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OCT 30 2008

Federal Communications Commission  
Office of the Secretary

Joan Stewart  
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October 30, 2008

**VIA COURIER**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

**Re: KSFV-LP, San Fernando Valley, California (Facility ID 49704)  
Request for Waiver of Section 73.682(a)(15)**

Dear Ms. Dortch:

Venture Technologies Group, LLC ("VTG"), the licensee of Class A television station KSFV-LP, Channel 6, San Fernando Valley, California (Facility ID 49704), hereby respectfully requests a waiver of Section 73.682(a)(15) of the Commission's rules. That provision restricts the aural power of a Class A television station to 22% of the peak radiated power of the visual transmitter. The requested waiver is not inconsistent with KSFV-LP's technical history or the spirit of Section 73.682(a)(15), and is necessary for KSFV-LP to overcome substantial aural interference from a co-channel full power Mexican television station.

KSFV-LP is a Class A television station located in San Fernando Valley, California, which is in the northwestern section of Los Angeles. KSFV-LP was built and licensed as a low power television ("LPTV") station on channel 24 in 1992. In 2001, KSFV-LP was displaced by a full power station and received authority to move to channel 26. Slightly more than a year later, KSFV-LP was displaced again, at which time it applied for a construction permit to operate on channel 6 as a LPTV station (FCC File No. BPTVL-20021018AAZ). As permitted by Commission procedures for Class A-eligible stations, VTG simultaneously sought Class A status for its proposed channel 6 displacement facility (FCC File No. BLTVA-20021125ABK). Both the construction permit application for channel 6 and the Class A authorization were granted on February 5, 2004. Upon grant, VTG built the authorized LPTV station and filed a license application to cover the facility (FCC File No. BLTVA-20041104AKL). The Class A license application sat pending for nearly four years until it was granted on July 28, 2008. VTG has not modified the KSFV-LP facility since it was granted Class A status in 2004. Rather, VTG simply built and licensed its concurrently-authorized channel 6 displacement facility.

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The Commission's rules allow an LPTV station to operate at aural power that is 100% of visual power. Based upon informal communication with Commission staff, VTG understood that Section 73.6024 of the Commission's rules allowed a Class A station to continue to operate pursuant to the LPTV aural and visual power rules until the Class A station made a modification to its facilities. As noted above, VTG has not modified the facilities of KSFV-LP since the station acquired Class A status. It has only built its LPTV displacement facility on channel 6, for which it received Class A status while the facility was still unbuilt. Thus, VTG has operated KSFV-LP at full aural and visual power based upon its understanding that KSFV-LP was grandfathered under the LPTV technical rules. However, in October 2008, the local field office of the Commission's Enforcement Bureau requested that KSFV-LP reduce its aural power to 22% of its peak visual power in compliance with Section 73.682 of the Commission's rules. Despite VTG's understanding that KSFV-LP was grandfathered under the LPTV technical rules and thus allowed to operate at both full aural and visual power, it complied with this request.

Operation with aural power at only 22% of peak visual power, however, leaves KSFV-LP particularly susceptible to aural interference from co-channel station XETV, channel 6, Tijuana, BC, Mexico.<sup>1</sup> The waiver requested herein is necessary to prevent significant interference to KSFV-LP's signal from XETV.<sup>2</sup> Because Mexican regulations do not require full power television stations to reduce aural power, XETV broadcasts at full aural and visual power.

As explained in detailed in the attached engineering statements, the location of co-channel stations KSFV-LP and XETV along the Southern California coast makes KSFV-LP particularly susceptible to interference from XETV because of offshore marine propagation conditions which exist in this region. The effect of these conditions on radio and television signals has been well-documented and acknowledged by the Commission. Typically, the service area for a television transmitter extends to just beyond the optical horizon, at which point the signal rapidly declines in strength. However, as explained in detail in the technical statement at Attachment A, atmospheric conditions in this part of Southern California can carry signals much farther than predicted. Over 95% of the area between the respective transmitter sites for XETV and KSFV is over the Pacific Ocean. Thus, when certain atmospheric conditions common to this area exist, sound

<sup>1</sup> KSFV-LP is licensed to operate at a modest peak visual power of 499 watts. Operation at 22% of peak visual limits KSFV-LP to an exceedingly minimal 110 watts of aural power.

<sup>2</sup> XETV, although licensed as a Mexican television station, advertises itself as a San Diego station. In fact its master control and administrative offices are located in San Diego.

