

July 6, 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
KXLF-DT (Butte, Montana)
Facility ID No. 35959
Request for Waiver of July 1, 2006 Replication/Maximization Deadline

Dear Ms. Dortch:

KXLF Communications, Inc. (“KXLF”), permittee of KXLF-DT, Butte, 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 KXLF’s control, the Station cannot fully replicate coverage of the Station’s NTSC Grade B contour² during the DTV transition until a neighboring NTSC station ceases operation. As described herein, KXLF believes the Station’s current operations “come close to meeting the applicable . . . requirements”³ by serving

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*”).

² In a letter to the Commission dated November 5, 2004, KXLF explained that it intended to operate post-transition facilities that replicated the Station’s analog service area but that it could not do so during the transition because of interference from KFBB-TV. See Letter from Nam E. Kim, counsel to KXLF Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 5, 2004) (supplementing FCC File No. BCERCT-20041104ARE).

³ *Public Notice* at 5.

approximately 98.5% of the population within the replication service area.⁴ Nevertheless, because this service area falls short of that certified, KXLF respectfully requests waiver to extend the deadline.

Interference from KFBB-TV, NTSC Channel 5, in Great Falls, Montana during the transition prevents the Station from serving one hundred percent of its replication service area population to which it had certified in its Form 381 Pre-Election Certification. At the end of the transition, station KFBB-TV is expected to cease operations on Channel 5,⁵ at which point, according to KXLF's engineering analysis, the Station's current operations at 8 kW are expected to serve 177,029 persons (or approximately 104% of the Grade B service area population). Due to interference from KFBB-TV during the transition, however, the Station falls short of 100% replication.

Accordingly, KXLF believes that the Station's existing facilities will be in compliance with its Form 381 certification once analog service ends. Nevertheless, as the end of the DTV transition nears, KXLF is committed to reevaluating its engineering conclusions to ensure that it in fact will meet its certification. If KXLF determines that it is necessary for the Station to further increase ERP to replicate its NTSC Grade B service area, KXLF will request appropriate FCC authority and implement such changes. In the meantime, however, KXLF believes that its current facilities will exceed its certification at the conclusion of the DTV transition.

KXLF submits that this waiver request satisfies the standards set forth in the *Public Notice*. In its *Second DTV Periodic Review Report and Order*,⁶ 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."⁷ 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."⁸ KXLF believes this instant waiver request satisfies these requirements.

⁴ Specifically, the Station's current service area population is 167,663 persons. The certified replication service area population is 170,235 persons.

⁵ See FCC File No. BFRECT-20050210ALL. The Commission tentatively approved the election on June 23, 2005.

⁶ 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*").

⁷ *Id.*, ¶ 87. See also *Public Notice*.

⁸ *Report and Order*, ¶ 87.

The Station's current operations at 8 kW reach approximately 98.5% of the NTSC Grade B service area population. The *Public Notice* recognized that certain stations, although unable to reach 100% maximization or replication, could "come close" to meeting the applicable coverage requirements.⁹ The Commission requested that licensees of such stations submit the following information in conjunction with their waiver request: "(1) how close to full replication/maximization the station will be as of the deadline; (2) the reason the station is unable to comply fully; (3) the cost to the licensee and the impact on viewers if the licensee were required to comply fully; (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); and (5) any other relevant factors."¹⁰

KXLF responds to these specific inquiries as follows:

(1) the proposed operations will reach approximately 98.5% of the certified replication service area population;

(2) interference from KFBB-TV's analog operations on Channel 5 prevents the Station from serving the entire replication area;

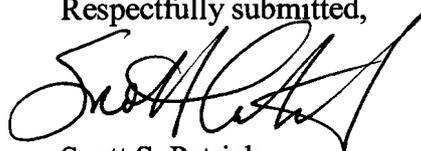
(3) N/A;

(4) KXLF believes that the Station's current facilities will comply fully after analog service terminates; and

(5) at the conclusion of the DTV transition, KXLF commits to reevaluate whether it will be necessary for the station to increase power for it to meet its certification.

Based upon the foregoing, KXLF 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)

⁹ *Public Notice* at 5.

¹⁰ *Id.*