

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-114
Table of Allotments,)	RM-8902
FM Broadcast Stations.)	
(Lake Havasu City, Arizona, and)	
Laughlin, Nevada))	
)	
Amendment of Section 73.622(b),)	
DTV Table of Allotments,)	
DTV Broadcast Stations.)	
(Lake Havasu City, Arizona, and)	
Laughlin, Nevada))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 21, 2000

Released: June 30, 2000

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the Notice of Proposed Rule Making ("Notice"), 14 FCC Rcd 6154 (1999), issued in response to a petition for rule making filed on behalf of Mojave Broadcasting Company ("Mojave" formerly Meridian Communications Company), permittee of television Station KMCC, Channel 34+, Lake Havasu City, Arizona, proposing the reallocation of its NTSC Channel 34+, as well as its DTV Channel 32, from Lake Havasu City to Laughlin, Nevada, as that community's first local television service. Petitioner filed supporting and reply comments in response to the Notice as well as a supplemental statement.¹ Supporting comments were also filed by United States Senator Harry Reid of Nevada, and by KPNX Broadcasting Company (KPNX).² Comments filed by Rick Murphy were subsequently withdrawn.³ No other comments were received.

¹The supplemental statement was late filed and not accompanied by a motion to accept. However, as this proceeding is uncontested and the supplemental statement contains additional technical information relating to the proposed reallocation, the statement has been accepted to enable the Commission to resolve this proceeding on the basis of a complete record.

²At the time this proposal was filed, KPNX was the licensee of Station KPNX(TV), an NBC affiliate, Mesa, Arizona, and well as Station KMOH-TV, Kingman, Arizona. Commission records reflect that assignment of the licenses of those stations to Multimedia Holdings Corporation was granted November 19, 1999 (see File No. BALCT-19991028ABE and File No. BALCT-19991028AAZ).

³Murphy's comments were not served on the petitioner as required by Section 1.420 of the Commission's Rules

Background

2. As stated in the Notice, petitioner's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest where the requested allotment would be mutually exclusive with the existing allotment. Moreover, to permit such a reallocation modification the proposal must result in a preferential arrangement of allotments. See Modification of FM and TV Authorization to Specify a New Community of License ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). Television reallocation proposals are evaluated pursuant to the television reallocation priorities set forth in the Sixth Report and Order on Television Allocations, 41 FCC 148, 167 (1952).⁴

3. Additionally, the Notice announced that the proposed reallocation of Channel 34+ to Laughlin would remove the only television channel allotted to Lake Havasu City. However, as Station KMCC has not commenced operation at Lake Havasu City, the reallocation proposal would not represent a loss of service to the residents of that community. As set forth in the Notice petitioner demonstrated that the proposed reallocation of Channel 34+ to Laughlin would permit Station KMCC to provide service to a greatly expanded area and population than could be accomplished with its currently authorized facility at Lake Havasu City.⁵ Petitioner contends that given the potential increase in Grade B service as well as the provision of a second visual service, the proposed reallocation to Laughlin is in the public interest. Cf. Farmington and Gallup, New Mexico, 11 FCC Rcd 2357 (1996).

(see also paragraph 4 of the Appendix to the Notice), and therefore constitute an *ex parte* violation. Under the circumstances, Murphy's comments would not have been considered in any event in this proceeding. See Sections 1.1200, 1.1202(b) and 1.1208 of the Commission's Rules.

⁴These priorities are as follows: (1) to provide at least one television service to all parts of the United States; (2) to provide each community with at least one television broadcast station; (3) to provide a choice of at least two television services to all parts of the United States; (4) to provide each community with at least two television stations; and (5) assign any channels remaining to communities based on population, geographical location, and the number of television services available to the community from television stations located in other communities.

