

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

In the Matter of)	
)	
Request of the University of Utah)	ET Docket No. _____
for Waiver of 47 C.F.R. § 15.712(b))	
)	
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. <u>02-380</u>

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 University of Utah respectfully submits this request for waiver of Section 15.712(b) of the Commission’s rules in order to register twelve television translator 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. The University of Utah 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) and permit these sites to register in the TV Bands databases(s).

1. **K44JI-D, Washington County, Utah, receive site.** This site is used to receive the signal of K20GH-D, which transmits on channel 20 from Milford, Utah. The signal is then retransmitted by K44JI-D on channel 44. This receive site is located 114.97 kilometers from the nearest point of K20GH-D’s protected contour.³ K44JI-D carries PBS and other non-commercial educational programming (primary signal), PBS World (multicast signal), and Spanish language PBS programming (second multicast signal), that originates on KUED, Salt Lake City, Utah. KUED is Utah’s premiere public broadcasting station, broadcasting—24 hours a day—quality programming, including news and public affairs, children’s education, nature and science, history, music, arts, and entertainment programming, as well as award-winning, locally-produced television programs and documentaries.

2. **K47HM-D, Delta/Oak City, Utah, receive site.** This site is used to receive the signal of K20GH-D, which transmits on channel 20 from Milford, Utah. The signal is then retransmitted by K47HM-D on channel 47. This receive site is located 80.61 kilometers from the nearest point of K20GH-D’s protected contour. K47HM-D carries PBS and other non-

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 The geographic coordinates for all the receive sites for which the University of Utah seeks a waiver are listed in the Appendix.

commercial educational programming (primary signal), PBS World (multicast signal), and Spanish language PBS programming (second multicast signal), that originates on KUED, Salt Lake City, Utah. KUED's programming is described above.

3. **K40AF-D, Monticello/Blanding, Utah, receive site.** This site is used to receive the signal of K45JN-D, which transmits on channel 45 from Orangeville, Utah. The signal is then retransmitted by K40AF-D on channel 40. This receive site is located 209.9 kilometers from the nearest point of K45JN-D's protected contour. K40AF-D carries PBS programming (primary signal), PBS World (multicast signal), and Spanish language PBS programming (second multicast signal), that originates on KUED, whose programming is described above.

4. **K20GH-D, Beaver/Milford, Utah, receive site.** This site is used to receive the signal of K49AO-D, which transmits on channel 49 from Rural Juab, Utah. The signal is then retransmitted by K20GH-D on channel 20. This receive site is located 112.93 kilometers from the nearest point of K49AO-D's protected contour. K20GH-D carries PBS and other non-commercial educational programming (primary signal), PBS World (multicast signal), and Spanish language PBS programming (second multicast signal), that originates on KUED. KUED's programming is described above

5. **K50GD-D, Long Valley Junction, Utah, receive site.** This site is used to receive the signal of K22FT-D, which transmits on channel 22 from Rural Garfield County, Utah. The signal is then retransmitted by K50GD-D on channel 50. This receive site is located 86.28 kilometers from the nearest point of K22FT-D's protected contour. K50GD-D carries PBS programming and other non-commercial educational (primary signal), PBS World (multicast

signal), and Spanish language PBS programming (second multicast signal), that originates on KUED and is described in more detail above.

6. **K35IQ-D, Vernal, Utah, receive site.** This site is used to receive the signal of K29EX, which transmits on channel 29 from Tabiona/Myton, Utah. The signal is then retransmitted by K35IQ-D on channel 35. This receive site is located 132.27 kilometers from the nearest point of K29EX-D's protected contour. K35IQ-D carries PBS and other non-commercial educational programming (primary signal), PBS World (multicast signal), and Spanish language PBS programming (second multicast signal), that originates on KUED, whose programming is described in more detail above.

7. **K50KC-D, Washington County, Utah, receive site.** This site is used to receive the signal of K16BO-D, which transmits on channel 16 from Milford, Utah. The signal is then retransmitted by K50KC-D on channel 50. This receive site is located 114.97 kilometers from the nearest point of K16BO-D's protected contour. K50KC-D carries the programming of KUEN, which is licensed to the Utah State Board of Regents and operated by the Utah Education Network ("UEN") on behalf of higher education and public education institutions in Utah. It delivers current events and public affairs programming and news and informational programming, along with valuable educational programming, including K-12 instructional television; professional development for teachers (including re-certification classes); for-credit college telecourses; and science, history and world cultures, aging and health, and visual and performing arts programming.

