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October 10, 2003

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Request for Further Temporary Waiver of DTV Simulcasting Requirements
for Noncommercial Educational Station KNME-DT, Albuquerque, New Mexico

Dear Ms. Dortch:

On behalf of the Board of Regents of the University of New Mexico and Board of Education of the City of Albuquerque, New Mexico ("KNME"), we hereby request a further temporary waiver of the DTV simulcasting requirements of Section 73.624 (f) of the Commission's Rules for noncommercial educational station KNME-DT, Albuquerque, New Mexico. An additional six-months' time should be sufficient to permit KNME to put all necessary facilities in place so as to be able to comply with the rule.¹

KNME is the long-time licensee of noncommercial educational ("NCE") television station KNME, Channel 5 in Albuquerque, New Mexico. It is also licensee of NCE station KNME-DT,² which has operated on Channel 35 since November of 2001, first under reduced power STA and, as of February of this year, pursuant to its authorized facilities. Station KNME-DT was the first DTV station to take to the air in the state of New Mexico, and KNME has shown its commitment to the DTV transition through a number of other activities as well, including organizing a New Mexico DTV User Group as an education forum for stations in the state, conducting weekly DTV seminars in-house open to KNME staff and all area broadcast engineers, and instituting a variety of DTV promotion activities in local media.

¹ In its *Order*, DA 03-1292 (released April 29, 2003) ("*Simulcast Waiver Order*"), the Chief, Media Bureau, granted a blanket six-month extension of the simulcasting requirement for noncommercial educational DTV stations, through November 1, 2003. To date, KNME has relied on the blanket waiver.

² The license for KNME-DT was granted by the Commission on April 11, 2003 (BLEDT-20030218BNH)

At the time (in March, 2003) that representatives of the public television community filed for a blanket waiver of the simulcasting requirement for NCE DTV stations, KNME supported that filing because, at that time, KNME-DT was unable to simulcast the KNME (TV) signal for two reasons. First, it did not have an MPEG encoder required to encode the analog signal for digital transmission. Second, it did not have a Studio to Transmitter ("STL") link to carry the digital signal from KNME's studios to the transmitter site. KNME-DT transmissions have relied on carrying the Public Broadcasting Service DTV feed directly from satellite reception at the KNME-DT transmitter.

At the present time, and for the near future, KNME still cannot simulcast the KNME analog signal on KNME-DT. KNME has ordered the necessary MPEG encoding facilities,³ and hopes that it will receive the equipment in the next month or so, but it has been given no definite delivery date by the supplier (Vizeon). KNME has acquired and installed the necessary electronics for the STL, and has ordered the 8 foot high performance shielded antenna for the tower site,⁴ but that antenna and related hardware have not yet been received. The supplier (Andrew Corporation) has given (but not met) several prior shipment dates. KNME hopes to receive the equipment soon, but has no guarantee of particular timing. Alternate source equipment would also not be available for many weeks.

KNME also needs to obtain appropriate authority from the Commission for modifications to the existing KNME-TV STL license, in order to make it capable of also feeding KNME-DT. On May 28, 2003, KNME filed an application through a consultant to convert its existing analog STL, KOG-34, to operate with both analog and digital facilities. In preparing this waiver request, KNME has just learned that the application was somehow returned to KNME's online account by the Wireless Telecommunications Bureau and was supposed to have been resubmitted formally with amendments. Because KNME was unaware of the need to do so, the application was deleted from the Commission's system. KNME is in the process of resubmitting the application now, and expects to receive authorization for the digital operation on the STL within two or three months.

These problems for KNME are exacerbated by impending winter weather conditions at the transmitter site. That site, Sandia Crest, is at elevation of over 10,000 feet. Winter weather onsets early on the mountain top, and if the microwave antenna to be installed there arrives after winter weather has arrived, it may be weeks before an appropriate, safe window can be found for installation on the tower.

In addition, KNME just received notice of approval of a grant from the Public Telecommunications Facilities Program of the National Telecommunications and Information Administration, U.S. Department of Commerce, for support for construction of a digital master control facility. This facility should be operational within a year. Although KNME will be able

³ Attached is copy of the Purchase Order (PR#310448) for the encoding equipment, to be supplied by Vizeon.

⁴ Attached also is a copy of the Purchase Order (PR#293246) for the digital STL microwave system hardware for Sandia Crest, to be supplied by Andrew Corporation.

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to simulcast KNME(TV) and KNME-DT prior to completion of the digital master control, having the facility available will offer greater programming options for KNME-DT.

For these reasons, KNME requests a further temporary waiver of the simulcasting requirements for Station KNME-DT, through May 1, 2004. In the *Simulcast Waiver Order*, at ¶ 6, the Media Bureau noted that “[i]n the event the Commission has not yet acted on the simulcasting issues raised in the *Second DTV Periodic NPRM* by November 1, 2003, and in the event some NCE stations decide to request a waiver for an additional period of time, we will consider those requests at that time on their individual merit.” KNME believes that its situation reflects such individual merit.

Station KNME-DT is on the air 24 hours a day, seven days a week, and has been since November of 2001. Thus, the station meets the Commission’s other schedule-related requirements for NCE-DT stations, including the requirement that the station be on during prime time, and that it be on at least 50% of the broadcast day of the associated analog station.

KNME is a noncommercial educational and governmental licensee and operates station KNME-DT on a noncommercial educational basis. This request is therefore exempt from FCC filing fee requirements pursuant to Section 1.1114 of the Commission’s Rules, and the facilities are exempt from FCC regulatory fees, pursuant to Section 1.1162 of the Rules. KNME’s Anti-Drug Abuse Act certification pursuant to Section 1.2002(c) of the Rules and verification statement are attached.

