

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re)
)
AUCTION 81)
)
To: Chief, Media Bureau)
Chief, Wireless Bureau)

COMMENTS OF CHARLES C. TOWNSEND, III ON AUCTION 81 PROCEDURES

Charles C. Townsend, III, by his counsel, comments on the Auction 81 procedures as proposed in Public Notice DA 05-506 (February 28, 2005). As shown herein, there are numerous MX groups that have been resolved by engineering amendments and/or settlement agreements which the Media Bureau has not yet acted upon. Accordingly, the following MX groups should be removed from the auction pending Media Bureau action on the pending amendments and/or settlement agreements. MX Groups 9, 13, 30, 32, 40, 41, 43, 51, 54, 57, 61, 64, 65, 66, 67, 68, 69, 70, 72, 73, 75, 78, 79, 81, 82, 84, 85, 86, 88, 90, 91, 92, 93, 94, 95, 96, 97, 100, 101, 102, 104, 106, 112, 113, 114, 115, 119, 127, 155, 158, 159, 160, 161, 162, 163, 164, 165, 167, 173, 201, 205, 218, 222, 223, 224, 226, 233. These are discussed *seriatim*.¹

MX9. Pursuant to a settlement agreement, Mr. Townsend dismissed his application for Hannibal, MO, BNPTTL-20000828ASY, and TCCSA, Inc. dismissed its application for Hannibal, BNPTTL-20000831BSI, in favor of Dean M. Mosely, BNPTTL-20000828BDM, who amended his application to resolve the mutual exclusivity with the other applicants in MX9. *See* Exhibit 7.

¹ Where an application of Mr. Townsend's will be granted as a result of a settlement agreement or engineering amendment, appropriate documentation is attached.

MX13. Pursuant to settlement agreement the application of Charles C. Townsend, III for Channel 47 at Pagosa Springs, Colorado, File No. BNPTTL20000828ASN, Facility ID No. 127687, was dismissed and the application of Dean M. Mosely for Channel 47 at Pagosa Springs, Colorado, File No. BNPTTL20000828AFY, Facility ID No. 126333 was to be granted. The surviving applicant for Channel 47 at Pagosa Springs, Colorado, agreed to accept interference at present or reduced levels from all other applicants.

MX30. Pursuant to a settlement agreement the application of Charles C. Townsend, III for Channel 43 at Durango, CO, File No. File No. BNPTTL20000828ASC was to be granted; the application of Dean M. Mosely for Channel 43 at Durango, CO, File No. BNPTTL20000828AHN was dismissed; and the application of Julie Mintz for Channel 43 at Durango, CO, File No. BNPTTL20000807ADT was dismissed. *See* Exhibit 1. Mr. Townsend amended his surviving application for Durango pursuant to the amendment included in Exhibit 1.

MX32. Pursuant to settlement agreement, the application of Dean M. Mosely for Channel 42 at Bismark, ND, File No. BNPTTL20000828APB was dismissed; the application of Charles C. Townsend, III for Channel 42 at Bismark, ND, File No. BNPTTL20000828AXV was dismissed; the application of Telecom Wireless, LLC for Channel 28 at Bismark, ND, File No. BNPTTL20000830BTE, as amended, was to be granted; the application of Inspiration Television, Inc. for Channel 42 at Bismark, ND, File No. BNPTTL20000828BGH, was to be granted; the application of Inspiration Television, Inc. for Channel 44 at Bismark, ND, File No. BNPTTL20000828BGG was dismissed; the application of Julie Mintz for Channel 43 at Bismark, File No. BNPTTL20000807AHO, was to be granted; the application of Prime Cities Broadcasting, Inc. for Channel 44 at Bismark, ND, File No. BNPTTL20000828BEY, as amended,

was to be granted. The entry of the parties into that settlement agreement was contingent on the effectuation of a full market settlement in what was then called MX group 98.

MX40. Pursuant to the settlement agreement, the application of Charles C. Townsend, III, File No. BNPTTL20000828AZA for Channel 47 at Rapid City, South Dakota, was to be granted; the application of Dean M. Mosely, File No. BNPTTL20000828APN for Channel 47 at Rapid City, South Dakota, was dismissed; the application of Three Angels Broadcasting Network, Inc., File No. BNPTTL20000831BJV, for Channel 47 at Rapid City, South Dakota, was dismissed; the application of G.I.G., Inc., File No. BNPTTL20000816ACK, for Channel 47 at Rapid City, South Dakota, was to be dismissed. *See Exhibit 2.*

MX41. Mr. Townsend dismissed his application for Eureka, CA on Channel 39 pursuant to a settlement agreement.

