

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

In the Matter of)	
)	
Amendment of Section 73.622(b),)	MM Docket No. 01-17
Table of Allotments,)	RM-10037
Digital Television Broadcast Stations.)	
(Lubbock, Texas))	

**MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)**

Adopted: December 4, 2001

Released: December 5, 2001

By the Chief, Video Services Division:

1. The Video Services Division has before it for consideration a Petition for Reconsideration filed by Panhandle Telecasting Company ("Panhandle"), licensee of station KFDA-TV, Amarillo, Texas, requesting the rescission of the DTV channel 9 allotment at Lubbock, Texas, as substituted in the Report and Order ("R&O") in this proceeding, 16 FCC Rcd 8570 (2001).¹

2. **Background.** In response to a Petition for Rule Making filed by Cosmos Broadcasting Corporation ("Cosmos"), licensee of KCBD(TV), NTSC channel 11, Lubbock, Texas, the Commission issued a Notice of Proposed Rule Making ("Notice") proposing the substitution DTV channel 9 for station KCBD(TV)'s assigned DTV channel 43. In response to the Notice, Cosmos filed comments reaffirming its intention to construct and operate station KCBD-DT on channel 9, if allotted. No other comments were filed.

3. **Petition for Reconsideration and Settlement Agreement.** On May 23, 2001, Panhandle filed a Petition for Reconsideration requesting that the allotment of DTV channel 9 at Lubbock, Texas, be rescinded. Panhandle states that the Commission erred when it failed to identify this rule making and Panhandle's application as mutually exclusive. Panhandle maintains that the Commission should have considered the petition for rule making and KFDA-TV's application to be mutually exclusive and issued a public notice providing the parties with a 90-day settlement period.

4. Subsequently, Cosmos and Panhandle filed a Joint Request for Approval of Settlement. As part of the settlement agreement, Panhandle requests the dismissal of its Petition for Reconsideration of the Commission's R & O in this proceeding. Cosmos and Panhandle contend that the grant of the Joint Request will resolve the potential mutual exclusivity and serve the public interest by enhancing the new digital television service for Lubbock, Texas. In accordance with Section 1.420(j) of the Commission's Rules, Panhandle filed an affidavit stating that neither Panhandle nor any of its principals has paid, received, promised, or been promised any other

¹ Public Notice of the Petition for Reconsideration was given on June 29, 2001, Report No. 2490.

consideration in connection with the dismissal of its Petition for Reconsideration.

5. We have reviewed the Settlement Agreement filed by the parties and find that the agreement complies with our rules in all respects. The Agreement is **HEREBY APPROVED**.

6. Accordingly, **IT IS ORDERED**, That the aforementioned Petition for Reconsideration filed by Panhandle Telecasting Company **IS DISMISSED**.

7. **IT IS FURTHER ORDERED**, That this proceeding **IS TERMINATED**.

8. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Services Division
Mass Media Bureau