

# DELAWDER COMMUNICATIONS, INC.

P.O. Box 1095

Ashburn, Virginia 20146-1095

(703) 299-9222

## ENGINEERING REPORT

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Gerald Benavides

KBFW-LP, Arlington, TX: Flash-Cut to Digital Minor Modification Application

### EXHIBIT 11

#### LPTV FLASH-CUT TO DIGITAL – INTERFERENCE STUDIES

1. Gerald Benavides (“Applicant”) is the licensee of KBFW-LP, Arlington, TX, analog channel 6. By this application, Applicant is proposing to flash-cut to digital on channel 6 at its licensed transmitter site. Figure 1, attached, is a map showing the licensed analog (62 dBu F50,50) and proposed digital (43 dBu F50,90) service contours. This is a minor change application.

2. Attached as Figure 2 are the OET-69 study results for the proposed facility (as the referenced station) as 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, the proposed facility adequately protects all required US broadcast stations as required by the FCC Rules, As demonstrated by Figure 1, a worst-case 0.79% increase in population interference is predicted to KXAS-TV (channel 5 analog; BLCT-19900112KW). This represents a slight increase in the predicted interference to KXAS-TV that is above the allowed 0.5% de minimus standard. *Since the KXAS-TV analog channel 5 facility will no longer operate once the transition to digital is made, the predicted interference to KXAS-TV will not exist post-transition. For this reason, Applicant hereby respectfully requests a temporary waiver, to and including February 17, 2009 (or to the effective post-transition date should the transition be postponed by the FCC<sup>1</sup>), of 47 CFR Sections 74.705 and 74.793 regarding the slight increase in predicted interference by this proposal to KXAS-TV channel 5 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.)*

3. Except for those stations also licensed, authorized or proposed by the 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 KXAS-TV) as required by the FCC Rules. All

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<sup>1</sup> An extension to June 12, 2008, is expected to be signed into law around the time of this filing.

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studies are conducted in accordance with current FCC Rules and Regulations.

4. 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

5. As mentioned in paragraph 2, 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 KXAS-TV channel 5 analog facility above the 0.5% de minimus standard. However, since the predicted interference will not exist to KXAS-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 KXAS-TV. This is especially true due to the minor increase level of increased interference that is predicted by OET69—an increase of 0.79%; interference that will disappear after the digital transition.

6. 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 DTV transition deadline, which will render the waiver moot. Waiver is appropriate under *WAIT* where the applicant furthers the public interest. This flash-cut application to digital does precisely that, by abandoning analog operation immediately, and it would accomplish the purposes of

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the Commission's rules by permitting KBFW-LP to continue operations in digital emission mode post-DTV transition by a minor change application on its licensed in-core channel (6). It will, furthermore, permit a vastly improved broadcast service to a large number of persons not now served by KBFW-LP, as explained below. Accordingly, the temporary waiver sought herein is amply justified under the WAIT Radio standard.

7. The increased service that's being proposed for KLAU-LP is evident from the Figure 1 map. KBFW-LP has a predicted year-2000 Census population within its 62 dBu F50,50 service contour of 1,152,720 persons. The herein-proposed digital channel 6 facility has a predicted year-2000 Census population within the 43 dBu F50,90 noise-limited service contour of 1,693,819 persons. This represents an increase in population of 541,099 persons—an increase of 47 percent.

**FIGURE 1: KBFW-LP LICENSED AND PROPOSED CONTOUR SHOWING**