MX43. Pursuant to settlement agreement, the application of Charles C. Townsend, III, for Channel 29 at Grand Junction, CO, File No. BNPTTL20000828BDT was to be granted; the application of Dean M. Mosely for Channel 29 at Grand Junction, CO, File No. BNPTTL20000828ANL was dismissed; the application of International Executive Consultants, Inc. for Channel 30 at Grand Junction, CO, File No. BNPTTL20000818AAH was dismissed. Applicant Laurie Mintz amended her application for Channel 30 at Grand Junction, CO, File No. BNPTTL20000807AGG to relocate her proposal to another non-mutually exclusive site. Applicant Tiger Eye Licensing, LLC withdraw its application for Channel 29 at Grand Junction, CO, File No. BNPTTL20000818AAB. Applicant Charles C. Townsend, III agreed to accept interference at present or reduced levels from the other proposals in the MX group, and amended his

application accordingly. The results of a study conducted using OET69 demonstrated that the Townsend proposal would not cause objectionable interference to any other applicant or existing facility. *See Exhibit 3.*

MX51. Pursuant to settlement agreement, the application of Dean M. Mosely for Channel 27 at Glasgow, MT, File No. BNPTTL20000830AIK was dismissed; his application for Channel 27 at Miles City, MT, File No. BNPTTL20000828AKR was to be granted; the application of Wolf Point TV District for Channel 27 at Wolf Point, MT, File No. BNPTT20000818AET was to be granted; the application of Charles C. Townsend, III for Channel 27 at Glasgow, MT, File No. BNPTTL20000830ARO was to be granted, and his application for Channel 27 at Miles City, MT, File No. BNPTTL20000828AXN was dismissed. Dean M. Mosely, Charles C. Townsend, III and Wolf Point TV District amended their surviving applications to accept any predicted interference between their proposals on Channel 27, documentation submitted to this Commission showed there would be no such interference. On December 21, 2001, Mr. Townsend, pursuant to a determination by the Media Bureau that his application was no longer mutually exclusive, filed his long form application for Glasgow channel 27. He is awaiting grant of that application. On January 12, 2004, the Associate Chief of the Video Division wrote the applicant to request the transmitter output power of the proposal. The application was then amended on January 28, 2004 to provide that information. *See Exhibit 4.*

MX54. Pursuant to three separate settlement agreements filed January 22, 2002, the following actions were to occur:

The application of Dean M. Mosely for Channel 48 at Shoshone, Idaho, File No. BNPTTL20000828AXK, Facility ID No. 128071, was dismissed; the application of Charles C.

Townsend, III for Channel 48 at Shoshone, Idaho, File No. BNPTTL20000828ATG, Facility ID No. 127739 was to be granted. Mr. Townsend amended his Channel 48 application at Shoshone, Idaho, to reduce power, reconfigured his proposal with a directional antenna to avoid interfering with any other proposal and agreed to accept interference at present or reduced levels from all other pending applicants.

The application of Dean M. Mosely for Channel 48 at Hailey, Idaho, File No. BNPTTL20000828AOK, Facility ID No. 127250, was dismissed; application of Charles C. Townsend, III for Channel 48 at Hailey, Idaho, File No. BNPTTL20000828AVQ, Facility ID No. 127915 was to be granted. The surviving applicant for Channel 48 at Hailey, Idaho, agreed to accept interference at present or reduced levels from all other applicants.

The application of Dean M. Mosely for Channel 48 at Sun Valley, Idaho, File No. BNPTTL20000828AON, Facility ID No. 127253, was dismissed; application of Charles C. Townsend, III for Channel 48 at Sun Valley, Idaho, File No. BNPTTL20000828AVY, Facility ID No. 127937 was to be granted. The surviving applicant for Channel 48 at Sun Valley, Idaho, agreed to accept interference at present or reduced levels from all other applicants. *See* Exhibit 5.

MX57. Pursuant to a settlement agreement, the application of Charles C. Townsend, III for Channel 33 at Missoula, MT, File No. BNPTTL20000828AXQ was to be granted; the application of Dean M. Mosely for Channel 33 at Missoula, MT, File No. BNPTTL20000828ALL was dismissed. The surviving applicant for Channel 33 at Missoula, MT amended his application to change his transmitter location and agreed to accept interference from all other applicants at present or reduced levels. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. *See* Exhibit 5A.

MX61. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 48 at La Crosse, WI, File No. BNPTTL20000828AEF was dismissed; the application of Dean M. Mosely for Channel 48 at La Crosse, WI, File No. BNPTTL20000828AIK was dismissed; the application of Trinity Broadcasting Network for Channel 48 at La Crosse, WI, File No. BNPTTL20000830BIE was to be granted.

MX64. Pursuant to a settlement agreement, the application of Charles C. Townsend, III for Channel 25 at Vidalia, GA, File No. BNPTTL20000828AVH, was dismissed; the application of Dean M. Mosely, for Channel 25 at Vidalia, GA, File No. BNPTTL20000828AEZ, was to be granted; and the application of Trinity Broadcasting Network for Channel 25 at Vidalia, GA, File No. BNPTT20000830AYR, was to be dismissed.

