

July 5, 2006

VIA ELECTRONIC FILING

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

Re: MB Docket No. 03-15
KTVQ-DT (Billings, Montana)
Facility ID No. 35694
Request for Waiver of July 1, 2006 Replication/Maximization Deadline

Dear Ms. Dortch:

KTVQ Communications, Inc. (“KTVQ”), permittee of KTVQ-DT, Billings, Montana (the “Station”), by its attorneys and pursuant to the Commission’s *Public Notice*,¹ hereby respectfully requests waiver of the Commission’s July 1, 2006 replication/maximization interference protection deadline. Due to circumstances beyond KTVQ’s control, the Station cannot implement its replication facilities prior to the deadline because of delays in obtaining approval of a new tower.

KTVQ seeks an extension of the replication/maximization deadline because of errors regarding the FAA Determination of No Hazard for its proposed DTV tower. KTVQ determined that the existing tower could not support the addition of DTV equipment and accordingly planned to construct a new tower. After the Rocky Mountain winter snows had melted sufficiently (the site is accessible only by snowmobile during winter), KTVQ was prepared to timely construct its DTV facilities this spring. During this process, however, it belatedly discovered that the site elevation listed with the FAA for its proposed tower was incorrect, requiring KTVQ to begin the FAA process anew and delaying submission of the FCC

¹ See *DTV Channel Election Issues—Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, Public Notice, DA 06-1255 at 5 (rel. June 14, 2006) (“*Public Notice*”). The Commission subsequently extended the deadline through July 7, 2006.

construction permit application.² With the FAA approval now in hand, KTVQ submitted its construction permit application for the new tower.³ The Commission has not yet had an opportunity to process this pending application, but, upon Commission grant, KTVQ estimates that it would be able to complete construction rapidly and commence operations within two months.

KTVQ submits that this waiver request satisfies the standards set forth in the *Public Notice*. The Station was unable to complete construction of its replication facilities by the deadline because of delays KTVQ experienced in obtaining FAA approval. In its *Second DTV Periodic Review Report and Order*,⁴ the Commission adopted a July 1, 2006 replication/maximization interference protection deadline for all DTV licensees not subject to the July 1, 2005 deadline. The Commission 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."⁵ To receive such a waiver, broadcasters were required to make a showing "similar to that required to obtain a waiver of the DTV construction deadlines."⁶ KTVQ believes this instant waiver request satisfies these requirements.

Based upon the foregoing, KTVQ believes that it has shown good cause for the Commission to grant waiver of the July 1, 2006 deadline for the Station. Should any questions arise, please contact the undersigned.

Respectfully submitted,



Scott S. Patrick

cc: Shaun Maher (FCC)

² On May 24, 2006, KTVQ submitted an FAA Form 7460-1 to correct the ground elevation. The FAA approved the corrections on June 5, 2006. See FAA Study No. 2006ANM-1141-OE. On June 23, 2006, KTVQ amended its tower registration to correct the elevation and to reflect the updated FAA study number, clearing the way for submission of the construction permit application. See FCC Tower Registration No. 1250854.

³ See FCC File No. BMPCDT-20060705ABU.

⁴ 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*").

⁵ *Id.*, ¶ 87. See also *Public Notice*.

⁶ *Report and Order*, ¶ 87.