

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

In the Matter of:
CoxCom, Inc. d/b/a Cox Communications
Phoenix
For Modification of the Phoenix, Arizona
DMA
CSR-6964-A

MEMORANDUM OPINION AND ORDER

Adopted: May 10, 2006

Released: May 12, 2006

By the Deputy Chief, Policy Division, Media Bureau:

1. CoxCom, Inc. d/b/a Cox Communications Phoenix ("CoxCom") filed the above-captioned petition for special relief seeking to modify the Phoenix, Arizona designated market area to exclude television broadcast station KDTP (Ch. 39), currently Phoenix, Arizona ("KDTP"), from carriage in 29 cable communities in the Phoenix DMA in anticipation of KDTP's city of license change to Holbrook, Arizona. In support of its request, CoxCom argues that the market modification is necessary because KDTP, which is currently licensed to Phoenix, has been approved by the Commission to change its city of license to Holbrook, Arizona, and its over-the-air broadcast channel number to 11. In exchange, the current Holbrook station, KPHZ ("KPHZ"), would cease operations on channel 11 and take over the Phoenix operations of KDTP on channel 39. CoxCom maintains that this change in the Television Table of Allotments will make it impossible for KDTP to continue to serve the Phoenix area, as Holbrook is approximately 148 miles from the communities at issue and KDTP's effective radiated power, when it operates from Holbrook, will be minimal.

2. Both Community Television Educators, Inc., licensee of KDTP, and NBC Telemundo License Company, licensee of television broadcast station KPHZ (Ch. 11), Holbrook, Arizona, filed an opposition to this petition. KDTP and KPHZ argue that although an initial approval from the Commission has been received, the intended swap in facilities has not yet taken place and both stations are still operating as originally licensed.

3. Commission records indicate that it approved the Phoenix/Holbrook swap on October 5, 2005. KDTP and KPHZ both filed implementing minor change applications as directed and the applications were granted on April 11, 2006. However, as of this date, no license application has been filed by either licensee indicating that the swap has been completed. Because the stations have not begun operating in their new respective communities, the record in this proceeding is in flux. There can be no certainty as to when the stations will begin operating in their new cities of license and no certainty of the nature of the stations' operations, either technically and operationally.

4. As a result of the above, we find that CoxCom's petition for market modification is premature and it will be dismissed without prejudice. CoxCom is free to file a new petition in the future, should the intended swap take place.

5. Accordingly, **IT IS ORDERED**, pursuant to Section 614(h) of the Communications Act of 1934, as amended (47 U.S.C. § 534), and Section 76.59 of the Commission's rules (47 C.F.R. § 76.59), that the captioned petition for special relief (CSR-6964-A), filed by CoxCom, Inc. d/b/a Cox Communications Phoenix **IS DISMISSED**.

6. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules.¹

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

¹47 U.S.C. § 0.283.