8. **K48KS-D, Delta/Oak City, Utah, receive site.** This site is used to receive the signal of K16BO-D, which transmits on channel 16 from Milford, Utah. The signal is then retransmitted by K48KS-D on channel 48. This receive site is located 80.61 kilometers from the

nearest point of K16BO-D's protected contour. K48KS-D carries the programming of KUEN, which is licensed to the Utah State Board of Regents and operated by UEN. KUEN's programming is described above.

9. **K16BO-D, Beaver/Milford, Utah, receive site.** This site is used to receive the signal of K20DW-D, which transmits on channel 20 from Rural Juab, Utah. The signal is then retransmitted by K16BO-D on channel 16. This receive site is located 112.93 kilometers from the nearest point of K20DW-D's protected contour. K16BO-D carries the programming of KUEN, whose programming is described above.

10. **K47JI-D, Monticello/Blanding, Utah, receive site.** This site is used to receive the signal of K46JK-D, which transmits on channel 46 from Orangeville, Utah. The signal is then retransmitted by K47JI-D on channel 47. This receive site is located 209.9 kilometers from the nearest point of K46JK-D's protected contour. K47JI-D carries the programming of KUEN, whose programming is described above.

11. **K46EO-D, Long Valley Junction, Utah, receive site.** This site is used to receive the signal of K24FD-D, which transmits on channel 24 from Rural Garfield County, Utah. The signal is then retransmitted by K46EO-D on channel 46. This receive site is located 86.28 kilometers from the nearest point of K24FD-D's protected contour. K46EO-D carries the programming of KUEN, which is described in more detail above.

12. **K56JG-D, Vernal, Utah, receive site.** This site is used to receive the signal of K23FT-D, which transmits on channel 23 from Tabiona/Myton, Utah. The signal is then retransmitted by K56JG-D on channel 56. This receive site is located 132.27 kilometers from the nearest point of K23FT-D's protected contour. K56JG-D carries the programming of KUEN, which is described in more detail above.

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 that originates on KUED and KUEN, including local news and public affairs programming, high value educational programming, and Spanish language 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.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 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.

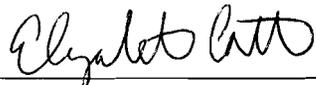
⁴ The Commission has stated that “[w]e recognize that there are cable headends that receive TV station signals located at distances beyond 80 km from the edge of a television station’s protected service contour and understand NCTA’s concern for possible disruption service to cable subscribers. These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

⁵ *Id.*

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

Respectfully submitted,

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Appendix:
Receive Site Latitude and Longitude Information

Appendix

KUED Licenses												
Receive Site	Translator License	North Latitude			West Longitude			Received From License	Input Chan	Output Chan	Distance frm Xmit Site (Km)	Distance from 51dbu (Km)
		Deg	Min	Sec	Deg	Min	Sec					
Utah Hill (Rural Washington Cnty)	K44JI-D	37	9	18.8	113	52	56.7	K20GH-D	20	44	160.58	114.97
Delta (Delta/Oak City)	K47HM-D	39	21	12.1	112	21	5.8	K20GH-D	20	47	122.94	80.61
Abajo (Monticello/Blanding)	K40AF-D	37	50	22.2	109	27	42	K45JN-D	45	40	211.1	209.9
Frisco (Beaver/Milford)	K20GH-D	38	31	13.8	113	17	11.5	K49AO-D	49	20	166.03	112.93
Todds Junction (Long Valley)	K50GD-D	37	30	25.4	112	30	35.6	K22FT-D	22	50	121.27	86.28
Vernal (Blue Mountain)	K35IQ-D	40	21	3.3	109	9	45.1	K29EX-D	29	35	137.89	132.27

KUEN Licenses												
Receive Site	Translator License	North Latitude			West Longitude			Received From License	Input Chan	Output Chan	Distance frm Xmit Site (Km)	Distance from 51dbu (Km)
		Deg	Min	Sec	Deg	Min	Sec					
Utah Hill (Rural Washington Cnty)	K50KC-D	37	9	18.8	113	52	56.7	K16BO-D	16	50	160.58	114.97
Delta (Delta/Oak City)	K48KS-D	39	21	12.1	112	21	5.8	K16BO-D	16	41	122.94	80.61
Abajo (Monticello/Blanding)	K47JI-D	37	50	22.2	109	27	42	K46JK-D	46	47	211.1	209.9
Frisco (Beaver/Milford)	K16BO-D	38	31	13.8	113	17	11.5	K20DW-D	20	16	166.03	112.93
Todds Junction (Long Valley)	K46EO-D	37	30	25.4	112	30	35.6	K24FD-D	24	46	121.27	86.28
Vernal (Blue Mountain)	K56JG-D	40	21	3.3	109	9	45.1	K23FT-D	23	56	137.89	132.27