

June 18, 2007

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VIA HAND DELIVERY & ECFS

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
236 Massachusetts Ave., NE
Suite 110
Washington, DC 20002

Re: MB Docket No. 03-15
DTV Build-Out; Requests for Waiver of July 1, 2005 and July 1, 2006 "Use or Lose" Deadlines; Requests for Waiver of the August 4, 2005 "Checklist" Deadline, FCC 07-90
Petition for Limited Reconsideration

Dear Ms. Dortch:

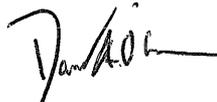
Transmitted herewith, on behalf of Red River Broadcast Co., LLC, are an original and four (4) copies of its Petition for Limited Reconsideration of the *Order* issued on May 18, 2007 in the above-captioned proceeding.

An extra copy of the filing is enclosed. Please date-stamp the extra copy and return it to the courier.

Should you have any questions about 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

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
DTV Build-Out)
)
Requests for Waiver of July 1, 2005 and) MB Docket No. 03-15
July 1, 2006 "Use or Lose" Deadlines)
)
Requests for Waiver of the August 4, 2005)
"Checklist" Deadline)

To: Secretary, FCC
For: The Commission

PETITION FOR LIMITED RECONSIDERATION

Red River Broadcast Co., LLC ("Red River"), the licensee of analog television station KVRR(TV), Fargo, North Dakota, and the permittee of digital television ("DTV") station KVRR-DT, Fargo, North Dakota, Facility ID No. 55372 ("KVRR"), by its counsel and pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, hereby requests limited reconsideration of the Commission's May 18, 2007 *Order* in this proceeding.¹

Specifically, Red River submits that the *Order* did not address Red River's July 7, 2006 request for a waiver of the July 7, 2006 "use or lose" deadline as that deadline applies to KVRR.² Red River's timely waiver request indicated that KVRR is encountering a "side mounted antenna" issue which precludes the station from maximizing its digital facilities, because the space on the tower authorized for the KVRR digital facilities is currently being used for the

¹ FCC 07-90 (rel. May 18, 2007) ("*Order*"). The *Order* does not include a docket number; however, because Red River filed the waiver request discussed herein in MB Docket No. 03-15, Red River believes it is appropriate to refer to that docket number in the caption above.

² See KVRR Request for Waiver of the July 7, 2006 Maximization Deadline, MB Docket No. 03-15 (filed July 7, 2006, as amended Dec. 28, 2006). The original deadline was July 1, 2006; however, the deadline was extended by the Commission to July 7, 2006.

KVRR analog facilities. Thus, like the 45 stations that were granted a waiver until February 17, 2009 in the *Order*, Red River faces the same “unique technical challenges preventing [it] from meeting” the deadline,³ and therefore a grant of Red River’s waiver request until February 17, 2009 is warranted.

However, the Commission failed to address Red River’s waiver request in the *Order*. Under the “hard look” standard applicable to waivers, the Commission is required to “articulate with clarity and precision its findings and the reasons for its decisions.”⁴ The Commission does not meet this standard when it fails to consider a waiver request, Red River submits, particularly where it does not articulate any reason for not addressing the waiver request.⁵ Because the Commission appears to have addressed all other “use or lose” waiver requests in the *Order*, Red River can only conclude that the failure to address the KVRR waiver request was an inadvertent oversight that must be corrected.⁶

To rectify this situation, Red River requests that the Commission consider and grant the KVRR waiver request as soon as possible, so that Red River can be given the assurances it needs

³ *Order*, ¶ 1.

⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1156-57 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁵ *Alexander Broadcasting*, 21 FCC Red 9968, ¶ 6 (2004); *101 Applications for Authority to Construct and Operate Multipoint Distribution Service Stations*, 9 FCC Red 7886, 45 (1994); *Arlington Telecommunications Corp.*, 70 FCC 2d 2291, ¶ 17 (1979).

⁶ In a separate decision released on May 18, 2007, the Commission granted Red River’s application to extend the KVRR-DT Construction Permit to November 18, 2007. *See DTV Build-Out; Applications Requesting Extension of the Digital Television Construction Deadline*, Order, FCC 07-91 (rel. May 18, 2007). However, the extension application was filed separately from the “use or lose” waiver request, and the waiver request should not be deemed moot as a result of the grant of the extension request. Indeed, the Commission in all other situations appears to have dismissed as moot other extension requests where waiver requests were granted. Red River would prefer that the Commission grant Red River’s waiver request until February 17, 2009 and dismiss its extension request as moot.

to complete the digital television transition in a timely manner.

Respectfully submitted,

RED RIVER BROADCAST CO., LLC



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Its Counsel

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