MX65. Pursuant to a settlement agreement, the application of Dean M. Mosely for Channel 33 at Truth or Consequences, New Mexico, File No. BNPTTL20000828AMC, Facility ID No. 127023, was dismissed; the application of Charles C. Townsend, III applicant for Channel 33 at Truth or Consequences, New Mexico, File No. BNPTTL20000828AEQ, Facility ID No. 126208 was to be granted. The surviving applicant for Channel 33 at Truth or Consequences, New Mexico, Mr. Townsend, amended his application to accept interference at present or reduced levels from all other pending applicants. *See Exhibit 6.*

MX66. Pursuant to a settlement agreement, the application of Dean M. Mosely for Channel 33 at Rupert, ID, File No. File No. BNPTTL20000828AEV was dismissed; the application of Charles M. Townsend, III for Channel 33 at Rupert, ID, File No. BNPTTL20000828AVT was dismissed; and the

application of Trinity Broadcasting Network for Channel 33 at Burley, ID, File No. BNPTT20000830ATI was to be granted.

MX67 and MX72. Pursuant to a settlement agreement, the application of Charles C. Townsend, III, File No. BNPTTL20000828AVK for Channel 48 at Hilo, HI, was to be granted; the application of Dean M. Mosely, File No. BNPTTL20000828AFB for Channel 48 at Hilo, HI, was dismissed; the application of Trinity Broadcasting Network for Channel 48 at Hilo, HI, File No. BNPTTL20000830AYZ was dismissed; the application of Charles C. Townsend, III, File No. BNPTTL20000828AVL for Channel 50 at Hilo, HI, was dismissed; the application of Dean M. Mosely, File No. BNPTTL20000828AFC for Channel 50 at Hilo, HI, was dismissed; and the application of Trinity Broadcasting Network for Channel 50 at Hilo, HI, File No. BNPTTL20000830AZA was to be granted. Mr. Townsend amended his application to show no interference to other pending applicants and to accept interference from other pending applicants. *See Exhibit 7.*

MX68. Pursuant to settlement agreement, the application of Charles C. Townsend, III, File No. BNPTTL20000828AYK for Channel 46 at Roswell, NM, was to be granted; the application of Dean M. Mosely, File No. BNPTTL20000828AFI, for Channel 46 at Roswell, NM, was dismissed; the application of Trinity Broadcasting Network for Channel 46 at Roswell, NM, File No. BNPTTL20000830AVW, was dismissed. Mr. Townsend amended his application to show that he would not interfere with any other applicant and that he would accept interference from other pending applications. *See Exhibit 8.*

MX69. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 34 at E. Eagle, CO, File No. BNPTTL20000828ASK was to be granted; and the application of Dean M. Mosely for Channel 34 at E. Eagle, CO, File No. BNPTTL20000828AFX was dismissed. Mr.

Townsend, the surviving applicant for Channel 34 at E. Eagle, CO agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that his proposal will not cause objectionable interference to any other applicant or existing facility. *See* Exhibit 9.

MX70. Pursuant to a settlement agreement, the application of Dean M. Mosely for Channel 40 at Manhattan, KS, File No. BNPTTL20000828AGK will be dismissed; application of Charles C. Townsend, III for Channel 40 at Manhattan, KS, File No. BNPTTL20000828AVZ will be dismissed; and application of Amanda Orrick for Channel 40 at Manhattan, KS, File No. BNPTTL20000807ABN, will be granted.

MX73. Pursuant to a settlement agreement, the application of Dean M. Mosely for Channel 17 at Key West, FL, File No. File No. BNPTTL20000828AGO was dismissed; and the application of Charles C. Townsend, III for Channel 17 at Key West, FL, File No. BNPTTL20000828AST was dismissed.

MX75. Pursuant to a settlement agreement both Dean Mosely and Charles C. Townsend, III dismissed their respect applications for Channel 23 at Jasper, TX.

MX78. Pursuant to a settlement agreement, filed August 17, 2001, Dean M. Mosely dismissed his application for East Eagle, Channel 32 BNPTTLE-20000828ASJ, leaving Charles C. Townsend, III=s application for East Eagle, CO, as the sole surviving applicant, BNPTTL-20000828AGY. *See* Exhibit 10.

MX79. Pursuant to a settlement agreement the application of Charles C. Townsend, III for Channel 51 at Warrenton, Oregon, File No. BNPTTL20000828AYT, Facility ID No. 128172, was dismissed; the application of Dean M. Mosely for Channel 51 at Warrenton, Oregon, File No. BNPTTL20000828AHX, Facility ID No. 126476 was to be granted. The surviving applicant for Channel

51 at Warrenton, Oregon, amended his proposal to another site and agreed to accept interference at present or reduced levels from all other applicants.

MX81. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 42 at Fort Bragg, CA, File No. BNPTTL20000828ARM was dismissed; application of Dean M. Mosely for Channel 42 at Fort Bragg, CA, File No. BNPTTL20000828AIM was to be granted. An allocations study demonstrated there is no contour overlap to the remaining applicants. The surviving Ft. Bragg applicant amended his application to accept contour overlap at present or reduced levels from the other applicants.

