BROOKS, PIERCE, MCLENDON, HUMPHREY & LEONARD, L.L.P.
ATTORNEYS AT LAW
RALEIGH, NORTH CAROLINA

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
1600 WACHOVIA CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WWW.BROOKSPIERCE.COM

L.P. McLENDON, JR.
EDGAR B. FISHER, JR.
W. ERWIN FULLER, JR.
JAMES T. WILLIAMS, JR.
WADE H. HARGROVE
M. DANIEL McGINN
MICHAEL D. MEEKER
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KATHERINE J. CLAYTON
JENNIFER A. GALASSI
KATHLEEN A. GLEASON
JANICE L. KOPEC
SUSAN M. YOUNG
DARRELL A. FRUTH
IAIN MACSWEEN
BENJAMIN R. NORMAN
ELIZABETH E. SPAINHOUR

HENRY E. FRYE
OF COUNSEL

J. LEE LLOYD
SPECIAL COUNSEL

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THORNTON H. BROOKS (1912-1988)
G. NEIL DANIELS (1911-1997)
HUBERT HUMPHREY (1928-2003)

GREENSBORO OFFICE
2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, N.C. 27401

WASHINGTON OFFICE
601 PENNSYLVANIA AVENUE, N.W.
SUITE 900, SOUTH BUILDING
WASHINGTON, D.C. 20004

WRITER'S DIRECT DIAL

August 31, 2006

**Via Overnight Mail and ECFS**

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

**Re: WDSU-DT, New Orleans, Louisiana**
**MB Docket No. 05-317**
**TELEVISION STATION SECTION 339(a)(2)(D)(vii)**
**WAIVER EXTENSION REQUEST**

Dear Ms. Dortch:

On behalf of New Orleans Hearst-Argyle Television, Inc. ("Hearst-Argyle"), permittee of Digital Television Station WDSU-DT, New Orleans, Louisiana, this letter requests an extension of waiver to prohibit satellite subscribers from obtaining signal tests of WDSU-DT's digital signal pursuant to Section 339(a)(2)(D)(vii) of the Communications Act, as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"). The instant extension request is filed pursuant to the procedures set forth in the Commission's Public Notice in DA 05-2979 (Nov. 17, 2005) and in *Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004*, Order, DA 06-801 (rel. May 1, 2006) ("*Order*"). Because WDSU-DT experienced a "force majeure" event, the Commission granted Hearst-Argyle's initial waiver request in the *Order*. *See Order*, ¶ 27.

WDSU-DT is the NBC affiliate located in the New Orleans Designated Market Area ("DMA"). The New Orleans DMA was ranked 43rd among Nielsen Media's 210 television markets for the 2005-2006 television season and is ranked 54 for the 2006-2007 season. WDSU-DT has received a tentative digital channel designation of Channel 43, which is WDSU-DT's allotted digital channel. *See* Public Notice, DA 05-2649 (Oct. 4, 2005). Accordingly, absent grant of the instant extension request, effective October 31, 2006, satellite subscribers may request a signal test to demonstrate eligibility under SHVERA to receive a distant digital signal of a station affiliated with the same network as WDSU-DT.

WDSU-DT remains off the air due to damage sustained from Hurricane Katrina. The hurricane damaged several items of WDSU's NTSC and DTV transmitting equipment. While WDSU has resumed NTSC operation, WDSU-DT is not yet able to recommence operation. On September 15, 2005, the Commission granted WDSU-DT authority to remain silent (File No. BLSTA-20050908ADQ) due to Hurricane Katrina, and, on April 11, 2006, the Commission extended the authority to remain silent (File No. BLESTA-20060315ABH).

Thus, absent grant of the instant waiver extension request to prevent signal testing under SHVERA, WDSU-DT is in jeopardy of losing service to all 1.8 million people who are predicted to receive service from the station but who may otherwise be eligible to receive service from a distant network affiliate.

Accordingly, because WDSU-DT remains off the air due to the force majeure event of Hurricane Katrina, WDSU-DT continues to satisfy the waiver criteria of Section 339(a)(2)(D)(viii) of the Act.

For the reasons stated herein, Hearst-Argyle requests an extension of waiver to prohibit digital signal testing under SHVERA. If any questions should arise during the course of your consideration of this request, it is respectfully requested that you communicate with this office.

Sincerely,

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

David Kushner
Stephen Hartzell
*Counsel to New Orleans*
*Hearst-Argyle Television, Inc.*

cc: Nazifa Sawez, FCC (Via Email)