

December 28, 2006

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VIA ECFS

Marlene H. Dortch, Esq., Secretary  
Federal Communications Commission  
236 Massachusetts Ave., NE, Suite 110  
Washington, DC 20002  
*Attention: Video Division, Media Bureau*

Re: **MB Docket No. 03-15**  
KVRR-DT, Fargo, ND, Facility ID No. 55372  
*Amendment to Request for Waiver of the July 7, 2006 Maximization Deadline*

Dear Ms. Dortch:

On July 7, 2006, Red River Broadcast Co., LLC ("Red River"), the licensee of analog television station KVRR-TV, Channel 15, Fargo, North Dakota, Facility ID No. 55372, and the permittee of digital television ("DTV") station KVRR-DT, Channel 19, Fargo, North Dakota ("KVRR-DT"), filed a Request for Waiver ("Request") of the July 7, 2006 maximization deadline.<sup>1</sup> Red River requested a six-month waiver of the maximization deadline due to reasons beyond its control. The Request remains pending.

By this Amendment, Red River requests leave to add an additional justification for its waiver request, as set forth below.

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 *Public Notice*, the Commission

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<sup>1</sup> *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*"); see also *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*"); *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). The Request did not include the information in this Amendment because Red River only recently anticipated the top-mount/side-mount problem discussed herein.

provided further guidance regarding the waiver process. 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.<sup>2</sup>

Red River is facing this exact problem with respect to KVRR-TV and KVRR-DT. The KVRR analog antenna is side-mounted at the top of the tower, and the KVRR digital antenna is side-mounted on the tower. KVRR 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.

Red River'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?

KVRR is very close to full maximization — 98.3%. Specifically, KVRR-DT is operating at a height above average terrain (“HAAT”) of 348 meters, pursuant to Special Temporary Authority, as most recently extended on July 3, 2006 (see FCC File No. BEDSTA-20060630AAO).<sup>3</sup> Pursuant to its construction permit, KVRR-DT is authorized to construct maximized facilities of 1000 kW with a HAAT of 379 meters. See FCC File No. BPCDT-19991028ACA. With these parameters, the STA facilities cover 98.3% of the authorized maximized digital facilities.

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

The analog KVRR-TV antenna is top mounted at 379 meters HAAT. The digital KVRR-DT antenna is side mounted at 348 meters HAAT. The station cannot achieve maximization without displacing its analog antenna, which would cause severe disruption to analog viewers of KVRR-TV.

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<sup>2</sup> *Public Notice* at 5.

<sup>3</sup> See also FCC File No. BLDSTA-20061106AAQ (accepted for filing Nov. 7, 2006) (requesting authority to increase effective radiated power to 1000 kW).

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

During the antenna switch, viewers would lose important broadcast service for at least several days if not weeks. Clear Channel also has a backup FM antenna on the tower that is being used as its broadcasting antenna currently, which would be negatively impacted. Red River estimates that direct costs to Red River would be between \$100,000 and \$200,000, plus lost advertising revenue during the period KVRR-TV and KVRR-DT is silent. Particularly in a small market, this amount is very significant. The foregoing does not include intangible costs that are likely to be incurred by Red River.

(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 17, 2009 (barring any further legislative changes to the date for discontinuance of the analog service), Red River intends to remove the analog antenna and modify its DTV operation by top-mounting the digital antenna, thus maximizing KVRR-DT's facilities.

(5) Any other relevant factors?

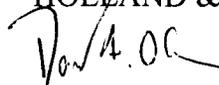
As the foregoing demonstrates, full compliance with the maximization requirement would represent a severe burden to Red River and the viewing public. Red River submits that the *de minimis* benefits of a 1.7% increase in KVRR-DT's service area are greatly outweighed by the extraordinary cost of compliance with the maximization requirement. Red River 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.

Accordingly, for the reasons set forth herein, and in the Request, Red River requests a waiver of the July 7, 2006 maximization deadline.

In the event there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

HOLLAND & KNIGHT LLP



David A. O'Connor

Counsel for Red River Broadcast Co., LLC

Enclosure  
cc (via e-mail): Shaun Maher, FCC

Marlene H. Dortch, Esq.  
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