

July 7, 2006

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VIA ECFS

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
Attention: Video Division, Media Bureau

Re: **MB Docket No. 03-15**
WJZY-DT, Belmont, North Carolina
Facility ID No. 73152
Request for Waiver of the July 7, 2006 Maximization Deadline

Dear Ms. Dortch:

WJZY-TV, Inc. ("WJZY"), the licensee of analog television station WJZY-TV, Channel 46, Belmont, North Carolina, and the permittee of digital television ("DTV") station WJZY-DT, Channel 47, Belmont, North Carolina, by its counsel, hereby submits this Request for Waiver ("Request") of the July 7, 2006 maximization deadline set forth in the Commission's *Second Periodic Review*.¹ Specifically, WJZY requests a six-month waiver of the maximization deadline for the reasons set forth below.

The Commission requires that all DTV stations comply with a July 7, 2006 "use-it-or-lose-it" deadline for replicating or maximizing their digital signals unless otherwise specified by the Commission or a request for waiver is filed.² DTV stations failing to meet that deadline face

¹ *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, MB Docket No. 03-15, FCC 04-192 (rel. Sept. 7, 2004) ("*Second Periodic Review*"). The Request is in compliance with the Commission's June 14, 2006 *Public Notice* in this proceeding, as amended by the Commission's June 29, 2006 *Public Notice* extending the response deadline to July 7, 2006. See *DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extensions of the Deadline*, Public Notice, DA 06-1255 (rel. June 14, 2006) ("*Public Notice*"). See *DTV Channel Election Issues – Media Bureau Extends Filing Deadline for Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline to July 7, 2006*, Public Notice, DA 06-1372 (rel. June 29, 2006) ("*Second Public Notice*").

² *Id.* ¶ 78. Some licensees were required to comply with a July 1, 2005 deadline, but the applicable deadline for WJZY is July 7, 2006.

potential loss of interference protection in the future.³ Absent grant of this Request, the July 7, 2006 maximization deadline would be applicable to WJZY-DT.

In the *Second Periodic Review* in this proceeding, the Commission recognized that certain circumstances may warrant flexible enforcement of the maximization deadline. To this end, the *Second Periodic Review* adopted a waiver process to provide for six-month extensions of the maximization/replication protection deadline. In a recent *Public Notice*, the Commission provided further guidance regarding the waiver process.⁴ In particular, the Commission discussed situations that would present adequate justification for a grant of a six-month waiver:

For example, some licensees with a top-mounted analog antenna and a side-mounted digital antenna state that they cannot replicate completely their analog signal in digital without switching the antennas, which would cause some analog viewers to lose service. For licensees in this situation, the following should be addressed in submitting a request for waiver of the interference protection deadline: (1) how close to full replication/maximization the licensee will be as of the deadline; (2) the reason the licensee 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.⁵

The situation described directly above in the *Public Notice* is exactly that of WJZY. The WJZY analog antenna is top-mounted on the tower, and the WJZY digital antenna is side-mounted on the tower. WJZY cannot achieve full maximization without inverting the analog and digital antennas on the tower. Switching the antennas in this manner would cause many analog viewers to lose their present analog service.

WJZY's responses to the five criteria set forth in the *Public Notice* are as follows:

(1) How close to full replication/maximization the station will be as of the deadline?

WJZY is very close to full maximization — 96%. Specifically, WJZY is operating at 1000 kW at a height above average terrain (“HAAT”) of 553.5 meters, pursuant to the Special Temporary Authority issued on May 9, 2006 (*see* FCC File No. BDSTA-20060424ACE). Pursuant to its construction permit, WJZY is authorized to construct maximized facilities of 1000 kW with a HAAT of 595.3 meters. *See* FCC File No. BPCDT-19990927AAK. The attached engineering exhibit (Exhibit 1) demonstrates that the STA facilities cover 96% of the authorized maximized digital facilities.

³ *Id.* ¶ 85.

⁴ *DTV Channel Election Issues — Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, Public Notice, MB Docket No. 03-15, DA 06-1255 (rel. June 14, 2006) (“*Public Notice*”).

⁵ *Id.* at 5.

