

AKIN GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law

TOM W. DAVIDSON
202.887.4011/fax: 202.955.7719
tdavidson@akingump.com

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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
KAUZ-TV, Wichita Falls, Texas, Facility ID No. 6864

Dear Ms. Dortch:

Hoak Media of Wichita Falls, LLC ("Hoak"), the licensee of KAUZ-TV and permittee of KAUZ-DT, Wichita Falls, Texas, Facility ID No. 6864 ("Station"), 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, Hoak cannot fully replicate its certified facilities because its digital antenna is side-mounted below its top-mounted analog antenna and it will use its current analog antenna location on the tower as its digital antenna location post-transition. For these and other reasons set forth herein, Hoak submits that grant of a waiver and extension of the Replication Deadline would be in the public interest.

Licenses, like Hoak, 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, Hoak certified that it would operate its post-transition DTV station based on its allotted replication facilities. In its June 14, 2006 Public Notice, the Federal Communications Commission ("Commission") stated five factors that stations like KAUZ-DT

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*").

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should address in their requests for waivers and extensions.² Each of these factors is addressed in turn below.

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

In its *Second Periodic Review Order*, the Commission stated that “licensees that receive a tentative DTV channel designation in the channel election process on their current DTV channel must construct full, authorized DTV facilities.”³ According to the Commission table designated for use in replication calculations, the population served by KAUZ-DT’s initial DTV allotment is 399,972 persons.⁴ KAUZ-DT’s reduced power facility serves 202,999 persons. Thus, KAUZ-DT’s replication percentage is 50.8% of the population.⁵

2. The reason the licensee is unable to fully comply;

KAUZ-DT is unable to fully comply with the 100% replication standard (“Replication Standard”) at this time because of the current position of its antenna. The top position on the tower is occupied by the KAUZ-TV antenna. As a result, Hoak had to side-mount the Station’s digital antenna on the tower’s lower and wider base. Unfortunately, the width of the tower at this lower position partially impedes KAUZ-DT’s signal, and thus reduces the number of viewers that KAUZ-DT can reach. Hoak presently cannot move the Station’s digital antenna to another position on the tower to increase its DTV coverage because the tower, a relatively small tower, cannot support the weight of the antenna and necessary transmission line at another location. Moreover, Hoak cannot modify its operations to replicate in accordance with the *Second Periodic Review* because it intends to use its current analog antenna position as the digital position post-transition. However, KAUZ-DT must wait until KAUZ-TV ceases operation

² 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 5 (rel. June 14, 2006).

³ *Second Periodic Review Order*, at ¶ 78.

⁴ See Table II of 1998 Station NTSC and DTV Replication Information, at 23 (rel. Dec. 21, 2004).

⁵ KAUZ-DT’s reduced power facilities replicate 56.4% of the area predicted to be covered by the Station’s certified facilities.

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before it can assume use of the position currently occupied by the KAUZ-TV antenna. For these reasons, Hoak is unable to fully comply with the Replication Standard.

3. The cost to the licensee and the impact on viewers if the licensee is unable to fully comply;

Hoak believes that it is currently impossible for it to comply substantially with the Replication Standard using KAUZ-DT's current DTV antenna and still maintain current levels of service to its analog viewers. In order to attempt to satisfy the Replication Standard at this time, Hoak first would have to switch the positions of its analog and DTV antennas. Even if physically possible, this switch would result in loss of service to analog viewers, who far outnumber digital viewers at this time. Moreover, the KAUZ-TV signal is currently the Station's main source of revenue; loss of this signal would result in significant financial harm to Hoak.

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

Hoak will be able to modify its operations to comply substantially after analog operation terminates. At this time, Hoak will complete construction of its digital facilities in accordance with its DTV construction permit.⁶ This DTV construction permit specifies facilities that do not fully replicate the Station's certified facilities. Specifically, the facilities specified in the DTV construction permit are predicted to serve 292,131 persons, approximately 73% of the number of viewers, and 68% of the area, predicted to be served by the Station's certified facilities.

This percentage of replication will be accomplished by KAUZ-DT's eventual use of the tower position of the current KAUZ-TV antenna. The digital antenna will be top-mounted and thus serve viewers currently served by the Station's analog facilities.

5. Any other relevant factors.

KAUZ-DT has been on the air with a reduced power DTV signal since December 2002. KAUZ-DT is committed to substantially replicating but is unable to do so at this time due to its side-mounted antenna and its need to use the current NTSC antenna position on the tower as its DTV antenna position post-transition. As demonstrated above, KAUZ-DT will be able to

⁶ See FCC File No. BMPCDT-20020221AAT.

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substantially replicate using its current analog antenna position as its DTV antenna position post-transition. For these and other reasons set forth herein, Hoak submits that grant of the instant waiver and extension request is in the public interest. Thus, Hoak respectfully requests that the Commission grant a waiver and extension of the Replication Deadline. Hoak also requests that the Commission extend the term of its DTV STA so that Hoak may continue to serve its viewers with a digital signal.⁷

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)

⁷ Per the informal advice of the FCC staff, Hoak filed a separate request seeking extension of its DTV STA on June 29, 2006.