MX82. Pursuant to a settlement agreement, the application of Charles C. Townsend, III for Channel 48 at Yreka, CA, File No. BNPTTL20000828ARW was to be granted; application of Dean M. Mosely for Channel 48 at Yreka, CA, File No. BNPTTL20000828AMX was dismissed. The surviving applicant for Channel 48 at Yreka, CA agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal would cause only *de minimis* interference to Three Angels Broadcasting Network's proposed operation on Channel 49 at Yreka, CA and no interference to any other applicant or existing facility. *See* Exhibit 11.

Pursuant to settlement agreement, the application of Charles Townsend, III for Channel 48 at Redding, CA, File No. BNPTTL20000828ART was to be granted, and the application of Dean M. Mosely for Channel 48 at Redding, CA, File No. BNPTTL20000828AHM was dismissed. An OET69 study showed no interference with any other pending proposal. Mr. Townsend amended his application to accept any interference at present or reduced levels. *See* Exhibit 11A

MX84. Pursuant to a settlement agreement filed August 10, 2001, the application of Charles C. Townsend, III for Channel 49 at Bisbee, AZ, File No. BNPTTL20000828AQL, as amended, was to be granted; and the application of Dean M. Mosely for Channel 50 at Bisbee, AZ, File No. BNPTTL20000828AIX, as amended, was to be granted. Applicant Charles C. Townsend, III agreed to accept any interference caused to his proposed station on Channel 49 at Bisbee, AZ, File No. BNPTTL20000828AQL by Applicant Dean M. Mosely's proposal for Channel 50 at Bisbee, AZ, File No. BNPTTL20000828AIX. Applicant Dean M. Mosely agreed to accept any interference caused to his proposed station on Channel 50 at Bisbee, AZ, File No. BNPTTL20000828AIX by Applicant Charles C. Townsend, III's proposal for Channel 49 at Bisbee, AZ, File No. BNPTTL20000828AQL. *See* Exhibit 12.

MX85. Pursuant to a settlement agreement filed August 17, 2001, the application of Dean M. Mosely for Channel 51 at Red Bluff, CA, File No. BNPTTL20000828AHN was dismissed; the application of Charles C. Townsend, III for Channel 51 at Red Bluff, CA, File No. BNPTTL20000828ARS, as amended, was to be granted. The surviving application of Charles C. Townsend, III for Channel 51 at Red Bluff, CA, File No. BNPTTL20000828ARS was amended to specify a plus offset. The results of a study conducted using OET69 demonstrated that the proposal, as amended, will not cause objectionable interference to any other applicant or existing facility. Additionally, the Applicant agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. *See* Exhibit 13.

MX86. Pursuant to a settlement agreement filed January 22, 2002, the application of Dean M. Mosely for Channel 15 at Bisbee, Arizona, File No. BNPTTL20000828AIY, Facility ID No. 126589, was

dismissed; the application of Charles C. Townsend, III for Channel 15 at Bisbee, Arizona, File No. BNPTTL20000828AQJ, Facility ID No. 127566 was to be granted. The surviving applicant for Channel 15 at Bisbee, Arizona, agreed to accept interference at present or reduced levels from all other applicants. *See Exhibit 14.*

MX88. Pursuant to settlement agreement, the following actions were contemplated:

- (a) Applications of Charles C. Townsend, III for Channel 48 at Holbrook, AZ , File No. BNPTTL20000828AQP, as amended, and for Channel 48 at Winslow, AZ, File No. BNPTTL20000828ARA, as amended, were to be granted; application of Dean M. Mosely for Channel 33 at Holbrook, AZ, File No. BNPTTL20000828AJC, was to be granted.
- (b) Applicant Charles C. Townsend, III agreed to accept any interference caused to his proposed station for Channel 48 at Holbrook, AZ, File No. BNPTTL20000828AQP by his application for Channel 48 at Winslow, AZ, File No. BNPTTL20000828ARA.
- (c) Applicant Charles C. Townsend, III agreed to accept any interference caused to his proposed station for Channel 48 at Winslow, AZ, File No. BNPTTL20000828ARA by his application for Channel 48 at Holbrook, AZ, File No. BNPTTL20000828AQP.
- (d) Applicant Dean M. Mosely agreed to accept any interference caused to his proposed station for Channel 33 at Holbrook, AZ, File No. BNPTTL20000828AJC by the proposed stations of Charles C. Townsend, III for Channel 48 at Holbrook, AZ, File No. BNPTTL20000828AQP and at Winslow, AZ, File No. BNPTTL20000828ARA.

See Exhibit 15.

