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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 05-317
KHAS-TV, Hastings, Nebraska, Facility ID No. 48003
TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST

Dear Ms. Dortch:

Hoak Media of Nebraska License, LLC (“Hoak”), the licensee of KHAS-TV, Hastings, Nebraska, Facility ID No. 48003, by its attorneys, hereby requests a further six-month waiver of the July 15, 2007 digital signal testing implementation date (“Testing Deadline”) to prevent satellite subscribers from conducting a digital signal strength test of KHAS-DT for purposes of obtaining a distant network signal. The instant extension request is sought pursuant to Section 339(a)(2)(D) of the Communications Act (“Section 339”), as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 (“SHVERA”), and actions by the Federal Communications Commission (“FCC”).¹

In February 2007, Hoak requested that the FCC waive the Testing Deadline as it applies to KHAS-DT because KHAS-DT’s digital signal coverage was limited due to the necessity of using a side-mounted antenna.² The FCC’s Media Bureau granted Hoak’s request and extended the digital signal testing implementation date for KHAS-DT to January 15, 2008.³ Specifically, the FCC found that KHAS-DT’s ability to serve only 46.9 percent of the population that is authorized to serve by its pre-transition construction permit constituted a substantial reduction in coverage area and thus justified grant

¹ See, e.g., 47 U.S.C. § 339(a)(2)(D), as amended by Section 204 of SHVERA; Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004, *Order*, MB Docket 05-317, DA 07-3201 (rel. Jul. 13, 2007) (“*First Waiver Order*”); Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004, *Order*, MB Docket 05-317, DA 08-111 (rel. Jan. 16, 2008) (“*Second Waiver Order*”).

² See Letter to Ms. Marlene H. Dortch, Secretary, FCC, from Tom W. Davidson, Esq. re KHAS-TV, Hastings, Nebraska, Facility ID No. 48003, MB Docket 05-317, (filed Feb. 15, 2007) (“*Waiver Request*”).

³ *Waiver Order*, at ¶ 23.

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of a digital testing waiver.⁴ In January 2008, the Media Bureau reiterated this conclusion and granted a further six-month extension of the Testing Deadline for KHAS-DT, until June 15, 2008.⁵

Section 339 provides that a station may obtain an extension of a temporary waiver of satellite subscriber digital signal testing if “the station’s digital signal coverage is limited due to the unremediable presence of one or more” statutory criteria.⁶ One criterion is whether “the station experiences a substantial decrease in its digital signal coverage area due to the necessity of using a side-mounted antenna.”⁷ Hoak requests a further six-month waiver of digital signal testing on the basis of this criterion because KHAS-DT’s signal coverage remains limited due to its need to use a side-mounted antenna until the end of the DTV transition.

As explained in Hoak’s initial waiver request, Hoak had to side-mount KHAS-DT’s antenna on the tower’s lower and wider base because the top tower mast position is occupied by the KHAS-TV antenna.⁸ Unfortunately, the width of the tower at this lower position partially impedes KHAS-DT’s signal, and thus reduces the number of viewers that KHAS-DT can reach. Hoak cannot remedy this signal blockage at this time because the tower, a relatively small tower, cannot support the weight of the antenna at another location. Moreover, Hoak cannot modify its operations at this time because it elected to use its current NTSC channel as its post-transition DTV channel. In short, KHAS-DT continues to experience the same reduction in coverage area as was reported in its initial waiver request. Accordingly, because KHAS-DT’s signal coverage continues to be “limited” due to its need to use a side-mounted antenna and its plans to use its NTSC channel for its post-transition operations, a further six-month waiver of satellite subscriber digital signal testing is warranted.

Please do not hesitate to contact the undersigned with any questions regarding this matter.

Sincerely,

/s/ Tom W. Davidson
Tom W. Davidson, Esq.

⁴ *Waiver Order*, at ¶ 23. The Media Bureau further noted that “the percentage of loss of area coverage would be as great, or greater, than the population loss.” *Id.*

⁵ *See Second Waiver Order*, at ¶ 15.

⁶ 47 U.S.C. § 339(a)(2)(D)(viii).

⁷ 47 U.S.C. § 339(a)(2)(D)(viii)(IV).

⁸ *See Waiver Request*, at 2-3.