

July 7, 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
KIMO-DT (Anchorage, Alaska)
Facility ID No. 13815
Request for Waiver of July 1, 2006 Replication/Maximization Deadline

Dear Ms. Dortch:

Smith Media License Holdings, LLC (“Smith”), permittee of KIMO-DT, Anchorage, Alaska (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 Smith’s control, the Station cannot further increase power prior to July 1, 2006 and thereby allow replicated coverage of the Grade B contour. As described herein, Smith believes the Station’s operations as proposed in its pending request for special temporary authority will “come close to meeting the applicable . . . requirements”² by serving more than 99.96% of the population within the replication service area.³ Even though Smith substantially complies with its certification, Smith respectfully requests waiver to extend the deadline because this service area is slightly smaller than that certified.

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 *Public Notice* at 5.

³ Specifically, the proposed service area population is 317,452 persons. The certified replication service area population is 317,582 persons.

Construction of Certified Facilities Prevented

At this time the Station cannot increase its ERP to the level necessary to replicate coverage because of voltage limitations on the community antenna. On June 26, 2006, Smith filed a request to extend and modify its DTV Special Temporary Authority ("STA").⁴ Smith proposes to increase ERP to the practical maximum (*i.e.*, 31.5 kW). The site engineer for the community tower concluded that an increase in power by the Station to the 41 kW authorized in the construction permit would place a voltage on the community antenna (shared with four other broadcast stations) in excess of the recommended limit. Accordingly, Smith could not implement its construction permit for replication facilities without jeopardizing the operations of other stations (and its own).⁵

At the conclusion of the DTV transition, however, once other stations using the antenna terminate analog service, Smith can increase ERP to the permitted 41 kW and provide replication coverage in accordance with the operational limits of the community antenna.

Satisfaction of Waiver Standard

Smith submits that this waiver request satisfies the standards set forth in the *Public Notice*. For reasons beyond its control, the Station cannot now increase power to replicate service because of limitations of the community antenna. 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 Smith believes this instant waiver request satisfies these requirements.

The Station's proposed operations at 31.5 kW nonetheless reach almost the entire population within the NTSC Grade B service area. The *Public Notice* recognized that certain stations, although unable to reach 100% maximization or replication, could "come close" to

⁴ See FCC File No. BDSTA-20060626___ (file number not yet assigned).

⁵ See FCC File No. BMPCDT-20041027ADG.

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.

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

Smith responds to these specific inquiries as follows:

(1) the proposed operations will reach 99.96% of the certified replication service area population;

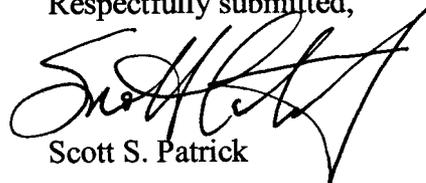
(2) the Station was prevented from increasing power to the certified ERP because of voltage limitations on the community antenna;

(3) if Smith were to increase power, it could cause stations in the Anchorage market, including KIMO(TV) and KIMO-DT, to cease operations; and

(4) Smith believes that at the end of the DTV transition it will be able to increase ERP to 41 kW to replicate its NTSC Grade B contour.

Based upon the foregoing, Smith 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.*