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July 1, 2005

VIA ECFS

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

Re: In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (MB Docket No. 03-15)
Waiver of July 1, 2005 Digital Replication Deadline
WTVG(TV), Flint, Michigan Facility ID No. 74150

Dear Ms. Dortch:

WTVG, Inc., the licensee of WTVG(TV) and licensee of WTVG-DT, Flint, Michigan, Facility ID No. 74150, by its attorneys, hereby submits this request for a waiver and six month extension of the July 1, 2005 replication/ maximization deadline applicable to stations affiliated with a top-four network and located in a top-100 market ("Replication Deadline").[1] As an initial matter, WTVG-DT does not believe it is subject to the Replication Deadline because it has not received a tentative channel designation. To the extent that the Replication Deadline applies to WTVG-DT, WTVG-DT requests a waiver and extension of the Replication Deadline on the grounds that: (i) it has not received a tentative channel designation; (ii) its DTV antenna is side-mounted below its NTSC antenna; and (iii) it will use its current analog antenna as its digital antenna post-transition. For these and other reasons set forth herein, WTVG, Inc. submits that grant of a waiver and extension would be in the public interest.

[1] *See* Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Order*, 19 FCC Rcd 18,279 (rel. Sept. 7, 2004) ("*Second Periodic Review Order*").

A. WTVG-DT Is Not Subject to the Replication Deadline

In the *Second Periodic Review Order*, the Commission established July 1, 2005 as the Replication Deadline.[2] With respect to the scope of the Replication Deadline, the Commission stated that it would apply to "[t]hose licensees that receive a tentative channel designation."[3] Specifically, the Commission stated:

> Those *licensees that receive a tentative DTV channel designation* in the channel election process on their current digital channel must construct full, authorized facilities. Those *licensees that receive a tentative DTV channel designation* on a channel that is not their current DTV channel must serve at least 100 percent of the number of viewers served by the 1997 facility on which their replication coverage was based.[4]

WTVG-DT has not received a tentative DTV channel designation. WTVG-DT elected to return to its NTSC channel 13 as its post-transition DTV channel. However, WTVG-DT received a conflict letter from the FCC indicating that its proposed digital operation on channel 13 allegedly would result in impermissible interference to one or more stations. Thus, WTVG-DT did not receive a tentative channel designation in the Commission's June 23, 2005 public notice.[5] Because it is not one of the "licensees that receive[d] a tentative DTV channel designation," WTVG-DT believes that it is not subject to the Replication Deadline.

B. Good Cause for Waiver

To the extent that the Replication Deadline applies to WTVG-DT, WTVG-DT requests a waiver and extension for "good cause."[6] The Commission stated five factors that stations like

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[2] *See Second Periodic Review Order at* ¶78.

[3] *See id*.

[4] *See id*. (emphasis added).

[5] DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline, DA 05-1636, *Public Notice*, at 3 (rel. June 15, 2005) ("*Channel Designation Notice*").

[6] In its June 15, 2005 public notice, the Commission stated that it may grant waivers and extensions of the Replication Deadline if "good cause is shown for stations that are unable to

WTVG-DT should address in their requests for waivers and extensions.[7] Each of these factors is addressed in turn below.

1. **How close to full replication/ maximization the station will be as of the deadline;**

According to the Commission table designated for use in replication calculations, the population served by WTVG-DT's initial DTV allotment is 2,520,993.[8] As shown in the attached Engineering Statement, WTVG-DT's licensed DTV facility serves 2,063,181 persons.[9] Thus, WTVG-DT's replication percentage is 81.84%.

2. **The reason the station is unable to fully comply;**

WTVG-DT is unable to fully comply with the 100% replication standard at this time because of the current position of its antenna. The top position on the WTVG, Inc. tower is occupied by the WTVG(TV) antenna. As a result, the WTVG-DT antenna had to be side-mounted, 83.5 meters below the WTVG(TV) antenna. Unfortunately, this lower tower position reduces the number of viewers that WTVG-DT can reach, despite an increased power level.[10] The signal of WTVG(TV) is not similarly affected because of the WTVG(TV) antenna's relatively higher tower position. In sum, WTVG-DT is not able to replicate because: (i) the relatively low position of WTVG-DT's antenna results in signal loss; and (ii) WTVG-DT cannot move its antenna to a higher section of the tower to avoid these signal loss problems. Thus, the fact that its antenna must be side-mounted is one reason that WTVG-DT is unable to fully replicate at this time.

