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September 28, 2005

VIA ELECTRONIC FILING

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

Re: MB Docket No. 03-15
WDRB-DT (Louisville, Kentucky)
Facility ID No. 28476
FCC File No. BPCDT-19991101AFN
Amended Request for Waiver of July 1, 2005 Replication/Maximization Deadline

Dear Ms. Dortch:

Independence Television Company (“Independence”), permittee of WDRB-DT (Louisville, Kentucky) (the “Station”), by its attorneys, hereby amends its request for waiver of the Commission’s July 1, 2005 replication/maximization interference protection deadline initially filed on June 30, 2005. In that request, Independence asked that the Commission waive the July 1, 2005 interference protection deadline for WDRB-DT due to a tower accident.

Independence now has completed construction of maximized facilities,¹ but as a precaution it seeks continued waiver because it has side-mounted the DTV antenna rather than top-mounting it as certified. Independence fully intends to top-mount the DTV antenna at the close of the DTV transition, but tower loading is preventing Independence from top-mounting the antenna during the transition. Accordingly, Independence has implemented a side-mounted DTV antenna as specified in its July 22, 2005 construction permit application. Operation with the side-mounted antenna will provide service to over ninety-three percent of the certified service area population. At the conclusion of the DTV transition, Independence will be able to top-mount the Station’s DTV antenna and provide service to the certified service area population. Accordingly, because the service area resulting from the side-mounted antenna is

¹ See FCC File No. BMPCDT-20050722ACD, granted August 24, 2005. Independence is not filing a covering license application for these facilities at this time, but instead is requesting Special Temporary Authority to operate with the facilities specified in this construction permit to preserve protection of the facilities to which the Station certified in November 2004 (See FCC File No. BCERCT-20041105AZJ, certifying to implement FCC File No. BPCDT-19991101AFN).

slightly less than the top-mounted, certified service area, Independence requests, to the extent necessary, continued waiver of the July 1 maximization/replication deadline.

In its *Second DTV Periodic Review Report and Order*,² the Commission adopted a July 1, 2005 replication/maximization interference protection deadline for DTV licensees affiliated with the top-four networks in the top 100-ranked designated market areas (“DMAs”). If a station subject to this deadline had not completed construction of its replication or maximization facilities by this date it would lose interference protection to the unserved area. The Commission further stated that, in cases where a station was unable to meet the applicable deadline due to “circumstances beyond a station’s control,” it would “grant extensions of the applicable replication or maximization interference protection deadline on a six-month basis if good cause is shown.”³

In its June 14, 2005 *Public Notice*, the Commission recognized that certain stations, although unable to reach 100% maximization or replication, would nevertheless be able to come close to meeting the applicable coverage requirements.⁴ The Commission requested that licensees of such stations submit the following information in conjunction with any request for waiver of the July 1 deadline: “(1) how close to full replication/maximization the station will be as of the deadline; (2) the reason the station is unable to fully comply; (3) the cost to the station and the impact on viewers if the station were required to fully comply; (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); and (5) any other relevant factors.”⁵

As explained above, Independence still intends to top-mount the DTV antenna at the end of the DTV transition. During development of its construction plan for WDRB-DT, Independence determined that it could not maintain the structural integrity of its tower while operating both full power analog facilities and fully maximized DTV facilities for WDRB-DT. Independence devised a plan by which it would install a side-mounted DTV antenna and a smaller analog transmission line, and thereby adequately reduce the tower load.⁶

Using this side-mounted antenna, the Station will serve 1,715,562 persons, or 93.4 percent of the Station’s certified service area population of 1,835,945. At the end of the DTV transition, Independence intends to remove the Station’s analog antenna from its tower, at which time it will be able to top-mount the Station’s DTV antenna and provide service to the full certified service area population. To serve the remaining 6.6 percent of the Station’s full

² Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, Report and Order, 19 FCC Rcd 18279 (rel. Sept. 7, 2004) (“*Report and Order*”).

³ *Id.*, ¶ 87. See also 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) (the “*Public Notice*”).

⁴ *Public Notice* at 3.

⁵ *Id.*

⁶ See FCC File No. BSTA-20050531BYR.

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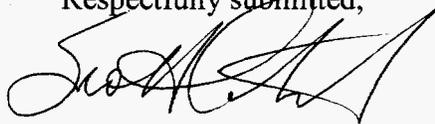
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certified service area population during the DTV transition, Independence would be forced to move its facilities or construct a new tower, which Independence views as prohibitively expensive solutions to an essentially temporary problem. Independence fully intends to serve the Station's certified service area as specified in FCC File No. BPCDT-19991101AFN after the end of the transition.

Because the service area resulting from the side-mounted antenna is slightly less than the top-mounted, certified service area, Independence requests, to the extent necessary, continued waiver of the July 1 maximization/replication deadline. Given that Independence plans to implement the certified facilities upon the close of the DTV transition, that only a small area will not be served until then, and that it would have been prohibitively expensive to operate as certified during the transition, Independence believes that grant of this waiver is in the public interest.

If any questions arise, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott S. Patrick", written in a cursive style.

Scott S. Patrick

cc(w/): Shaun Maher (FCC)