



Wiley Rein & Fielding LLP

1776 K STREET NW  
WASHINGTON, DC 20006  
PHONE 202.719.7000  
FAX 202.719.7049

Virginia Office  
7925 JONES BRANCH DRIVE  
SUITE 6200  
McLEAN, VA 22102  
PHONE 703.905.2800  
FAX 703.905.2820

www.wrf.com

June 30, 2005

John M. Burgett  
202-719-4239  
jburgett@wrf.com

**ELECTRONICALLY FILED  
(VIA ECFS)**

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

**Re: MB Docket No. 03-15  
KENS-DT, San Antonio, Texas (Facility Id. # 26304)  
Request for Waiver of Replication/Maximization  
Interference Protection Deadline**

Dear Ms. Dortch:

On behalf of KENS-TV, Inc., the permittee of digital television (“DTV”) station KENS-DT, San Antonio, Texas (Facility Id. # 26304), we hereby request a waiver of the July 1, 2005 replication/maximization interference protection deadline for digital television stations affiliated with the top four networks in markets 1-100. *See Second Periodic Review of the Commission’s Rules and Regulations Concerning the Transition to Digital Television*, MB Docket No. 03-15, FCC 04-192, ¶ 78 (rel. Sept. 7, 2004)(“*Second Periodic Review*”). This request is being filed electronically through ECFS pursuant to the FCC’s public notice regarding requests for waiver of the deadline. *See Public Notice, DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, DA 05-1636 (rel. June 15, 2005).

Station KENS currently operates on NTSC channel 5 and out-of-core DTV channel 55. As a top four network-affiliated station in one of the nation’s top 100 markets that will not remain on its current DTV allotment post-transition, KENS-DT is subject to the Commission’s July 1, 2005 replication/maximization interference protection deadline and must serve 100% of the population served by its 1997 NTSC facility by that date in order to maintain full interference protection for its allotted DTV service area. As explained below, however, KENS-DT requires a brief waiver of the deadline. *See Second Periodic Review* at ¶ 87; *see also* 47 C.F.R. § 1.3.

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The outstanding construction permit for KENS-DT authorizes operation with an ERP of 982 kW at a height above average terrain ("HAAT") of 424 meters on a tower located at coordinates 29-16-7 North Latitude, 98-15-55 West Longitude. *See* FCC File No. BPCDT-19991029ACS. In accordance with the FCC's "minimal facilities" policy, KENS-DT commenced digital operations in April 2002 pursuant to special temporary authority ("STA") with an ERP of 29.4 kW at a HAAT of 445 meters at a nearby tower located at coordinates 29-16-11 North Latitude, 98-15-55 West Longitude. *See* FCC File No. BEDSTA-20041122AKG, as extended.

After commencing digital broadcasting, KENS-TV, Inc. decided that the STA facilities were more desirable for KENS-DT's permanent operations and planned to simply increase the station's power to 982 kW by the replication/maximization deadline. In preparing to increase its power, however, KENS-TV, Inc. only recently realized that it had inadvertently failed to modify its original DTV construction permit to conform it to the station's "as built" facilities. Accordingly, pursuant to the FCC's recent public notice regarding compliance with the July 1, 2005 replication/maximization interference protection deadline, KENS-DT promptly filed an application on FCC Form 301 to modify its DTV construction permit consistent with the outstanding DTV freeze. *See* FCC File No. BMPCDT-20050627ABY. In order to comply with the DTV freeze, the Form 301 application specifies an ERP of 825 kW; otherwise, the facilities specified in the application are identical to those with which KENS-DT is currently operating. KENS-TV, Inc. has also filed a request for special temporary authority to immediately commence operations with the facilities specified in the pending Form 301 application and will promptly do so upon grant.<sup>1</sup> *See* FCC File No. BDSTA-20050627ACH. With the facilities specified in the pending Form 301 application and STA request, KENS-DT certifies that it will serve 100% of the population served by KENS-TV's 1997 NTSC facility.

As soon as KENS-DT's modified permit is issued, KENS-TV, Inc. will promptly file an application for a license to cover the permit. KENS-TV, Inc. regrets the oversight in not filing earlier to conform its DTV construction permit to match its intended full power digital operations, but wishes to emphasize to the Commission that KENS-DT is ready, willing and able to immediately increase its power as

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<sup>1</sup> KENS-TV, Inc. has also filed to extend its current STA authorizing operation at 29.4 kW so as to cover the station's operations pending grant of the STA authorizing operation at 825 kW.

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specified in its pending modification application and will do so promptly upon the FCC's grant of either the application or the STA request, whichever is first. Under the circumstances, therefore, KENS-TV, Inc. submits that a waiver of the July 1, 2005 replication/maximization deadline is in the public interest and will ensure that KENS-DT's interference protection is not limited to the DTV service achieved on that date.

If there are any questions concerning this matter, please contact the undersigned.

Sincerely,



John M. Burgett

cc (by email): Shaun Maher