

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Request of Arizona Board of Regents for Arizona State University for Waiver of 47 C.F.R. § 15.712(b))	ET Docket No. _____
)	
Unlicensed Operation in the TV Broadcast Bands)	ET Docket No. 04-186
)	
Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band)	ET Docket No. 02-380
)	FILED/ACCEPTED

To: Marlene Dortch, Secretary
Attn: Chief, Office of Engineering and Technology

APR - 5 2011

Federal Communications Commission
Office of the Secretary

WAIVER REQUEST

The Arizona Board of Regents for Arizona State University respectfully submits this request for waiver of Section 15.712(b) of the Commission’s rules in order to register a receive site in the television bands database(s) and thereby to secure protection for this site from interference caused by the operation of unlicensed white spaces devices. The Arizona Board of Regents seeks a waiver because this receive site is located more than 80 kilometers from the protected contour of the TV station being received.¹ Section 1.3 of the Commission’s rules provides for waiver “for good cause shown,” and the Commission has recognized that its rules may be waived “where the particular facts make strict compliance inconsistent with the public

¹ See 47 C.F.R. § 15.712(b) (“TV translator station and low power TV (including Class A) station receive sites located outside the protected contour of the TV station(s) being received may be registered in the TV bands database if they are no farther than 80 km outside the nearest edge of the relevant contour(s).”). Section 15.712(b) also provides that “[f]or purposes of this section, a TV station being received may include a full power TV station, TV translator station or low power TV/Class A TV station.”

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interest.”² For the reasons set forth below, permitting registration of this receive site would be in the public interest and there is good cause to waive Section 15.712(b).

The K47GQ, Parks, Arizona receive site is used to receive the signal of KAET, a full power PBS station that transmits on channel 8 from Phoenix, Arizona. The signal is then retransmitted by K47GQ on channel 47. This site is located in Parks, Arizona at 35-12-01 N and 112-12-17 W, 89 kilometers from the nearest point of KAET’s protected contour. K47GQ serves 129,849 viewers with its over-the-air signal. The signal includes high quality educational, news, public affairs, science and history programming. KAET’s local news and public affairs offerings include *Horizon*, a daily program covering public policy issues and election information; *Horizonte*, a weekly program focusing on Hispanic issues in Arizona; and *Arizona Stories*, a series of specials concentrating on Arizona history and culture. The PBS programming carried by KAET also includes news and public affairs programming, including the *NewsHour*, *BBC World News*, and *Frontline*; science and nature, including *Nova* and *Nature*; arts, drama, music and entertainment programming, including *Masterpiece Classic*, *Great Performances*, and *Austin City Limits*; and history and culture programming, including *American Experience* and *Independent Lens*. The public interest would be disserved if viewers lose access to this important and irreplaceable programming.

Without a waiver in order to register this receive site for protection from interference caused by unlicensed white space devices, viewers in the above-identified community would be at risk of losing the important programming that originates on KAET,

² See 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969); and *Request for Waiver of the Decision of the Universal Service Administrator by Douglas-Omaha Tech. Comm’n, Omaha, Nebraska*, Order, 21 FCC Red 9277, at para. 5 (2006). See also *id.* (“waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule”).

including high quality educational programming and extensive news, public affairs, science and history programming.

The Commission has acknowledged this concern and accordingly has stated that it would accept and seek comment on requests for waiver of the 80 kilometer distance limitation on registration of receive sites.³ The Commission also has opined that waivers should not affect the availability of channels for TV white space devices, given that these facilities “are generally in remote areas where many channels will be available for white space devices.”⁴ Given the remote location of this site, therefore, grant of this waiver request should not unduly constrain the channels on which unlicensed white space devices could operate.

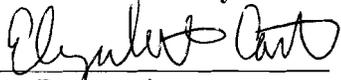
³ The Commission has stated that “[w]e recognize that there are cable headends that receive TV station signals located at distances beyond 80 km from the edge of a television station’s protected service contour and understand NCTA’s concern for possible disruption service to cable subscribers. These same considerations would apply to other MVPDs and to TV translator, low power TV and Class A TV stations that re-transmit programming from another TV station.” *Second Memorandum Opinion and Order*, ET Docket Nos. 04-186 and 02-380, FCC 10-174 (rel. Sept. 23, 2010), 25 FCC Red 18661, at para. 42. The Commission provided that the operators of such facilities could apply for waivers of the 80 kilometer distance set forth in Section 15.712(b) for database registration. *Id.*

⁴ *Id.*

For the foregoing reasons, grant of this waiver request would be in the public interest.

Respectfully submitted,

**Arizona Board of Regents for
Arizona State University**

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April 5, 2011