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waves travel much farther than predicted. XETV's engineer, in fact, has readily acknowledged that XETV's signal regularly is heard as far north as Santa Barbara, California, 100 miles further north than KSFV's site. See Attachment C.

Even when KSFV-LP operated at full aural and visual power, it periodically received aural interference from XETV in areas where XETV's signal was not predicted to reach. Without a waiver of the requirement of Section 73.682(a)(15), KSFV's aural signal will be overwhelmed, even within its protected contour, by aural interference from XETV. KSFV's viewers, tuning in to watch its popular Hispanic Catholic programming, will instead hear the programming of XETV, a CW affiliate. Accordingly, KSFV-LP seeks a waiver of Section 73.682(a)(15) to allow it to operate with aural power fully equivalent to its visual power.

The requested waiver is not inconsistent with the Commission's technical rules. Class A stations are LPTV stations in a technical sense, but by law are given greater programming and regulatory obligations in exchange for enhanced interference protection. Indeed, Section 73.682(a)(15) is one of a very few full power television technical rules which have been extended to Class A television stations. Nonetheless, because KSFV-LP has not modified its facility since being granted Class A status, Section 73.6024 of the rules would appear to permit KSFV-LP to continue to operate pursuant to the LPTV technical standards.<sup>3</sup> However, should the Commission determine that KSFV-LP is not grandfathered under the LPTV rules, grant of this waiver is in the public interest in order to allow KSFV-LP to operate without substantial aural interference from XETV.

<sup>3</sup> The Commission's Report and Order establishing Class A television service, 15 FCC Rcd 6355 ¶¶ 117, 118 (2000), contains little elucidation of why Section 73.682(a)(15) of the full-power technical rules was applied to Class A stations. From the sparse discussion that exists, the decision appears related to the Report and Order's decision to use the less stringent Part 73 verification scheme for *new* Class A transmitters. The Commission reasoned that because existing LPTV transmitters would eventually be replaced by digital equipment, it would "grandfather" the use of existing analog transmitters *except where* Class A stations proposed facilities increases, "such as increased power," which by rule must specify a frequency offset. In such a case, the Commission noted that the Class A licensee must then use a transmitter capable of meeting the frequency offset requirement. KSFV-LP should not fall within this latter exception. Its current channel 6 facilities were authorized as LPTV (though concurrently converted to Class A), and the station has operated those facilities continuously with the same LPTV transmitter originally employed in connection with the LPTV displacement construction permit. KSFV-LP has not sought increased power or any other "facilities increases" since.

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KSFV-LP thus respectfully requests this waiver of Section 73.682(a)(15) in order that it may operate at full aural and visual power and thus continue to provide service to the viewers within its protected contour.

Sincerely,



Gregory L. Masters  
Joan Stewart

Attachments

cc: Hossein Hashemzadeh, MB, VSD (via email)

**Attachment A**

**TECHNICAL STATEMENT IN SUPPORT OF WAIVER REQUEST  
OF KSFV-LP TO OPERATE AT 100% AURAL POWER  
BLTVA-20041104AKL, KSFV-LP, CHANNEL 6, SAN FERNANDO VALLEY, CA  
OCTOBER 29, 2008**

Venture Technologies Group, LLC respectfully requests a waiver of Section 73.682(a)(15) of the Rules and Regulations of the Federal Communications Commission in order to continue to serve the public interest by providing a high quality audio service as part of its operation of Class A Television Station KSFV-LP. The requested waiver is required to overcome interference to KSFV-LP by XETV –TV, a channel 6 station licensed to Tijuana, BC, Mexico. XETV operates at full aural and visual power causing interference to co-channel facilities as far north as Santa Barbara, California. This technical statement has been prepared by Lawrence Rogow in support of that waiver request. The engineering qualifications of Lawrence Rogow are a matter of record at the Commission.

KSFV-LP first went on the air on channel 24 in the Northridge community of the San Fernando Valley (which itself is part of incorporated Los Angeles), in August 1992 (BLTTL-19920828JC). The station has been serving the San Fernando Valley and most of Los Angeles continuously since then – a period of more than 16 years. In May 2001, the station migrated to channel 26 and moved to its current transmitter site on Mt. Harvard (BLTTL-20010507AAN) to avoid interference to and from KVCR-TV, channel 24 at San Bernardino, CA, which had recently upgraded its power on channel 24. In November 2002, however, KSFV-LP was again displaced and filed to move to channel 6 (BPTVL-20021018AAZ). In accordance with the Commission's procedures for Class A-eligible stations, VTG simultaneously sought Class A status for KSFV-LP's proposed displacement facility (BLTVA-20021125ABK). Both the construction permit application

for an LPTV station on channel 6 and authority to operate that LPTV facility as a Class A station were granted in February 2004. KSFV-LP began operations on channel 6 in October 2004 and shortly thereafter filed a Class A covering license application for the constructed facility (BLTVA-20041104AKL), which was granted in August 2008..