MX90. A settlement agreement was filed with the Commission proposing the following: application of Charles C. Townsend, III for Channel 43 at Sun Valley, ID, File No. BNPTTL20000828AVX will be dismissed; application of Dean M. Mosely for Channel 43 at Sun Valley, ID, File No. BNPTTL20000828AIO will be granted. The surviving applicant for Channel 43 at Sun Valley, ID, agrees to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. The application of Charles C. Townsend, III for Channel 43 at Hailey, ID, File No. BNPTTL20000828AVO will be dismissed; application of Dean M. Mosely for Channel 43 at Hailey, ID, File No. BNPTTL20000828AOI will be granted. The surviving applicant for Channel 43 at Hailey, ID, agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. The application of Charles C. Townsend, III for Channel 45 at Hailey, ID, File No. BNPTTL20000828AVP will be granted; application of Dean M. Mosely for Channel 45 at Hailey, ID, File No. BNPTTL20000828BIL will be dismissed. The surviving applicant for Channel 45 at Hailey, ID, agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility.

MX91. Mr. Townsend dismissed his application for channel 30 at Jackson, WY, pursuant to a settlement agreement.

MX92. Mr. Townsend dismissed his application for channel 49 at Kalispell, MT, pursuant to a settlement agreement.

MX93 and MX102. Pursuant to a settlement agreement, the application of Charles C. Townsend, III for Channel 26 at Jackson, WY, File No. BNPTTL20000828BAC was to be granted; application of Dean M. Mosely for Channel 26 at Jackson, WY, File No. BNPTTL20000828AJT was dismissed; application of Charles C. Townsend, III for Channel 48 at Jackson, WY, File No. BNPTTL20000828BAF was to be granted; application of Dean M. Mosely for Channel 48 at Jackson, WY, File No. BNPTTL20000828AJQ was dismissed; applications of Two Ocean Broadcasting Company for Channel 26 and 48 at Jackson, WY, File Nos. BNPTTL20000829AEL and BNPTTL20000829AEN, respectively, were dismissed. The surviving applications for Channel 26 and 48 at Jackson, WY were amended to accept interference from all other applicants in the mutually exclusive group at present or reduced levels. In addition, the results of studies conducted using OET69 demonstrated that the proposals will not cause objectionable interference to any other applicant or existing facility; the application of Dean M. Mosely for Channel 50 at Rupert, ID, File No. BNPTTL20000828AOB was dismissed; application of Falls Broadcasting Company for Channel 50 at Twin Falls, ID File No. BNPTTL20000829ASZ was dismissed. *See Exhibit 16.*

MX94. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 39 at Glenwood Springs, CO, File No. BNPTTL20000828ANV, was dismissed; application of Dean M. Mosely for Channel 39 at Glenwood Springs, CO, File No. BNPTTL20000828AKF, was to be granted.

The surviving applicant for Glenwood Springs, CO agreed to accept interference from all other applicants in the mutually exclusive group at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. The application of Dean M. Mosely for Channel 39 at Glenwood Springs, CO was amended to designate a zero offset.

MX95. Pursuant to settlement agreement, the application of Trinity Broadcasting Network for Channel 50 at Gallup, NM, File No. BNPTT20000831BTA will be granted; application of Charles C. Townsend, III for Channel 50 at Gallup, NM, File No. BNPTTL20000828AYD was dismissed; application of Dean M. Mosely for Channel 50 at Gallup, NM, File No. BNPTTL20000828AKY was dismissed.

MX96. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 46 at Grand Junction, CO, File No. BNPTTL20000828ALG will be granted; application of Dean M. Mosely for Channel 46 at Grand Junction, CO, File No. BNPTTL20000828ANM was dismissed. The surviving applicant for Channel 46 at Grand Junction, CO agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. *See* Exhibit 17.

MX97. The Bureau by Public Notice, DA 01-383 (February 13, 2001) notified both Mr. Townsend and Mr. Mosely that their applications for Truth or Consequences, NM on Channel 14 were singleton applications and required that they file long form applications on FCC Form 346 within 30 days and pay the required fee of \$540 or their applications would be dismissed for failure to prosecute.

Undersigned counsel as counsel for both Mr. Mosely and Mr. Townsend sought to advise the Bureau staff of this inherent contradiction, but was advised that it was unlikely that the FCC's computer program would make such a mistake. In response, Mr. Townsend elected to file his FCC Form 346 and Mr. Mosely elected not to file such an application. Mr. Townsend filed his long form applications on March 15, 2001. Subsequently, when the Bureau released its Public Notice of mutually exclusive applications, Truth or Consequences, NM Channel 14 was not listed as mutually exclusive. *See* Public Notice, DA 01-1289 (May 25, 2001) (attached as part of Exhibit 32). Accordingly, Mr. Townsend made no additional effort to settle any mutual exclusivity since the Bureau did not list the Truth or Consequences, BN applications as mutually exclusive. *See* Exhibit 18. Mr. Townsend accordingly requests that his application be processed to grant. At no point until now has the Commission ever stated that Channel 14 at Truth or Consequences, NM was a mutually exclusive situation.

