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July 3, 2006

VIA ECFS

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

Re: MB Docket No. 03-15
*In the Matter of Second Periodic Review of the Commission's Rules and Policies
Affecting the Conversion to Digital Television*
Waiver of July 1, 2006 Digital Replication Deadline
WPXT(TV), Portland, Maine, Facility ID No. 53065

Dear Ms. Dortch:

HMW, Inc., the licensee of WPXT(TV) and permittee of WPXT-DT, Portland, Maine, Facility ID No. 53065 ("WPXT"), by its attorneys, hereby submits this request for a waiver and six month extension of the July 1, 2006 deadline by which a station outside of the top-100 markets must replicate or lose interference protection ("Replication Deadline").¹ As further set forth herein, WPXT cannot fully replicate its certified facilities because its application for minor modification of its digital television ("DTV") construction permit remains pending. For these and other reasons set forth herein, WPXT submits that grant of a waiver and extension of the Replication Deadline would be in the public interest.

Licensees, like WPXT, that receive a tentative DTV channel designation on their current digital channel must construct full, authorized DTV facilities by July 1, 2006. In its Form 381 Pre-Election Certification, WPXT certified that it would operate its post-transition DTV station based on its allotted replication facilities.² On June 9, 2006, WPXT filed a Form 301 application for minor modification of its DTV construction permit ("Minor Mod Application"). The Minor

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*").

² See BCERCT-20041104AYC.

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Mod Application seeks a construction permit with technical parameters designed to replicate. In its June 14, 2006 Public Notice, the Federal Communications Commission (“Commission”) stated as follows: “If such licensee has not received approval of its modification application prior to the Replication Deadline, then it should file a request for waiver of the interference protection deadline.”³ Because the Minor Mod Application remains pending, and because grant of such application is outside of WPXT’s control, WPXT is seeking a waiver consistent with the Public Notice. Upon grant of the Minor Mod Application, WPXT will be prepared to complete construction because it has ordered and received all necessary equipment. WPXT anticipates that construction will take approximately ten days to complete.

This waiver request is further justified because of circumstances that prevented earlier filing of the Minor Mod Application. Specifically, filing of the Minor Mod Application was delayed while WPXT awaited the results of a study to confirm whether WPXT safely could install its antenna on its existing tower. This tower study, conducted by the tower’s owner, was not completed until early June 2006, despite the persistent conversations between WPXT and the tower owner urging completion of the study. WPXT could not file its Minor Mod Application until it received consent of the tower owner to proceed with the construction, based on the results of the tower study. Completion of the tower study was a matter beyond WPXT’s control; however, WPXT took all other reasonable steps in advance of the application filing in order to expedite construction.

As set forth herein, WPXT cannot complete construction of its DTV facilities prior to the Replication Deadline due to circumstances beyond its control—namely, the pending status of its Minor Mod Application and delays associated with a necessary tower study. Thus, WPXT respectfully requests that the Commission grant a waiver and extension of the Replication Deadline. WPXT also requests that the Commission extend the term of its DTV STA so that WPXT may continue to serve its viewers with a digital signal.⁴

³ See DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline, DA 06-1255, *Public Notice*, at 3 (rel. June 14, 2006).

⁴ Per the informal advice of the FCC staff, WPXT is filing a separate letter request seeking extension of its DTV STA.

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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)