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April 5, 2011

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554

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APR - 5 2011

Federal Communications Commission
Office of the Secretary

Re: *TV Translator K35FS-D, Santa Clara, Etc., Utah (FIN 70961) Request for Waiver of 80 km TV White Space Co-Channel Protection Distance; ET Docket Nos. 04-186 and 02-380*

Dear Ms. Dortch:

This request for waiver is submitted on behalf of Bonneville Holding Company ("Bonneville"), licensee of TV Translator K35FS-D, Santa Clara, Etc., Utah (FIN 70961), pursuant to Section 1.3 of the Commission's rules and paragraph 42 of the *Second Memorandum Opinion and Order* in the TV White Space rulemaking, ET Docket Nos. 04-186 and 02-380.¹ Bonneville hereby respectfully requests a waiver of Section 15.712(b) of the Commission's rules that allows TV translator receive sites located outside the protected contour of the TV station being received to be registered in the TV bands database but only if the TV translator receive sites are no farther than 80 km outside the nearest edge of the relevant contour.

BACKGROUND

In the above-referenced proceeding, the Commission adopted rules to allow unlicensed radio transmitters (TV band devices or "TVBDs") to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (this unused TV spectrum is often termed "white spaces"). The Commission's rules require unlicensed TV band devices to protect both full service and low power TV services like TV translators from interference, and in 2008 the Commission ruled that TVBDs must protect such services within their respective 41

¹ Unlicensed Operations in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band, *Second Memorandum Opinion and Order*, 25 FCC Rcd 18661 (2010) ("2nd MO&O").

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dBu contours.² In the same decision, the Commission adopted rules to protect TV translator receive sites that are located outside the protected contours of the TV stations being received in order not to disrupt existing TV reception by households.³ Specifically, the Commission allowed operators of TV translator receive sites that are located *within* 80 km of the nearest edge of the service contour of the received TV station to register their location and input channel(s) in the TV bands device database so that TVBDs would protect those TV translator receive sites.

In recognition of the fact, however, that there are also TV translators whose receive sites are located at distances *beyond* 80 km from the edge of a TV station's protected contour, in 2010 the Commission authorized a procedure by which TV translators with receive sites located beyond the 80 km co-channel protection distance are allowed to apply for a waiver of that distance so that such TV translators also could register in the database and receive protection from TVBD operations.⁴

WAIVER REQUEST

Bonneville is the licensee of full-service digital television station KSL-TV, Salt Lake City, Utah (FIN 6359) as well as several TV translators in Utah. KSL-TV participates in Utah's extensive translator network that brings free over-the-air television service to many rural areas in Utah that otherwise would be underserved. Many of the Utah translators operate in a daisy chain configuration whereby the KSL-TV signal is transmitted over the air from translator to translator in order to reach outlying areas.

Bonneville's TV translator K35FS-D in Santa Clara County, Utah, satisfies the criteria for waiver under paragraph 42 of the *2nd MO&O*. In order to retransmit the KSL-TV programming to viewers and to other translators, K35FS-D receives the over-the-air signal (on RF Channel 24) of another Bonneville-licensed translator, K24FE-D, Beaver, Etc., Utah (FIN 6370). The receive site for K35FS-D is approximately 109 km beyond the protected contour of K24FE-D. Unless Bonneville is permitted to register the location of K35FS-D and its input channel (RF Channel 24) in the TV white spaces database, unlicensed TVBD operations on Channel 24 or an adjacent channel could subject the K35FS-D receive site to harmful interference; and the over-the-air reception of KSL-TV programming in Washington County, Utah, via K35FS-D, could be disrupted, thereby affecting 137,473 people.

The relevant data for this waiver request are as follows:

² Unlicensed Operations in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band, *Second Report and Order*, 23 FCC Rcd 16807 ¶ 165 (2008).

³ *Id.* at ¶ 186.

⁴ *2nd MO&O* at ¶ 42.

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<u>Requesting Station</u>	<u>FIN</u>	<u>Channel Received</u>	<u>Population Served</u>	<u>Receiving Coordinates</u>
K35FS-D	70961	24	137,473	37 09 15 N 113 51 32 W
<u>Station Being Received</u>	<u>FIN</u>			<u>Transmitter Coordinates</u>
K24FE-D	6370			38 31 5 N 113 17 3 W

Generally, the Commission's rules may be waived if good cause is shown.⁵ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁷ In this case, the FCC has invited petitions for waiver to be filed. FCC rule section 15.712(b) is intended to protect pre-existing over the air TV reception by TV translators and others from harmful interference from TVBDs. The FCC expressly has recognized the special circumstances that some TV translator receive sites may be located beyond 80 km from the edge of the protected contour of the input station. K35FS-D is one such station. In this case, interference to the receive site of K35FS-D could disrupt the over-the-air reception of KSL-TV programming by the 137,473 residents of Washington County, Utah. The public interest would be served by protecting K35FS-D from potential TVBD interference, and the Commission should waive its rules to allow K35FS-D to register in the TV white space database.

⁵ 47 C.F.R. § 1.3.

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

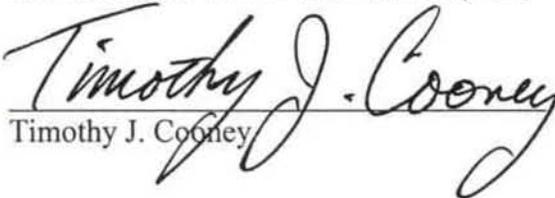
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Please contact the undersigned if the Commission requires additional information.

Respectfully submitted,

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Timothy J. Cooney