MX100. Pursuant to a settlement agreement the application of Pappas Telecasting Incorporated for Channel 44 at Fort Bragg, CA, File No. BNPTTL20000830AXD was dismissed; the application of Charles C. Townsend, III for Channel 44 at Fort Bragg, CA, File No. BNPTTL20000828ARN was to be granted; the application of Dean M. Mosely for Channel 44 at Fort Bragg, CA, File No. BNPTTL20000828AMS was dismissed. The surviving applicant for Channel 44 at Fort Bragg, CA agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. *See* Exhibit 19.

MX101. Pursuant to a settlement agreement, the application of Charles C. Townsend, III for Channel 14 at Aspen, CO, File No. BNPTTL20000828ARY was to be granted; the application of Dean M. Mosely for Channel 14 at Aspen, CO, File No. BNPTTL 20000828ANE was dismissed; the application of Pitkin County Translator Department for Channel 14 at Redstone, CO, File No. BNPTT20000830BPP was be dismissed; the application of Pitkin County Translator Department for Channel 14 at Thomasville, CO, File No. BNPTT20000829AUR was to be granted. The surviving applicant for Channel 14 at Aspen, CO agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his application accordingly. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. The surviving applicant for Channel 14 at Thomasville, CO agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels. *See* Exhibit 20.

Pursuant to settlement agreement, the application of Dean M. Mosely for Channel 14 at Glenwood Springs, Colorado, File No. BNPTTL20000828BDP, Facility ID No. 129610, will be dismissed; application of Charles C. Townsend, III applicant for Channel 14 at Glenwood Springs, Colorado, File No. BNPTTL20000828ALI, Facility ID No. 126944 will be granted. The surviving applicant for Channel 14 at Glenwood Springs, Colorado, agreed to accept interference at present or reduced levels from all other applicants. *See* Exhibit 20A

MX104 and MX113. Pursuant to a settlement agreement filed January 22, 2002, Mr. Townsend dismissed his applications for Jena, LA and Winfield, LA on Channel 22 and his application for Bastrop, LA on Channel 4.

MX106. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 48 at McAlister, OK, File No. BNPTTL20000830ARZ was dismissed; application of Dean M. Mosely for Channel 48 at McAlister, OK, File No. BNPTTL20000830AIV will be granted. Application of Charles C. Townsend, III for Channel 49 at Ardmore, OK, File No. BNPTTL20000828AYP was dismissed; application of Dean M. Mosely for Channel 49 at Ardmore, OK, File No. BNPTTL20000828APJ will be granted. The surviving applicant for Channel 48 at McAlister, OK and for Channel 49 at Ardmore, OK agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended his applications accordingly.

MX112, MX201, and MX205. Pursuant to a settlement agreement filed January 22, 2002 the following actions were set forth:

Applications of Yuma Broadcasting Company for Channel 46 at Welton, AZ, File No. BNPTTL20000831BMO and for Channel 30 at Yuma, Arizona, File No. BNPTTL20000831BMS were dismissed.

Application of Dean M. Mosely for Channel 39 at Needles, CA, File No. BNPTTL20000828AMU, was dismissed; application of Charles C. Townsend, III for Channel 39 at Needles, CA, File No. BNPTTL20000828ARQ, was to be granted; applications of Yuma Broadcasting Company for Channel 39 at Parker, AZ, File No. BNPTTL20000831AQZ and for Channel 39 at Yuma, Arizona, File No. BNPTTL20000831BMQ were dismissed; application of Equity Broadcasting Corporation for Channel 39 at Yuma, Arizona, File No. BNPTTL20000831ANW, was to be granted. There is no prohibited overlap between the surviving applications at Needles, California and Yuma, Arizona, as demonstrated by an OET69 study. Mr. Townsend's application was amended to accept

interference from all other proposals at present or reduced levels. The application of Telecom Wireless, LLC, for Channel 39 at Kingman, Arizona, File No. BNPTTL20000830BTG, was previously amended to accept interference at present or reduced levels from other applicants and to show the lack of any interference from its proposal to other applicants. Accordingly, the parties to the settlement agreement indicated they had no objection to grant of Telecom=s application for Channel 39 at Kingman, Arizona.

The application of Equity Broadcasting Corporation for Channel 33 at Yuma, Arizona, File No. BNPTTL20000831AOB, was dismissed; application of Charles C. Townsend, III for Channel 33 at Yuma, AZ, File No. BNPTTL20000828ARE was to be granted; application of Yuma Broadcasting Company for Channel 33 at Welton, AZ, File No. BNPTTL20000831BMI was to be dismissed. Mr. Townsend=s application was amended to accept interference from all other proposals at present or reduced levels.