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provide the required service by the applicable deadline because of severe financial constraints or circumstances beyond a station's control." *See* DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline, *Public Notice*, at 3 (rel. June 15, 2005).

[7] *See Channel Designation Notice*, at 3.

[8] *See* Table II of 1998 Station NTSC and DTV Replication Information, at 27 (rel. Dec. 21, 2004).

[9] *See* Engineering Statement (attached hereto as Exhibit A).

[10] WTVG-DT tried to make up for some of the signal loss due to height by increasing its power, but it was not fully successful. Specifically, WTVG-DT operates with 796 kW even though its initial allotment was for a lower power level of 559 kW.

Another reason that WTVG-DT cannot fully replicate at this time is that it will use its current NTSC antenna as its DTV antenna post-transition. Specifically, because WTVG-DT elected to use its current NTSC channel as its post-transition DTV channel, it will be able to use the current WTVG(TV) antenna as its antenna for WTVG-DT (assuming that WTVG-DT ultimately receives its requested channel designation). However, WTVG-DT must wait until WTVG(TV) ceases operation before it can assume use of the WTVG(TV) antenna. In sum, another reason that WTVG-DT cannot fully replicate at this time is because WTVG-DT needs to use the same antenna currently being used by WTVG(TV) in order to do so.[11]

3. The cost to the station and the impact on viewers if the station were required to fully comply;

WTVG, Inc. is not aware of any way for it to comply with the 100% replication standard using WTVG-DT's current DTV antenna and still maintain current levels of service to its analog viewers. Even if physically possible, an antenna switch would result in a loss of service to analog viewers, who far outnumber digital viewers at this time, and may not result in full replication. After examining possible ways to increase WTVG-DT's coverage aside from a switch of antenna positions or an increase, WTVG-DT has identified no viable solution.

4. Whether the station will be able to modify its operation to fully comply after analog operation terminates (*e.g.*, relocate their DTV antenna to the top of the tower);

Although it cannot replicate at this time, WTVG-DT will be able to modify its operations to fully comply after analog operation terminates. Replication will be accomplished by WTVG-DT's eventual use of the current WTVG(TV) antenna. The antenna will remain top-mounted on the tower, and thus will not face the problems currently affecting the lower-mounted WTVG-DT antenna. From this position, the WTVG(TV) antenna has proven quite capable of serving the station's analog viewers and will continue to capably serve these viewers as the antenna for WTVG-DT. In fact, the channel 13 antenna that WTVG-DT will use to replicate is the very same antenna on which the station's replication pattern is based.

5. Any other relevant factors.

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[11] Further, because WTVD-DT is operating at the maximum ERP that is allowed a UHF DTV station, 1000 kW, it cannot increase its power any further in an effort to replicate.

As set forth herein, WTVG-DT believes that it is not subject to the Replication Deadline. To the extent that the Replication Deadline applies to WTVG-DT, WTVG-DT submits that grant of the instant waiver and extension request is in the public interest. Please direct any questions or inquiries regarding this matter to the undersigned.

Respectfully submitted,

/s/

Tom W. Davidson, Esq.

cc: Shaun Maher, Esq. (via e-mail)

EXHIBIT A

ENGINEERING STATEMENT

CARL T. JONES
CORPORATION

ENGINEERING STATEMENT
OF ALFRED E. RESNICK

CALCULATION OF
PERCENTAGE OF REPLICATION
ON BEHALF OF THE
ABC OWNED TELEVISION STATIONS

I am a consulting engineer, an employee of the Carl. T. Jones Corporation, with offices in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission. I am a Registered Professional Engineer in the Commonwealth of Pennsylvania, Registration Number PE-027589E.

The ABC Owned Television Station Group has authorized this office to calculate the percentage of replication of service as required by the Commission on July 1, 2005. For each station studied, the FCC database was used to obtain the operating parameters of presently licensed facilities. These licensed facilities parameters were entered into a data input file and the FCC program TV_Process was then used to calculate the population receiving service, based on year 2000 US Census data.

The FCC Public Notice of December 21, 2004 instructed those desiring to calculate the percentage replication to use 'the attached Table II' as the basis for determining compliance with the Commission's 100 percent replication requirements discussed in paragraphs 78 through 87 of the Second DTV

Periodic Review Report and Order, released September 7, 2004 (19FCC Rcd 18,279)("Order").

