

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

In the Matter of)	
)	
Request of Newport Television License LLC 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

Newport Television License LLC (“Newport”) respectfully submits this request for waiver of Section 15.712(b) of the Commission’s rules in order to register seven receive sites in the television bands database(s) and thereby to secure protection for these sites from interference caused by the operation of unlicensed white spaces devices. Newport seeks a waiver because these receive sites are 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

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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“where the particular facts make strict compliance inconsistent with the public interest.”² For the reasons set forth below, permitting registration of these receive sites would be in the public interest and there is good cause to waive Section 15.712(b).

1. **K05BU, Enterprise, UT receive site.** This site is used to receive the signal of K18FU-D, a low power station that transmits on channel 18 from Milford, UT. The signal is then retransmitted by K05BU. K05BU is located in Enterprise, UT at 37-36-00 N and 113-44-00 W, 110 kilometers from the nearest point of K18FU-D’s protected contour. This translator serves 1,285 viewers.³ The signal carries KTVX, Salt Lake City, UT, which includes ABC broadcast television network and local news, weather, and public affairs programming.

2. **K52KG-D, Washington, UT receive site.** This site is used to receive the signal of K18FU-D, a low power station that transmits on channel 18 from Milford, UT. The signal is then retransmitted by K25KG-D. K52KG-D is located in Washington, UT at 37-09-15 N and 13-53-00 W, 147 kilometers from the nearest point of K18FU-D’s protected contour. This translator serves 200,466 viewers. The signal carries KTVX, Salt Lake City, UT, which includes ABC broadcast television network and local news, weather, and public affairs programming, as well as the KTVX multicast signal.

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 Rcd 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”).

³ Certain of the translators that retransmit the signal of KTVX provide over-the-air signals to community-owned translators, and those translators in turn retransmit KTVX’s programming. These downstream translators will lose their ability to retransmit KTVX’s signal to their viewers if the Newport-operated translators described in this waiver request lose their ability to receive and retransmit KTVX’s signal in the first instance. For that reason, in describing the number of viewers served by the translators that are the subject of this waiver request, we have included the number of viewers served by the dependent downstream translators.

3. **K28EA, Washington, UT receive site.** This site is used to receive the signal of K18FU-D, a low power station that transmits on channel 18 from Milford, UT. The signal is then retransmitted by K28EA. K28EA is located in Washington, UT at 37-09-15 N and 113-53-00 W, 147 kilometers from the nearest point of K18FU-D's protected contour. This translator serves 200,466 viewers. The signal carries KTVX, Salt Lake City, UT, which includes ABC broadcast television network and local news, weather, and public affairs programming.

4. **K07NJ, Delta Junction, AK receive site.** This site is used to receive the signal of KTVF, a full power station that transmits on channel 26 from Fairbanks, AK. The signal is then retransmitted by K07NJ. K07NJ is located in Delta Junction, AK at 63-47-18 N and 145-51-35 W, 116 kilometers from the nearest point of KTVF's protected contour. This translator serves 1,000 viewers. The signal includes programming from the NBC broadcast television network and local news, weather, and public affairs programming.

5. **K06LA, Healy, AK receive site.** This site is used to receive the signal of KTVF, a full power station that transmits on channel 26 from Fairbanks, AK. The signal is then retransmitted by K06LA. K06LA is located in Healy, AK at 63-52-30 N and 148-51-0 W, 86 kilometers from the nearest point of KTVF's protected contour. This translator serves 1,000 viewers. The signal includes programming from the NBC broadcast television network and local news, weather, and public affairs programming.

6. **KSAS-LP, Dodge City, KS receive site.** This site is used to receive the signal of KSAS, a full power station that transmits on channel 26 from Wichita, KS. The signal is then retransmitted by KSAS-LP. KSAS-LP is located in Dodge City, KS at 37-46-47 N and 100-3-39 W, 205 kilometers from the nearest point of KSAS's protected contour. This translator

serves 33,000 viewers. The signal includes programming from the FOX broadcast television network and local news, weather, and public affairs programming.

7. **KAAS-LP, Garden City, KS receive site.** This site is used to receive the signal of KSAS, a full power station that transmits on channel 26 from Wichita, KS. The signal is then retransmitted by KAAS-LP. KAAS-LP is located in Garden City, KS at 37-52-25 N and 100-50-44 W, 86 kilometers from the nearest point of KSAS's protected contour. This translator serves 40,000 viewers. The signal includes programming from the FOX broadcast television network and local news, weather and public affairs programming.

Without a waiver in order to register these receive sites for protection from interference caused by unlicensed white space devices, viewers in the above-identified communities would be at risk of losing the important programming provided by the received stations, including network programming, syndicated programming, local news and public affairs, emergency information, emergency alerts, sports, weather and more.

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.⁴ 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

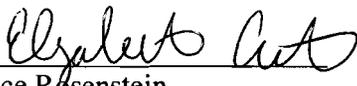
⁴ The Commission has stated that "[w]e recognize that there are cable headends that receive TV station signals located at distances beyond 80 km from the edge of a television station's protected service contour and understand NCTA's concern for possible disruption service to cable subscribers. These 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 Rcd 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.*

remote areas where many channels will be available for white space devices.”⁵ Given the remote location of these sites, therefore, grant of this waiver request should not unduly constrain the channels on which unlicensed white space devices could operate.

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

Respectfully submitted,

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⁵ *Id.*