



May 28, 2008

VIA ELECTRONIC FILING

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

Re: MB Docket No. 07-91
Request for Waiver of PSIP Implementation Deadline
KERO-DT, Bakersfield, California (Facility ID No. 40878)
KGTU-DT, San Diego, California (Facility ID No. 40876)
KMGH-DT, Denver, Colorado (Facility ID No. 40876)
WRTV-DT, Indianapolis, Indiana (Facility ID No. 40877)

Dear Ms. Dortch:

McGraw-Hill Broadcasting Company, Inc. (“Licensee”), licensee of the four above-referenced television stations (the “Stations”), hereby respectfully requests waiver of the May 29, 2008 implementation deadline for the ATSC A/65C PSIP standard (the “A/65C Implementation Deadline”) adopted in the *Third DTV Periodic Review*.¹ Licensee is requesting waiver because the Stations do not yet have the equipment necessary to implement the updated standard to the extent possibly required.

The Commission may waive any provision of its rules for good cause.² A waiver is appropriate if special circumstances warrant a deviation from the general rule and such a deviation will serve the public interest.³ The Court of Appeals for the D.C. Circuit has stated that waivers may permit a more rigorous adherence to an effective regulation by allowing the agency to take into account considerations of hardship, equity, or more effective implementation

¹ See Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, 23 FCC Rcd 2994, ¶ 188 & App. B (2008) (“*Third DTV Periodic Review*”). The Commission set the effective date for the standard 120 days after publication in the Federal Register. *Id.*, ¶ 185; 73 Fed. Reg. 5634 (Jan. 30, 2008). Accordingly, the implementation deadline is May 29, 2008.

² 47 C.F.R. § 1.3 (2007).

³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (“*WAIT Radio*”), *cert. denied*, 409 U.S. 1027 (1972)).

of overall policy on an individualized basis.⁴ Under the *WAIT Radio* doctrine, the Commission must take a “hard look” at waiver requests.⁵

Licensee’s instant request for waiver satisfies this familiar standard. Licensee complies with existing PSIP requirements and very well may comply with the actual requirements that become effective tomorrow, but Licensee is unclear about the extent to which the Stations must populate PSIP tables and when it must do it. To the extent fully populated PSIP tables are required in real-time, Licensee cannot yet accomplish this due to its equipment and software limitations. Accordingly, in an abundance of caution, Licensee submits this instant waiver request.

If you need any further information regarding this request, please contact us directly.

Respectfully submitted,

/s/

Scott S. Patrick

cc: Shaun Maher, Esquire (FCC)

⁴ *WAIT Radio*, 418 F.2d at 1157.

⁵ *Id.*