Section 73.6024 of the Commission's rules requires that a Class A television station meet the requirements of Section 73.682 of the Commission's rules, including Section 73.682(a)(15), which requires that "the effective radiated power of the aural transmitter must not exceed 22% of the peak radiated power of the visual transmitter." . Section 73.6024 also provides, however, that a Class A station "may continue to operate with the transmitter operated under its previous LPTV license, provided such operation does not cause any condition of uncorrectable interference ..." Section 73.6024(b). Based upon informal communication with Commission staff (See Attachment D), VTG understood that Section 73.6024 allowed a Class A station to continue to operate pursuant to the LPTV aural and visual power rules until the Class A station made a modification to its facilities. VTG has not modified the facilities of KSFV-LP since the station acquired Class A status. It has only built its LPTV displacement facility on channel 6, for which it received Class A status while the facility was still unbuilt.

KSFV-LP operated successfully at 499 watts visual and 499 watts aural until it received a request in October 2008 from the FCC's Enforcement Bureau to reduce KSFV-LP's aural power to 22% of the visual. KSFV-LP reduced its aural power in compliance with this request. However, it now seeks a waiver of Section 73.682(a)(15) to the extent it is deemed to apply to KSFV-LP's operations.

Authority to operate at full aural and visual power, and therefore the requested waiver of Section 73.682, is essential to the operations of KSFV-LP because of aural interference received from XETV, channel 6, licensed to the Mexican border town of Tijuana, BC, Mexico. XETV operates from a transmitter site on a mountain just south of San Diego, California. For all intents and purposes, XETV has been operating as an

American television station for decades, with offices and master control in the United States. XETV has always been operated as a San Diego station, first as an ABC affiliate for San Diego, then as the Fox affiliate for San Diego, and now as the CW affiliate for San Diego. Therefore, XETV's primary market is actually Southern California – not Baja California.

Mexican authorities do not require Mexican television stations to limit their aural to 22% of their visual power. Nor does the US-Mexico Treaty require that Mexican television stations in the border zone operate with an aural power of no more than 22% of the station's visual power. Thus, as a full power television station regulated under the rules of Mexico, XETV's aural carrier is receivable 200 miles north of the Mexican border.

More essential to this analysis, however, is the offshore marine propagation conditions in Southern California that cause radio waves to carry beyond distances normally predicted. With more than 95% of the area between the KSFV coverage area and the XETV transmitter site being over the Pacific Ocean, the interfering qualities of XETV's disproportionately strong aural signal are compounded. See Attachment B.

The reason that the XETV signal carries so well is because of the tropospheric propagation over the Pacific Ocean. Normally, the service area from a TV or FM radio transmitter extends to just beyond the optical horizon, at which point signals start to rapidly reduce in strength.

Tropospheric-propagated signals travel in the part of the atmosphere adjacent to the surface and extending to some 25,000 feet (7,620 m). Such signals are thus directly affected by weather conditions extending over some hundreds of miles. High pressure zones over the ocean increase signal propagation. A settled high-pressure system gives the characteristic conditions for enhanced tropospheric propagation, in particular favoring signals which travel along the prevailing isobar pattern (rather than across it). RF signals traveling over Pacific coastal waters are a unique condition. At sunset the upper

air cools, as does the surface temperature, but at different rates. This produces a boundary or temperature gradient, which allows an inversion level to form. A similar effect occurs at sunrise. The inversion is capable of allowing VHF signal propagation well beyond the normal radio horizon distance.

The inversion effectively reduces skywave radiation from a transmitter. Normally VHF signals travel on into space when they reach the horizon, the refractive index of the ionosphere preventing signal return. With temperature inversion, however, the signal is to a large extent refracted over the horizon rather than continuing along a direct path into outer space.

This is further exacerbated by the fog that builds up over the coastal waters. Fog produces good tropospheric results, again due to inversion effects. When fog conditions result in a large belt of fog with clear sky above as is common in Southern California, there will be heating of the upper fog level and thus an inversion. This situation often arises towards nightfall, continues overnight, and clears after the sunrise over a period of around five hours. This inversion problem is much worse in the TV audio of VHF stations, which are frequency modulated, than in the visual carriers of VHF television stations.

