

## REQUEST FOR WAIVER OF FILING FREEZE

Pursuant to the petition of Channel 20 TV Company, the licensee of KUPN(TV), Sterling, Colorado, on December 24, 2002, the Media Bureau issued a Notice of Proposed Rule Making in MB Docket No. 02-388, RM-10624 (DA 02-3567), proposing to amend the Television Table of Allotments by changing the allotments of NTSC Channel 3 and Digital Channel 23 from Sterling, Colorado, to Fort Morgan, Colorado and modifying the Station KUPN authorizations accordingly. The NPRM stated that after the reallocation of NTSC Channel 3 to Fort Morgan, NCE Channel 18, although unused, would remain allotted to Sterling to provide first local television service to that community. Channel 20 TV Company filed comments in support of the NPRM stating that new transmitting facilities would be constructed at a new site utilizing a tall tower and providing substantially increased service to the public. Channel 20 TV Company also stated that upon operation from the new site, KUPN would broadcast original programming and no longer be a 100% satellite of sister station KTVD, Denver, Colorado. No comments in opposition to the proposal were filed.

As part of the digital transition, the Commission determined that television channels for which no authorization had been issued and for which no application was pending would no longer be available for use. Hence, vacant Channel 18 in Sterling was no longer available and Channel 3 became the community's only local television service. Therefore, the moving of Channel 3 from Sterling to Fort Morgan would require a demonstration that the public interest would be best served by the removal of the only local television service from Sterling and the institution of the first local television service to Fort Morgan. With the adoption of new digital television rules and policies, it is no longer necessary to adopt the requested change in allotment.

On September 7, 2004, the Commission issued its Report and Order in its *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television* MB Docket No. 03-15, FCC 04-192, and determined that satellite TV stations would be required to participate in the channel election process and would be permitted to surrender one of their paired channels and to flash cut from analog to digital by the end of the transition period. Para. 102. The instant minor modification application seeks authority to construct the DTV facilities proposed in the NPRM and Channel 20 TV Company will elect to operate those maximized DTV facilities on Digital Channel 23 and will elect to surrender NTSC Channel 3.

By waiving the application freeze and accepting and granting this application, the public interest will be served by the authorization of a maximized digital facility which can be protected in the channel election process. The proposed digital facilities will place the required 48 dBu contour over the community of Sterling and meets all Commission requirements. Filed simultaneously herewith, is the request of Channel 20 TV Company to dismiss the pending NPRM MB Docket No. 02388, thereby leaving the NTSC Channel 3 allotment in Sterling.