

DELAWDER COMMUNICATIONS, INC.

P.O. Box 1095
Ashburn, Virginia 20146-1095
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ENGINEERING REPORT

The Proctor Group, Inc.

K17HK: Digital Channel Displacement with Site Move, Beaumont, TX (ch 50D)

EXHIBIT 11

**LPTV DIGITAL CHANNEL DISPLACEMENT:
INTERFERENCE STUDIES AND WAIVER REQUEST**

1. This application has been prepared on behalf of The Proctor Group, Inc. ("Applicant") to modify the construction permit of K17HK, Beaumont, TX, analog channel 17. By this digital channel displacement application, Applicant proposes to operate on channel 50 as digital from a new transmitter site located in Beaumont, slightly north of the authorized site. The Applicant seeks displacement relief pursuant to 47 CFR Section 73.3572(a)(4)(i) due to interference that is predicted to occur to K17HK on channel 17 from the Land Mobile Services at Houston and off-shore. This application, therefore, qualifies for channel displacement relief pursuant to 47 CFR Section 73.3572(a)(4)(i).

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 K17HK.

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 KBMT (channel 50 digital; BLCDDT-20060918AHX). *Since the KBMT digital channel 50 facility will no longer operate once the transition to digital is made (KBMT will operate on channel 12 digital post-transition), the predicted interference to the KBMT channel 50 digital facility will not exist post-transition.* Applicant hereby respectfully requests a temporary waiver, to and including June 12, 2009 (the effective post-transition date) of 47 CFR Sections 74.706 and 74.793 regarding the increase in predicted interference by this proposal to KBMT's channel 50 digital facilities above the 0.5% de minimus standard. (The waiver request also includes any "night light" period used by KBMT after June 12.) 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.)

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4. 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 KBMT on channel 50 digital) 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 74.706 and 74.793 are respectfully requested regarding the slight increase in predicted interference by this proposal to KBMT's channel 50 digital facility above the 0.5% de minimus standard. (As demonstrated by Figure 3, the post-transition database OET-69 results to do not include KBMT since KBMT will operate on channel 12 digital post-transition.) Since the predicted interference will not exist to KBMT digital post-transition, Applicant will be frustrated by strict adherence to the current protection rules and policies regarding protection to the pre-transition service of KBMT. The Applicant will not operate the proposed facility until KBMT no longer operates its channel 50 digital service. (Since the FCC has been placing displacement applications on Public Notice and allowing a 30-day period for petitions to deny, it is unlikely that this displacement application would be granted before June 12 anyway.)

7. The Commission assesses waiver requests according to the standards set

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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 deadline, which will render the waiver moot. Waiver is appropriate under *WAIT* where the applicant furthers the public interest. This channel displacement application within 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 K17HK to begin operations in digital emission mode post-DTV transition by a minor change application on an in-core channel (50). It will, furthermore, permit a vastly improved broadcast service to a large number of persons not now served by K17HK, 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 K17HK is evident from the Figure 1 map. K17HK has a predicted year-2000 Census population within its 74 dBu F50,50 service contour of 189,236 persons. The herein-proposed digital channel 50 facility has a predicted year-2000 Census population within the 51 dBu F50,90 noise-limited service contour of 395,630 persons. This represents an increase in population of 206,394 persons—*an increase of 109 percent!*

FIGURE 1: K17HK, BEAUMONT, TX—PROPOSED CONTOUR OVERLAP MAP