The application of Equity Broadcasting Corporation for Channel 25 at Yuma, Arizona, File No. BNPTTL20000831CMG, was dismissed; application of Yuma Broadcasting Company for Channel 25 at Yuma, AZ, File No. BNPTTL20000831BKL was granted; application of Yuma Broadcasting Company for Channel 25 at Welton, AZ, File No. BNPTTL20000831BMG was granted. The application of Simon Michael Loynes for Channel 26 at Yuma, Arizona, File No. BNPTTL20000830AOM, had previously been amended to show it does not cause interference to other proposals and to accept interference from all other proposals at present or reduced levels, and was thus not mutually exclusive with any other proposal. *See Exhibit 21.*

MX114. On August 17, 2001 Mr. Townsend amended his application to provide the results of an OET69 study which demonstrated that his proposal would not cause interference to any other applicant and to accept interference from all other applicants at present or reduced levels. *See Exhibit 22.*

MX115. Pursuant to a settlement agreement, filed August 22, 2001, the application of Charles C. Townsend, III for Channel 50 at Guernsey, File No. BNPTTL20000831BLH, will be granted; application of Dean M. Mosely for Channel 50 at Guernsey, File No. BNPTTL20000830AJW will be dismissed. The surviving applicant for Channel 50 at Guernsey agreed to accept interference from all other applicants at present or reduced levels. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. *See Exhibit 23.*

MX119. Mr. Townsend dismissed his application for Channel 22 at Hannibal, MO pursuant to a settlement agreement.

MX127. The Commission previously advised Mr. Townsend that his application for Trenton, FL was not mutually exclusive with any other applicant in Auction 81. Accordingly Mr. Townsend filed his long form FCC Form 346 for this facility on December 11, 2001. *See Exhibit 24.* Mr. Townsend has never had any notice that his application is mutually exclusive with BNPTTL-20000828ASW and requests the opportunity to show that the proposals are not mutually exclusive. *See Exhibit 24.*

MX155. The Commission's CDBS shows that on August 10, 2001 a Joint Request for Approval of Settlement Agreement was filed with Mr. Dean M. Mosely. A search of undersigned counsel's files does not reveal a date stamped copy of that agreement, but Mr. Mosely can surely verify it. Pursuant to that settlement agreement Mr. Townsend's application was to be granted and Mr. Mosely's was to be dismissed. The Bureau processed that request, granted it and requested Mr. Townsend to file his long form

application, which he did on December 11, 2001. On January 12, 2004, the Bureau requested an amendment of the application, which was filed on January 29, 2004. The application is thus ready for grant and Mr. Townsend requests that it be granted. *See Exhibit 25.*

MX158, 159, 160. Mr. Townsend previously entered into settlement agreements wherein he agreed to dismiss his applications for Munising, MI, Channel 43; Gladstone, MI, Channel 45; and Pittsburg, KS, Channel 35.

MX161. Pursuant to settlement agreement, the application of Charles C. Townsend, III for Channel 44 at International Falls, MN, File No. BNPTTL20000830ARC was to be granted; the application of Dean M. Mosely for Channel 44 at International Falls, MN, File No. BNPTTL20000830AHW was dismissed. The surviving applicant for Channel 44 at International Falls, MN amended its application to modify its transmitting parameters and to accept interference from all other applicants at present or reduced levels. In addition, the results of a study conducted using OET69 demonstrated that the proposal will not cause objectionable interference to any other applicant or existing facility. On January 12, 2004 the Bureau sought an amendment from Mr. Townsend to specify his TPO, which Mr. Townsend filed via an electronic amendment on January 28, 2004. The application is thus ready for grant. *See Exhibit 26.*

MX162. Pursuant to settlement agreement, Mr. Townsend dismissed his application for McAlester, OK on Channel 48.

MX163. Pursuant to settlement agreement, the application of Dean M. Mosely for Channel 51 at Bend, OR File No. BNPTTL20000830AIY was dismissed; application of Charles C. Townsend, III for Channel 51 at Bend, OR File No. BNPTTL20000830ASC was to be granted. The surviving applicant for

Channel 51 at Bend, OR amended his proposal to specify a directional antenna to remove it from mutual exclusivity. An OET69 study showed that the amended proposal will cause no objectionable interference to any other applicant or station. Mr. Townsend amended to accept interference received from other proposals at present or reduced levels. *See Exhibit 27.*

MX164. Pursuant to a settlement agreement, filed January 22, 2002, the application of Dean M. Mosely for Channel 48 at Emmetsburg, Iowa, File No. BNPTTL20000830AGY, Facility ID No. 127393, was dismissed; the application of Charles C. Townsend, III for Channel 48 at Emmetsburg, Iowa, File No. BNPTTL20000830AQG, Facility ID No. 128499 was to be granted. The surviving applicant for Channel 48 at Emmetsburg, Iowa, amended his application to specify a directional antenna to avoid interference to any other applicant, and agreed to accept interference at present or reduced levels from all other applicants. The results of an OET69 study showed there would be no interference to other applicants, or licensees. *See Exhibit 28.*