The numbers that were taken from the December 21, 2004 Table II as instructed above, are shown in Figure 1. Figure 1 contains the call signs of the stations studied, and its Initial Allotment Facilities, and the population receiving service from this facility, and additionally shows the parameters of the licensed operation or those parameters that are contained in a pending application for license for the same station.

The last entry in the Table of the attached Figure 1 is the percentage of replication, determined by dividing the population served (within the noise limited contour not affected by terrain) by the population from the December 21, 2004 Table II DTV population entry (the digital replication facility population was used in order to precisely follow the informal instructions provided by FCC OET staff), and the resulting quotient, expressed as a percentage. This percentage value, was shown in the extreme right column.

Several entries in the December 21, 2004 Table II may contain typographical errors. One entry is the subject of its own statement. Others may be found that do not appear to be proper without consideration of the proper antenna patterns.

In each case studied where presently licensed facilities were the subject, a TV_Process input file was checked to determine the contents of the input data for the Initial Allotment parameters as well as the licensed parameters. In two cases

in particular, the replication antenna pattern and licensed antenna pattern were checked to determine if they were correctly represented. No changes were required to either licensed or replication antenna patterns.

The results of the calculations are contained in Figure 1, which is a tabulation of the DTV channel Number, the representation of the Initial Allotment Facilities from Table II, and the associated population count that would receive service from such a facility. The licensed facilities are shown next, with an FCC File Number and an abbreviated description of the facilities for reference, and the population that is predicted to receive service from this facility is shown in a manner to be easily associated with its facility.

The arithmetic was performed and the answer which was obtained by dividing the number of persons that are predicted to receive service from the presently operating facility by the number of persons predicted to receive service from the Initial Allotment as shown in the December 21, 2004 Table II, is shown as a percentage. From this table, one can determine, strictly based on the population numbers contained in Table II, whether the replication percentage is met or not.

Conclusion

A Table of Replication Percentages has been constructed. From this Table, which is attached as Figure 1, the Replication Percentages of the facilities in the table can be determined. These Percentages are believed to be correctly

obtained, following the instructions of the Commission's staff, the Public Notice of December 21, 2004 (DA 04-3922), the public Notice of June 15, 2005 (DA 05-1636), and through use of the Commission's TV_Process program.

This statement and the population numbers it contains were obtained directly by me or under my immediate supervision. The TV_Process runs and input data file construction were performed by Mr. Zar B. Aung (EIT). I verily believe the results shown herein to be true and correct.

Dated: July 1, 2005

Alfred E. Resnick, P. E.

Figure 1
July 2005

Channel	Facility	Table II Population	Existing Facility Population	Replication (%)
45	WABC-DT TABLE II (164 kW @ 491 m HAAT) WABC-DT BXPCDT-20040803ACD (219 kW @ 397 m HAAT)	19346711	19219970	99.34
53	KABC-DT TABLE II (456 kW @ 978 m HAAT) KABC-DT BLCDT-19981112KF (182 kW @ 924 m HAAT)	14703770	14472769	98.43
52	WLS-DT TABLE II (154 kW @ 515 m HAAT) WLS-DT BLCDT-20010109AAV (153.6 kW @ 514 m HAAT)	9388346	9388159	100.00
64	WPVI-DT TABLE II (1000 kW @ 332 m HAAT) WPVI-DT BLCDT-19981112KE (500 kW @ 390 m HAAT)	9907662	9072936	91.57
24	KGO-DT TABLE II (621 kW @ 509 m HAAT) KGO-DT BLCDT-19981216KF (561 kW @ 437 m HAAT)	6138724	6460542	105.24
32	KTRK-DT TABLE II (797 kW @ 588 m HAAT) KTRK-DT BLCDT-20000215AAP (796.8 kW @ 562 m HAAT)	4847945	4795562	98.92
52	WTVD-DT TABLE II (1000 kW @ 607 m HAAT) WTVD-DT BLCDT-19991117ABU (1000 kW @ 599 m HAAT)	2874074	2945440	102.48
09	KFSN-DT TABLE II (8.7 kW @ 614 m HAAT) KFSN-DT BLCDT-20010531ACX (8.7 kW @ 614 m HAAT)	1357550	1444030	106.37
36	WJRT-DT TABLE II (1000 kW @ 287 m HAAT) WJRT-DT BLCDT-20020429AAZ (860 kW @ 248 m HAAT)	2077486	2013105	96.90
19	WTVG-DT TABLE II (559 kW @ 305 m HAAT) WTVG-DT BLCDT-20040225ABA (795 kW @ 221.5 m HAAT)	2520993	2063181	81.84