(2) The reason the licensee is unable to comply?

The analog WJZY antenna is top mounted at 595.3 meters HAAT. The digital WJZY antenna is side mounted at 553.5 meters HAAT. The station cannot achieve maximization without displacing its analog antenna, which would cause severe disruption to analog viewers of WJZY.

(3) The cost to the station and the impact on viewers if the station were required to fully comply?

If this waiver request is granted, WJZY will need to purchase only one antenna – a combination DTV antenna for top-mounting. In the absence of a grant of this waiver request, to fully comply, WJZY would immediately need to buy two antennas: a combination DTV antenna for top-mounting, and an analog side mount antenna since station engineers do not believe that the current top-mounted analog antenna can be repurposed as a side mount antenna. WJZY would have to pay for the design of coaxial and waveguide layouts on the tower. Following the design, WJZY would need to purchase additional pieces of waveguide and coaxial in order to operate the antennas in the new positions. During the antenna switch, viewers would lose important broadcast service for at least several days. In addition, three commercial FM stations on WJZY's tower would need to go dark or rely on auxiliary facilities if available. WJZY estimates that direct costs to WJZY would be between \$500,000 and \$800,000, plus lost advertising revenue during the period WJZY is silent. The foregoing does not include costs to the FM stations on the tower or other intangible costs that are likely to be incurred by WJZY.

(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)?

Yes, after analog operations terminate on February 9, 2009 (barring any further legislative changes to the date for discontinuance of the analog service), WJZY intends to remove the analog antenna and modify its DTV operation by top-mounting the digital antenna, thus maximizing WJZY-DT's facilities.

(5) Any other relevant factors?

As the foregoing demonstrates, full compliance with the maximization requirement would represent a severe burden, not only to WJZY but also to other broadcasters, broadcast viewers and broadcast listeners. WJZY submits that the *de minimis* benefits of a 4% increase in its service area are greatly outweighed by the extraordinary cost of compliance by the July 7, 2006 date. WJZY is committed to providing excellent DTV service to as many viewers as possible, and fully intends to maximize its service upon completion of the digital transition.

Request for STA and Construction Permit Extensions

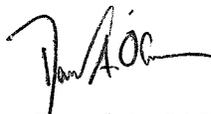
WJZY has separately filed, via CDBS, requests for extension of its STA authorization, FCC File No. BDSTA-20060424ACE and DTV construction permit, FCC File No. BPCDT-19990927AAK.

Conclusion

For the reasons set forth above, WJZY respectfully requests a six-month extension of the July 7, 2006 deadline for complying with the build-out requirements set forth in the *Second Periodic Review*.

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "D. A. O'Connor", written in a cursive style.

David A. O'Connor
Counsel for WJZY-TV, Inc.

Enclosure

cc (w/encl.): Shaun Maher

EXHIBIT 1

3855131_v2

COHEN, DIPPELL AND EVERIST, P.C.

PRELIMINARY
POPULATION AND AREA DATA
BASED ON LONGLEY-RICE MODEL
FOR WJZY-DT AND WMYT-DT
MAY 2006

	2000 Longley-Rice <u>Population</u> (including Table I interference and terrain effects)	<u>Area</u> sq. km.	<u>% of Certified DTV Facility Served</u>
<u>WJZY</u>			
TV Ch.46 Lic ¹	2,549,573	27,123	--
DT Ch.47 CP ²	3,378,381	39,955	100%
DT Ch.47 Allot	2,803,201	31,267	--
DT Ch.47 400 kW ND (old STA)	2,917,803	33,320	86.3%
DT Ch.47 1000 kW ND (new STA)	3,245,049	38,386	96.0%
<u>WMYT</u>			
TV Ch.55 Lic ³	2,579,157	26,964	--
TV Ch.39 CP ⁴	2,779,635	29,854	100%
TV Ch.39 STA	2,753,781	29,284	99.0%

¹Table I population is 2,555,655 and area is 27,279 km²

²Table I population is 3,379,670 and area is 33,967 km²

³Table I population is 2,606,201 and area is 27,483 km²

⁴Table I population is 2,785,717 and area is 29,954 km²