

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

In the Matter of	)	
	)	
Amendment of Section 73.606(b),	)	MM Docket No. 01-85
Table of Allotments,	)	RM-9039
Television Broadcast Stations.	)	
(Boise, Idaho)	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: November 6, 2001**

**Released: November 14, 2001**

By the Chief, Video Services Division:

1. At the request of KM Communications, Inc. ("KM"), an applicant for a construction permit for a new television station to operate on channel 14 at Boise, Idaho, the Commission has before it the Notice of Proposed Rule Making, 16 FCC Rcd 7801 (2001), requesting the substitution of channel 39 for channel 14 at Boise. KM filed supporting comments and reply comments. International Television Network, Inc. ("ITN") filed comments.<sup>1</sup>

2. We believe the public interest would be served by substituting channel 39 for channel 14 since it would eliminate the mutually exclusivity between KM and ITN's competing applications while resolving interference concerns to the land mobile radio service. A staff engineering analysis indicates that channel 39 can be allotted to Boise with a zero offset in compliance with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission Rules and with the criteria set forth in the Commission's Public Notice ("*Public Notice*"), released on November 22, 1999, DA 99-2605.<sup>2</sup> The coordinates for channel 39 at Boise are North Latitude 43-45-18 and West Longitude 116-05-52.

3. 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 December 31, 2001, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the

<sup>1</sup> ITN filed a competing, mutually-exclusive application for channel 14 at Boise, but, entered into a settlement agreement. ITN states that KM agreed to pay ITN \$200,000 upon approval by the Commission of the settlement agreement, grant of the Joint Request, dismissal of ITN's mutually exclusive application and grant of KM's application. ITN state that while it does not oppose KM's channel substitution proposal, it advises the Commission that it objects to KM's statement regarding the possible preclusion of payment to ITN of a settlement payment in excess of ITN's expenses. The Joint Request remains pending and is being reviewed independent of this proceeding since it is necessary for the parties to change channels regardless of our decision on the settlement.

<sup>2</sup> In that *Public Notice* the Commission stated that petitions to change the channel of an existing allotment must protect DTV stations as provided in Section 73.623(c), but without any allowance to create *de minimis* interference as defined in Section 73.623(c)(2).

community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Boise, Idaho	2, *4+, 7, 39

4. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, KM Communications, Inc. shall submit to the Commission an amendment to its pending application for a construction permit for a new television station at Boise, Idaho, specifying Channel 39 in lieu of Channel 14.

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

6. 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