The problem with the offshore marine propagation conditions in Southern California has been widely recognized by the FCC. In 1952, the FCC assigned channels 8 and 10 to San Diego, channels 2, 4, 5, 7, 9, 11 and 13 to Los Angeles, and channel 3 to Santa Barbara. (UHF tuners were not put into TV receivers until 1964.) Channels 6 and 12 were assigned to Tijuana, B.C., Mexico. Channel 3, which was assigned to Santa Barbara, California, was deemed unusable in Tijuana because of the offshore marine propagation conditions even though it met all standard co-channel distances required for allowing co-channel facilities in Santa Barbara and Tijuana. The FCC recognized this condition and realized that with Santa Barbara using channel 3, it would not be available in Tijuana. The FCC then froze ungranted applications to San Diego on channels other

than 8 and 10 and did not accept any new construction permits from San Diego as a courtesy to Mexican authorities.

The KSFV-LP Class A protected service area is the 62 dBu contour. The contour reaches the ocean toward the southwest between Santa Monica and Torrance and toward the south at Long Beach. Approximately 175 km from the XETV transmitter site along the 323 degree radial is the KSFV-LP protected contour in Long Beach. Along this radial, the XETV signal is radiated over Pacific Ocean waters for about 95% of the way.

In fact, even with KSFV-LP operating with 499 watts aural and 499 watts visual, there were areas within the protected Class A contour of KSFV-LP in which the only audio receivable on channel 6 was from XETV. In August 2008, when tuning in to watch KSFV-LP from my home, which is located in Los Angeles in a location that Longley Rice studies indicates I should receive a 71 dBu signal, I received the KSFV-LP visual signal but heard the XETV audio signal. The KSFV-LP signal is virtually overwhelmed by the XETV audio carrier, which propagates along the water far beyond what should normally be predicted.

In fact, XETV propagation is easily discernable in Santa Barbara, CA, up the California coast from Los Angeles. Santa Barbara is, in fact, more than 100 miles further up the coast beyond the KSFV-LP transmitter site, and there is no measurable audio or visual signal of KSFV-LP in Santa Barbara. Yet, in Santa Barbara, which is 330 km from the XETV transmitter site, and like KSFV, along a radial that is almost all over water, the aural carrier of XETV is easily heard on a FM receiver tuned to 87.75 MHz. In fact, in recent correspondence, Gary Stigall, the Director of Engineering at XETV, stated:

"... our [XETV] signal regularly carries to Santa Barbara, far past LA... The coastal humidity allows the signals to refract, essentially 'bending' them past the visual horizon. Video is AM and audio is FM, so they have different characteristics.

"The FCC in their infinite wisdom chose to put KSFV on our frequency within our extended coverage area, so they, predictably, interfere with each other. See Attachment C."

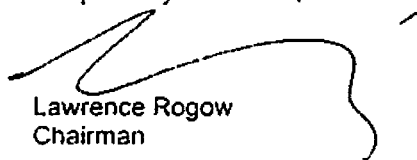
The XETV signal is so well propagated into Southern California that XETV apparently believes that Los Angeles is part of their "extended coverage area."

If KSFV-LP were an LPTV station and not a Class A station, it would be able to operate at 499 watts ERP. The only significant difference between Class A stations and LPTV stations is the number of hours that they are required to broadcast, the amount of local programming that is required to be provided, and number of employees at the station. Class A stations are LPTV stations in a technical sense, but by law are given greater programming and regulatory obligations in exchange for enhanced interference protection. Indeed, Section 73.682 is one of a very few full power technical rules that has been extended to Class A television stations. As a practical matter, however, most Class A stations (including KSFV-LP) operate with a single multiplexed transmitter that is standard for the LPTV industry, and thus there is no distinction between an aural and a visual transmitter. VTG therefore believes that application of the 22% aural power limit to KSFV-LP and many other Class A stations makes no sense as a practical technical matter.

