

DA 04-3257
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NBC Telemundo Phoenix, Inc.
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Re: MM Docket No. 04-312
RM No. 11049

Dear Licensees:

On August 6, 2004, the Video Division adopted a *Memorandum Opinion and Order and Notice of Proposed Rulemaking* in response to a Joint Petition to Amend the Table of Allotments, filed by NBC Telemundo Phoenix, Inc. (NBC) and Community Television Educators, Inc. (CTE).¹ By letter dated September 8, 2004, the Chief of the Video Division denied their Joint Motion to Change *Ex Parte* Status from “restricted” to “permit-but-disclose.”²

NBC and CTE filed a timely request seeking review of the Division’s September 8th letter decision. In their request for review, they raise, for the first time, certain public interest benefits which may result from a change of *ex parte* status in this proceeding. We have considered the parties’ submission as a supplement to its earlier motion, and will change the *ex parte* status of this proceeding from “restricted” to “permit-but-disclose” for reasons set forth in the supplement, and in recognition of the heightened interest which has been expressed in connection with this proceeding.³

¹ *Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel *39, 620-626 MHz, Phoenix, Arizona, and to Add Noncommercial Reservation on Channel 11, 198-204 MHz, Holbrook, Arizona*, DA 04-2438 (released August 6, 2004) (NPRM).

² *Ex parte* presentations are prohibited in restricted proceedings; in permit-but-disclose proceedings, *ex parte* presentations are permitted, but must be disclosed. See *Amendment of 47 C.F.R. § 1.200 et seq. Concerning Ex Parte Presentations in Commission Proceedings*, 12 FCC Rcd 7348, 7350 (1997) (*Ex Parte R & O*).

³ Accordingly, the Application for Review filed by the parties on October 8, 2004 is dismissed as moot.

In view of the foregoing, the Joint Motion to Change *Ex Parte* Status filed by NBC Telemundo Phoenix, Inc. and Community Television Educators, Inc. in connection with the above-referenced rule making proceeding IS HEREBY REINSTATED AND GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: L. William LeBeau, Esq.
Robert L. Olender, Esq.
Brendan Holland, Esq.
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