⁵As noted previously, from Station KMCC's currently authorized transmitter site located 13.8 kilometers east-northeast of Lake Havasu City at Crossman Peak, the unavailability of commercial electric power severely limits its operational capability. According to the petitioner, electricity generated on-site at Crossman Peak is sufficient to power only a ten-kilowatt television transmitter. As a result, operation therefrom would provide Grade B service to approximately 51,274 persons and an area of 10,193 square kilometers, including a second visual service to 49,273 persons in an area of 9,572 square kilometers. Further, petitioner reported that from a designated electronics site at Goldroad Crest at Oatman, Arizona, Station KMCC could provide Grade B coverage to 106,572 persons in an area of 33,979 square kilometers, including a second visual service to 62,088 persons in an area of 21,182 square kilometers. However, petitioner advised that upon further evaluation it appears that shadowing problems at the latter site would prevent Station KMCC from complying with the requirements of Section 73.685(a) of the Commission's Rules to provide 80 dBu coverage over the entire boundaries of Lake Havasu City.

4 While the Notice proposed to reallocate NTSC Channel 34+ as well as DTV Channel 32 from Lake Havasu City, Arizona, to Laughlin, Nevada, and modify the authorization of Station KMCC accordingly, the Bureau solicited comments on whether alternate transmitter sites are available that would permit Station KMCC to improve its facilities while continuing to serve Lake Havasu City as its authorized community of license.

5. In response to the Commission's request concerning the availability of alternate sites to maintain the allotment of Channel 34+ at Lake Havasu City, petitioner reports that the Crossman Peak site specified in its existing authorization, which is limited by the unavailability of commercial electric power, is the only developed site to its knowledge to accommodate service to that community. Besides hampering its ability to provide adequate service on Channel 34+, petitioner believes that the power limitation at Crossman Peak would also present difficulties in relation to the implementation of DTV operations there in the future. Therefore, petitioner comments that the requested reallocation of Channel 34+ and paired DTV Channel 32 to Laughlin is consistent with the Commission's television allotment priorities as it will provide a first local service to that community and enable Station KMCC to provide service to a substantially larger population and area.^{6,7} Accordingly, petitioner has identified a revised site to accommodate its proposal located south of Laughlin at coordinates 35-03-12 NL and 114-37-10 WL. Petitioner reports that from the intended Laughlin site, assuming a maximum facility (5000 kilowatts) at a height above average terrain of 29 meters, it could provide predicted Grade B service to 98,078 persons in an area of 10,873 square kilometers, as well as a second visual service to 40,267 persons in an area of 5,035 square kilometers.⁸ Moreover, petitioner advises that analog Channel 34+ at the assumed Laughlin location will cause interference to only 7 people (0.0003%) within the service area of the DTV allotment for Station KTVW-TV, Channel 34, Phoenix, Arizona.

⁶As an additional benefit of its proposal, petitioner advises that the reallocation proposal will enable it to secure an NBC network affiliation and ultimately provide new NBC Grade B service to 22,644 people in an area of 3,914 square kilometers as well as NBC network Grade A service to 56,372 persons in an area of 3,037 square kilometers (population figures based on 1998 U.S. Census estimates). Further, petitioner reports that to comply with NBC territorial restrictions, it will seek to locate its transmission facilities for Station KMCC in or near Laughlin, Nevada, in lieu of Oatman, Arizona, as initially requested. Accordingly, petitioner has provided an assumed site to accommodate NTSC Channel 34+ as well as DTV Channel 32 at Laughlin, utilizing coordinates 35-03-12 NL and 114-37-10 WL.

Additionally, KPNX advised that if Station KMCC becomes an NBC affiliate, it will allow network television service to be provided to the extreme southern portion of Nevada, to areas not served directly by NBC affiliate Station KVBC(TV), Las Vegas, and will provide the opportunity for an additional NBC outlet in northwest Arizona, by co-owned Station KMOH-TV, Kingman, Arizona. (See footnote 2, supra.)

⁷Petitioner also advises that although its proposal would remove the only television channel presently allotted to Lake Havasu City, according to its engineering study there are numerous other analog as well as DTV channels that can be allotted to Lake Havasu City consistent with the Commission's technical requirements in the event there should be an expression of interest in maintaining a local television transmission facility at that community.

⁸Petitioner advises that its population figures are based on U.S. Census Bureau estimates as of July 1998.

Further, petitioner's engineering statement reports that if DTV Channel 32 is allotted at the specified Laughlin site, employing an effective radiated power of 150 kilowatts at 29 meters HAAT to approximately replicate the assumed Channel 34 analog coverage, it will not cause calculated interference to other pertinent analog and DTV allotments.