Most importantly, in the four years that KSFV-LP has been operating at full aural and visual power on channel 6, it has never received a single complaint from any other broadcaster about interference. Therefore, KSFV-LP submits that pursuant to Section 73.6024 of the Commission's rules, KSFV-LP should be permitted to continue to operate with full aural and visual power pursuant to its original construction permit for channel 6, which was granted as an LPTV facility and (other than conversion to Class A) has not been modified since. Operating at full power, KSFV-LP does not cause interference to other broadcasters. In the alternative, KSFV-LP requests a waiver of Section 73.682 of the Commission's rules to allow it to operate at full aural power so that it can ensure that its viewers are not overwhelmed by aural interference from XETV

For the reasons stated above, Venture Technologies Group, LLC respectfully requests a waiver of Section 73.682(a)(15) of the Rules and Regulations of the Federal Communications Commission in order to continue to serve the public interest by providing a high quality audio service as part of its operation of Class A Television Station KSFV-LP.

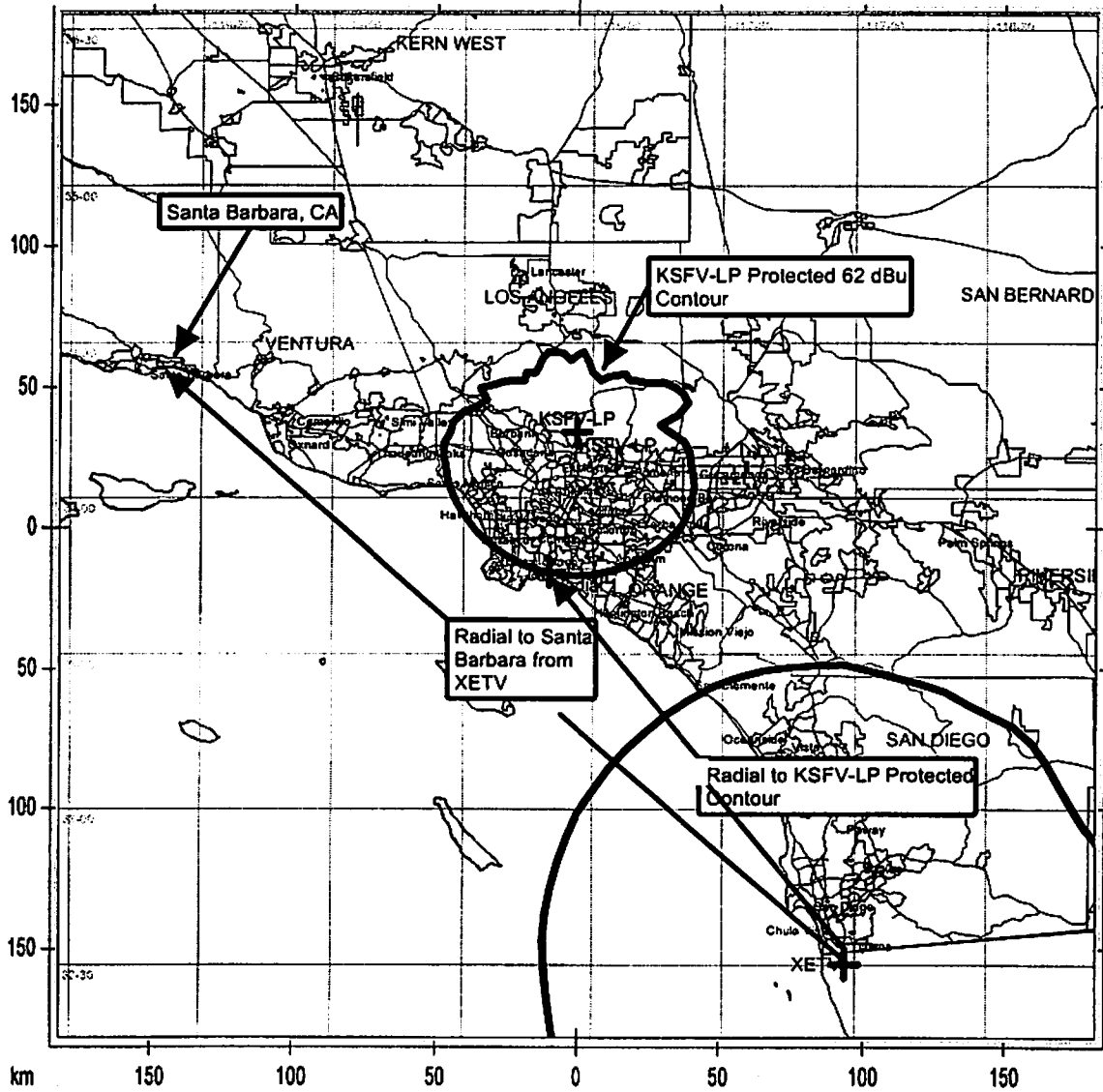
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lawrence Rogow', is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke that loops back under the name.