MX165. Pursuant to a settlement agreement, the following actions were contemplated: application of Charles C. Townsend, III for Channel 45 at Woodville, TX, File No. BNPTTL20000830ASJ, as amended, will be granted; application of Dean M. Mosely for Channel 45 at Woodville, TX, File No. BNPTTL20000830AJJ will be dismissed. Application of Charles C. Townsend, III for Channel 47 at Woodville, TX, File No. BNPTTL20000830ASK will be dismissed; application of Dean M. Mosely for Channel 47 at Woodville, TX, File No. BNPTTL20000830AJI will be granted. The surviving applicants for Channel 45 at Woodville, TX and for Channel 47 at Woodville, TX agreed to accept interference from all other applicants in the mutually exclusive group, at present or reduced levels, and amended their applications accordingly. In addition a study conducted using OET69 demonstrated that the proposals will

not cause objectionable interference to any other applicant or existing facility. The surviving applicant for Channel 45 at Woodville amended to specify a directional antenna, 5 kW ERP and a Aplus@ offset. *See* Exhibit 29. On December 14, 2001, the Bureau notified Mr. Townsend that his application was no longer mutually exclusive and invited him to file a long form application on FCC Form 346. Mr. Townsend did so on January 11, 2002. The application is therefore ready for grant. *See* Exhibit 29.

MX167. Mr. Townsend dismissed his application for Channel 45 at Marquette, MI, pursuant to a settlement agreement.

MX173. Pursuant to a settlement agreement filed August 23, 2001, the application of Trinity Broadcasting Network for Channel 39 at Dodge City, KS, File No. BNPTT20000830ATO will be granted; the application of Charles C. Townsend, III for Channel 38 at Dodge City, KS, File BNPTTL20000830AQM will be granted; and application of Dean M. Mosely for Channel 38 at Dodge City, KS, File No. BNPTTL20000830AHH will be dismissed. The surviving application for Channel 38 at Dodge City, KS, was amended to specify the transmitter site of Trinity Broadcasting Network at Dodge City, KS at 37-45-36N, 100-5-53W and to accept interference from Trinity=s proposal at present or reduced levels. Trinity=s application was amended to accept interference from the application of Charles C. Townsend, III at present or reduced levels. *See* Exhibit 30.

MX218. Pursuant to a settlement agreement, the following actions were contemplated: application of Charles C. Townsend, III for Channel 24 at Brawley, CA, File No. BNPTTL20000828AUY will be dismissed; application of Dean M. Mosely for Channel 24 at Brawley, CA, File No. BNPTTL20000828AUZ, as amended, will be granted. The surviving application for Channel 24 at Brawley, CA was amended to specify a directional antenna, PSILP8BA, oriented north. Mr. Lugo, the El

Centro applicant amended his application to accept interference from other pending proposals. *See Exhibit 31.*

MX222 and 223. The Media Bureau by Public Notice, DA 01-383 (February 13, 2001) notified both Mr. Townsend and Mr. Mosely that their applications for Pendleton, WV on Channels 43 and 45 were singleton applications and required that they file long form applications on FCC Form 346 within 30 days and pay the required fee of \$540 or their applications would be dismissed for failure to prosecute. Undersigned counsel as counsel for both Mr. Mosely and Mr. Townsend sought to advise the Bureau staff of this inherent contradiction, but was advised that it was unlikely that the FCC's computer program would make such a mistake. In response, Mr. Townsend elected to file his FCC Forms 346 and Mr. Mosely elected not to file such applications. Mr. Townsend filed his long form applications on March 15, 2001. Subsequently, when the Bureau released its Public Notice of mutually exclusive applications, Pendleton, WV Channels 43 and 45 were not listed as mutually exclusive. *See Public Notice, DA 01-1289 (May 25, 2001).* Accordingly, Mr. Townsend made no additional effort to settle any mutual exclusivity since the Bureau did not list the Pendleton, West Virginia applications as mutually exclusive. *See Exhibit 32.* Mr. Townsend accordingly requests that his applications be processed to grant.

MX224, MX226 and 233. Pursuant to settlement agreements filed with the Commission Mr. Townsend dismissed his applications for Moab, UT, Channel 33; Vidalia, GA, Channel 5; and Seward, AK, Channel 44.

In light of the above discussion, it is respectfully requested that the Commission delete from Auction 81 the following MX groups: 9, 13, 30, 32, 40, 41, 43, 51, 54, 57, 61, 64, 65, 66, 67, 68, 69, 70, 72, 73, 75, 78, 79, 81, 82, 84, 85, 86, 88, 90, 91, 92, 93, 94, 95, 96, 97, 99, 100, 101, 102, 104, 106, 112,

113, 114, 115, 119, 127, 55, 158, 159, 160, 161, 162, 163, 164, 165, 167, 173, 201, 205, 222, 223, 224, 226, 233; and process and grant the pending settlement agreements and engineering amendments set forth above.

Respectfully submitted

CHARLES C. TOWNSEND, III

By _____/s/_____

George L. Lyon, Jr.

His Counsel

Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tyson's Blvd., Suite 1500
McLean, Virginia 22102
(703) 584-8664
March 18, 2005