deadline, which will render the waiver moot. Waiver is appropriate under WAIT where the applicant furthers the public interest. This channel displacement application into the core channels (2 through 51—those designated for continued TV use post-transition) that also includes a flash-cut to digital does precisely that, by abandoning analog operation immediately, and it would accomplish the purposes of the Commission's rules by permitting KPFW-LP to continue operations in digital emission mode post-DTV transition by a minor change application to an in-core channel (33). It will, furthermore, permit a vastly improved broadcast service to a large number of persons not now served by KPFW-LP, as explained below. Accordingly, the temporary waiver sought herein is amply justified under the WAIT Radio standard.

8. The increased service that's being proposed for KPFW-LP is evident from the Figure 1 map. KPFW-LP has a predicted year-2000 Census population within its 74 dBu F50,50 service contour of 175,266 persons. The herein-proposed digital channel 33 facility has a predicted year-2000 Census population within the 51 dBu F50,90 noise-limited service contour of 2,692,087 persons. This represents an increase in population of 2,516,821 persons—an increase of 1436 percent!

FIGURE 1: KPFW-LP, DALLAS, TX—PROPOSED CONTOUR OVERLAP MAP