Lawrence Rogow  
Chairman

**Attachment B**

INTERFERING PATH OF XETV TO KSFV-LP COVERAGE AREA ON CHANNEL 6



XETV interferes with KSFV-LP's aural carrier.

- National Borders
  County Borders
  State Borders
  City Borders
- Highways
  Lat/Lon Grid

**Attachment C**

**From:** Gary Stigall  
**To:** Lawrence Rogow;  
**CC:**  
**Subject:** RE: Engineering Feedback: Reception of XETV  
**Date:** Tuesday, October 14, 2008 3:33:09 PM  
**Attachments:**

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Larry, our signal regularly carries to Santa Barbara, far past LA, just as I used to be able to watch KEYT Santa Barbara in San Diego before a channel 3 station went on the air from Tijuana. The coastal humidity allows the signals to refract, essentially "bending" them past the visual horizon. Video is AM and audio is FM, so they have different interference characteristics.

--Gary

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**From:** Lawrence Rogow [mailto:lrogow@loop.com]  
**Sent:** Tuesday, October 14, 2008 3:29 PM  
**To:** Gary Stigall  
**Subject:** RE: Engineering Feedback: Reception of XETV

Actually, however, I live way up in Los Angeles and hear XETV audio when watching KSFV. Why is it coming up this far?

---

**From:** Gary Stigall [mailto:Gary.Stigall@sandiego6.com]  
**Sent:** Tuesday, October 14, 2008 3:26 PM  
**To:** Lawrence Rogow  
**Subject:** RE: Engineering Feedback: Reception of XETV

Hi Larry,

The question I always get from viewers in the Ocean Beach part of San Diego is, "Why do I hear Spanish music when I try to tune your station in?"

The FCC in their infinite wisdom chose to put KSFV on our frequency within our extended coverage area, so they, predictably, interfere with each other. We hear that KSFV is intending to broadcast a digital signal, which will help. But I have no idea when that will happen.

Thanks for writing,

*Gary Stigall*  
*Director of Engineering*  
*Bay City Television*  
*XETV San Diego 6*  
*8253 Ronson Road*  
*San Diego, California 92111*  
*(858) 650-5430 office*

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**From:** rogow@loop.com [mailto:rogow@loop.com]  
**Sent:** Tuesday, October 14, 2008 3:21 PM  
**To:** Gary Stigall; Bob Anderson  
**Cc:** Webmaster  
**Subject:** Engineering Feedback: Reception of XETV

**name:** Larry Rogow  
**email:** rogow@loop.com  
**city/neighborhood:** Los Angeles  
**phone:**  
**subject:** Reception of XETV  
**I receive San Diego 6 through:** None  
**I watch on:** Channel 6  
**Picture problem:** Weak signal  
**Sound problem:** Intermittent/stutters  
**Closed Captioning problem:** Never  
**Problem occurs:** Intermittently  
**zip\_code:** 90036  
**message:** Why do I often get the audio for XETV in Los Angeles even when I am watching a KSFV-LP, a low power in the San Fernando Valley?

**Attachment D**

**From:** Hossein Hashemzadeh  
**To:** Lawrence Rogow;  
**CC:**  
**Subject:** RE: Class A rule 73.682(a)(15)  
**Date:** Wednesday, April 16, 2008 5:29:51 AM  
**Attachments:** image001.jpg  
image002.gif

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Hi Larry:

Under 73.6024, if you have not changed anything since becoming Class A, then you will be ok using the LPTV rules, but if you modify the facilities then you have to comply with 73.682 rules.

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**From:** Lawrence Rogow [mailto:lrogow@loop.com]  
**Sent:** Friday, April 11, 2008 2:15 PM  
**To:** Hossein Hashemzadeh  
**Subject:** Class A rule 73.682(a)(15)

Hossein,

I hope that Springtime in DC is treating you well.

I have a question about a technical rule. Section 73.682(a)(15) states that the effective radiated power of the aural transmitter of a Class A station must not exceed 22% of the peak radiated power of the visual transmitter of the station. Unlike most full power stations, most Class A stations, however, operate with a single multiplexed transmitter that is the standard in the LPTV industry and such a distinction between aural and visual transmitters are not applicable. In such a case where there is no separate aural transmitter is the 22% aural transmitter limit applicable or is the limit the 100% figure that is applicable to LPTV stations?

Lawrence Rogow  
Chairman

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Los Angeles, CA 90036

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[lrogow@loop.com](mailto:lrogow@loop.com)