



**FOX TELEVISION STATIONS, INC.**

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June 21, 2005

*A Unit of Fox Television*

Shaun Maher, Esq.  
Federal Communications Commission  
Room 2-A820  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: MB Docket No. 03-15

Dear Mr. Maher:

Fox Television Stations, Inc. ("Fox"), permittee of television station KSTU-DT, Salt Lake City, Utah, File No. BPCDT-19991101AJD, respectfully requests that the Commission waive the July 1, 2005 "use-it-or-lose-it" deadline for full-power DTV operation adopted by the Commission at paragraph 78 of the *Second DTV Periodic Review Report and Order of the Commission's Rules and Policies Affecting the Conversion To Digital Television*, MB Docket No. 03-15, RM 9832, released September 7, 2004 (19 FCC Rcd 18,279), pursuant to the procedure set out in Public Notice DA 05-1636, released June 15, 2005.

KSTU-DT has been operating at low power from its studio tower pursuant to Special Temporary Authority ("STA"), File No. BEDSTA-20020905ABO) since April 2002, providing the requisite coverage of Salt Lake City. By this letter, Fox requests extension of KSTU-DT's STA and the above-referenced Construction Permit.

Being one of the original VHF "drop-ins," KSTU has had a history of poor coverage to its large and terrain-rich DMA. Fox engineering staff and consultants have struggled to improve this situation for KSTU-DT and its viewers.

KSTU's existing antenna site posed the initial challenge. Fox leases KSTU's antenna site atop Farnsworth Peak outside Salt Lake City. This is one of the only geographical locations from which over-the-air coverage of the vast, terrain rich Salt Lake DMA can be achieved. KSTU's previous lessor would not provide assurances that the site would continue to be available when KSTU's current lease expires, and the only alternative site, a proposed DTV antenna farm, was not acceptable for various reasons.

KSTU's site was sold to the Federal Bureau of Land Management ("BLM"), and Fox sought to purchase the property from the BLM in 2003. The BLM declined to sell the land to Fox in late 2004, but agreed to extend the lease until 2008.

With the site problem resolved, at least in the near term, KSTU's attention turned to engineering matters. Technicians concluded that a special custom-built DTV antenna would be required for KSTU-DT's full-power operation, in order to minimize wind loading on its antenna tower. Due to typically severe winter weather conditions, and uncertain weather for most of the year, there is a very narrow window for construction at

Farnsworth Peak each year. KSTU's site is only reachable by "snow cat" well into June, and construction becomes impossible by the end of September on account of snowfall.

Fox has committed a considerable amount of capital towards KSTU-DT's full-power operation, has let contracts for all aspects of the project and has ordered the necessary equipment. Copies of purchase orders, invoices and payment checks are too voluminous to be filed electronically; however, lists of completed equipment purchases and construction projects are attached hereto. Price terms have been redacted, as this is proprietary information. Clean copies of these lists, along with purchase orders, invoices and payment checks, are included with a paper filing of this extension request. Fox respectfully requests that the cost figures in these documents be withheld from public inspection pursuant to Sections 0.457(d) and 0.459 of the Commission's Rules, 47 CFR Sections 0.457(d) and 0.459, as this information is proprietary and not otherwise available for public inspection.

In light of its financial commitment to date to KSTU-DT's full-power operation, Fox's good faith cannot be gainsaid. Yet, the complexity of the endeavor and challenges posed by weather conditions at the site make it impossible to predict precisely when KSTU-DT will be fully operational.

As further evidence of good faith, the Commission merely need look to Fox's overall efforts in implementing DTV to date:

- Twenty-five of Fox's owned and operated stations have met all applicable deadlines and currently are operating at full facilities;
- Of Fox's remaining ten owned and operated stations, eight are operating low-power DTV facilities pursuant to STA and will be fully operational within this calendar year, one is operating a low-power DTV facility and will meet its full-power deadline of July 1, 2006, and one, a satellite station that does not have a DTV channel allotment, will "flash cut" to DTV;
- All of Fox's DTV facilities implemented dynamic PSIP in a timely fashion;
- Fox has granted digital carriage rights to numerous multichannel video providers nationwide on behalf of all of its owned and operated stations and includes digital carriage provisions in all of its retransmission consent agreements.

As the foregoing illustrates, Fox's commitment to DTV implementation cannot be questioned, and the waiver of time sought for KSTU-DT's full-power operation should be granted.

I hereby certify that no party to this extension request is subject to denial of federal benefits pursuant to § 5301 of the Anti-Drug Abuse Act of 1998, 21 USC § 862.

Shaun Maher, Esq.  
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Respectfully submitted,

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Attachments