Should any questions arise concerning this matter, please contact undersigned counsel for KNME.

Respectfully submitted,



Todd D. Gray
Counsel for the Board of Regents of the
University of New Mexico and Board of
Educational of the City of Albuquerque,
New Mexico

cc w/ encl.: Rick Chessen, FCC
Barbara Kreisman, FCC
Clay Pendarvis, FCC

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, or, in the case of a non-individual applicant (e.g., corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

Yes

No

VERIFICATION

The applicant hereby certifies under penalty of perjury that the factual statements made in the foregoing waiver request are true and accurate to the best of its knowledge and belief.

Board of Regents of the University of
New Mexico and Board of Education
of the City of Albuquerque, New
Mexico

Name of Applicant



Signature

10/10/03
Date

GENERAL M. P. O. [EU]
Title

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THIS IS NOT A PURCHASE ORDER

PURCHASE REQUISITION NUMBER 301448

740424 9-20-03 P.O. R. Mattingly
PLEASE DO NOT WRITE IN BOX BELOW

SEE INSTRUCTIONS ON REVERSE

SUGGESTED VENDOR:

PAYEE CODE

ATTN: DAVID SMITH
Vizon
2420 Comanche NE, Suite A-1
Albuq., NM 87107
~~(505) 875-6516~~

878-6516

SHIP TO:

KNME-TV
1130 University Blvd NE
Albuquerque, NM 87102
ATTN: JIM GALE

DATE _____
ORDER TYPE (R/B/O/L/M) _____
START DATE _____ END DATE _____
TERMS (NET 30) _____
F.O.B. _____
BID/PROPOSAL/SPD/GSA _____
REFERENCE DATE _____
DELIVERY DATE _____
BUYER APPROVAL/NO _____
VENDOR NO. _____ COMMODITY _____
INSURANCE _____ PERF. BOND _____
INS DATE _____ TAXABLE _____

40500 8/28/03
ORG NO _____ DATE _____
DEPT. NAME _____ KNME-TV
USER CONTACT _____ Pam Sanchez EXT. 2088
DATE WANTED _____ ASAP

BLANKET ORDER
EFFECTIVE DATES _____ TO _____

ACCOUNT 1 3-38341-6501	%	\$	53.25	21,297.87	ACCOUNT 2 7-06571-6500	%	\$	46.75	46.75	18,698.15
ACCOUNT 3	%	\$			ACCOUNT 4	%	\$			

NO	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENSION
1	1	ea	STANDARD DEFINITION MPEG ENCODING SYSTEM NOTES: 1. SEE ATTACHED QUOTATION & SOLE SOURCE JUSTIFICATION 2. FORWARD TO UNM PURCHAING, RON MATTINGLY. <i>Jim will include Sole source, etc.</i>		39,996.00

PURPOSE DTV PROJECT: KNME-DT - DIGITAL MPEG ENCODING SYSTEM 39,996.00

AUTHORIZED DEPT SIGNATURE _____ ESTIMATED COST _____
SIGNATURE NAME (TYPED) _____ DATE _____

CONTRACT AND GRANT / ACCOUNTING APPROVAL (SIGNATURE) _____ DATE _____
CONTRACT TYPE _____ FUNDING TYPE _____
 CONTRACT FEDERAL
 GRANT STATE
 COOPERATIVE AGREEMENT PRIVATE
AGENCY _____
CONTRACT # _____

301443

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THIS IS NOT A PURCHASE ORDER

P.O. _____

PURCHASE REQUISITION NUMBER 293246

PLEASE DO NOT WRITE IN BOX BELOW

SEE INSTRUCTIONS ON REVERSE

PAYEE CODE

SUGGESTED VENDOR: ATTN: Jackie Lawrence, Andrew Corporation, 10500 W. 153rd St, Orland Park, IL 60462, Tel: (708) 873-3696 Fax: (708) 873-8574

DATE, ORDER TYPE, START DATE, END DATE, TERMS, F.O.B., BID/PROPOSAL/SPD/GSA, REFERENCE DATE, DELIVERY DATE, BUYER APPROVAL/NO, VENDOR NO, COMMODITY, INSURANCE, PERF BOND, INS. DATE, TAXABLE

SHIP TO: KNME-TV, 1130 University Blvd NE, Albuquerque, NM 87102, ATTN: John Ramp

ORG NO: KNME-TV, DATE: Pam Sanchez, 2008, DEPT. NAME: ASAP, USER CONTACT: ASAP, EXT: , DATE WANTED:

BLANKET ORDER, EFFECTIVE DATES TO

Table with 4 columns: ACCOUNT, %, \$, ACCOUNT, %, \$. Includes handwritten numbers and signatures.

Main table with columns: NO, QUANTITY, UNIT, DESCRIPTION, UNIT PRICE, EXTENSION. Includes shipping instructions and notes.

PURPOSE: Equipment & hardware to construct a new digital STL microwave system to our new digital KNME-DT facility on Sandia Crest. ESTIMATED COST: 15,504.30

AUTHORIZED DEPT SIGNATURE, SIGNATURE NAME (TYPED), CONTRACT AND GRANT / ACCOUNTING APPROVAL (SIGNATURE), CONTRACT TYPE, FUNDING TYPE, DATE, AGENCY, CONTRACT #.

293246