6. Additionally, petitioner provided an extensive community profile of Laughlin, a Census Designated Place, to establish that it is a self-sufficient, rapidly growing community, that contains its own governing body, transportation facilities, library, medical center, schools, Chamber of Commerce and major employment units. In further support of its proposal, petitioner provided letters from local Laughlin officials and business leaders, all of whom advocate their support for the opportunity to gain local television service at their burgeoning community.

7. A staff engineering review of the proposal reveals that in the event Station KMCC could operate at its present site at Lake Havasu City at coordinates 34-33-06 NL and 114-11-37 WL, with its authorized facilities (*i.e.*, 468 kilowatts effective radiated power at 817 meters HAAT), the Grade B (64 dBu) contour would extend 88.4 kilometers, and would serve 107,944 people in an area of approximately 24,539 square kilometers. However, as indicated in the Notice, due to the unavailability of commercial electric power at the authorized site, Station KMCC would not have been able to operate with its authorized power. Instead, because of power limitations at its authorized site, Station KMCC would have provided Grade B service to approximately 51,274 persons in an area of 10,193 square kilometers, including a second visual service to 49,273 persons in an area of 9,572 square kilometers. Conversely, as noted in paragraph 6 above, the reallocation of Channel 34+ from Lake Havasu City to Laughlin, Nevada, would primarily enable Station KMCC to provide a first local television service to Laughlin, and provide predicted Grade B service to a larger population and area.

8. Based upon the information presented, as the petitioner's reallocation request is consistent with the provisions of Section 1.420(i) of the Commission's Rules, we will reallocate NTSC Channel 34+ as well as DTV Channel 32 from Lake Havasu City, Arizona, to Laughlin, Nevada, and modify the authorization of Mojave Broadcasting Company for television Station KMCC, as requested.

9. NTSC Channel 34+ and DTV Channel 32 can be allotted to Laughlin, Nevada, consistent with the technical requirements of the Commission's Rules at the petitioner's specified site located 13.2 kilometers (8.2 miles) south of the community at coordinates 35-03-12 NL and 114-37-10 WL. Specifically, the NTSC Channel 34 allotment at Laughlin complies with the principal community coverage requirements of Section 73.685(a), meets the minimum distance separation requirements of Section 73.610 with respect to all other NTSC TV stations, does not have a negative impact on any LPTV station that has been certified as eligible for Class A Television status pursuant to the Report and Order in MM Docket No. 00-10 (FCC 00-115, adopted March 28, 2000, released April 4, 2000), and conforms to the DTV protection requirements established in the DTV Sixth Report and Order.⁹

⁹ See Sixth Report and Order in MM Docket No. 87-268, 12 FCC Rcd 14588 (1997). See also Additional Processing Guidelines for Digital Television (DTV), Public Notice, August 11, 1998, which can be found on the Internet at <http://www.fcc.gov/dtv/>.

The DTV Channel 32 allotment at Laughlin does not have a negative impact on any LPTV station that has been certified as eligible for Class A Television status and meets the 2 percent criterion for de minimis impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) with the following specifications:

State & City	DTV Channel	DTV power (kW)	Antenna HAAT (m)	DTV Service Pop. (thous.)
NV Laughlin	32	150.0	29	51

Additionally, as Laughlin is located within 320 kilometers (199 miles) of the Mexico border, the Commission obtained the concurrence of the Mexican government to this proposal.

10. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 14, 2000, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Lake Havasu City, Arizona	--
Laughlin, Nevada	34+

11. IT IS FURTHER ORDERED, That effective August 14, 2000, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Lake Havasu City, Arizona	--
Laughlin, Nevada	32

12. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Mojave Broadcasting Company for television Station KMCC, IS MODIFIED to specify operation on NTSC Channel 34+ as well as paired DTV Channel 32 at Laughlin, Nevada, in lieu of Lake Havasu City, Arizona, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission minor change applications for a construction permit (Form 301), for NTSC Channel 34+ and for DTV Channel 32, specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and,
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

13. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment, or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Mojave Broadcasting Company, permittee of television broadcast Station KMCC, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license for NTSC Channel 34+ and DTV Channel 32 at Laughlin, Nevada.

14. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

15. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
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