

### EXHIBIT 36

West Virginia Educational Broadcasting Authority (“WVEBA”), permittee of WSWP(DT), Grandview, West Virginia (“WSWP”) respectfully requests an extension of its special temporary authority (“STA”) for phased transition relief for WSWP until February 17, 2010. The instant extension request is filed pursuant to paragraph 66 of the *Third DTV Delay Order* and the policies of the Federal Communications Commission (“FCC”) set forth in the *Third Periodic DTV Review Order*.<sup>1</sup> As demonstrated herein, an extension of the STA for phased transition relief for WSWP is warranted because (a) state purchasing procedures outside of WVEBA’s control created a delay in the selection of a vendor to complete construction of WSWP’s Final DTV Facilities (as defined below); (b) Stainless LLC (“Stainless”), the vendor ultimately selected to construct the WSWP’s Final DTV Facilities, only recently informed WVEBA that it would be unable to meet the October 18, 2009 construction deadline (despite WVEBA’s repeated inquiries regarding the status of the construction); and (c) WSWP continues to satisfy the FCC’s enumerated technical criteria for phased transition relief.

**Background.** In November 2008, pursuant to the *Third Periodic DTV Review Order*, WVEBA requested an STA for phased transition relief to (a) extend the deadline for construction of WSWP’s final, post-transition digital television facilities (“Final DTV Facilities”) until August 18, 2009 and (b) permit it to operate DTV facilities temporarily at 15.8 kilowatts effective radiated power (“15.8 kW DTV Facilities”) until WSWP commenced operation of its Final DTV Facilities.<sup>2</sup> Such phased transition relief for WSWP was necessary because WVEBA could not complete construction of WSWP’s Final DTV Facilities until after the DTV transition due to the need to replace its top-mounted analog antenna with a new top-mounted digital antenna.<sup>3</sup> WVEBA demonstrated that, in addition to the unique technical challenge of replacing its top-mounted analog antenna with a new top-mounted digital antenna, its 15.8 kW DTV Facilities would cover 105.6% of the population that received analog service prior to the DTV transition and 85.2% of the population that received pre-transition digital service prior to June 12, 2009. WVEBA also demonstrated that operation of the 15.8 kW DTV Facilities would not cause more than 0.5 percent new interference to other stations or prevent other stations from transitioning to all-digital broadcasts. On December 18, 2008, the FCC’s Media Bureau concluded that WSWP had satisfied the requirements for phased transition relief. Thus, the Media Bureau granted WVEBA’s request and extended the construction deadline of WSWP’s Final DTV Facilities

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<sup>1</sup> See Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, MB Docket 07-91, Report and Order, 23 FCC 2994, paras. 94-94 (2007) (“*Third Periodic DTV Review Order*”) (establishing criteria for phased transition relief); Implementation of the DTV Delay Act, MB Docket No. 09-17, Third Report and Order and Order on Reconsideration, 24 FCC Rcd 3399, para. 66 (Mar. 13, 2009) (“*Third DTV Delay Order*”) (“we will consider on a case-by-case basis extending phased transition STAs for stations with unique technical challenges”).

<sup>2</sup> See FCC File No. BDSTA-20081117ADQ.

<sup>3</sup> WSWP committed to broadcast in analog until the end of the DTV transition and, thus, would not be able to remove its top-mounted analog antenna until it ceased analog transmissions on June 12, 2009.

until August 18, 2009. In March 2009, the FCC extended by order the expiration date of all phased transition STAs from August 18, 2009 to October 18, 2009.<sup>4</sup> Thus, absent favorable action on the instant extension request, WSWP must complete construction of its Final DTV Facilities by October 18, 2009.

***Request for Extension.*** The FCC stated in the *Third DTV Delay Order* that it would consider extending phased transition STAs for stations with unique technical challenges to February 17, 2009 on a case-by-case basis.<sup>5</sup> Stations seeking an extension are required to provide “an appropriate justification explaining why additional time is warranted given the station’s particular circumstances.”<sup>6</sup>

At the time WVEBA filed its initial request for phased transition relief for WSWP, it had anticipated that, by August 2009, it would be able to remove the WSWP analog antenna from the top-mounted position on its tower and install a new digital antenna in its place. Since that time, however, a number of circumstances relating to the selection of a vendor for WSWP have delayed the timeframe in which it can complete construction of WSWP’s Final DTV Facilities. In January 2009, WVEBA commenced the process for purchasing its new digital antenna in accordance with state purchasing procedures. Specifically, WVEBA issued a request for quote (“RFQ”) from manufacturers for the purchase and installation of a digital antenna. Dielectric responded to the RFQ and, in its response, specified Stainless as the entity that would install the antenna. On May 19, 2009, the state of West Virginia rejected the bid from Dielectric because Dielectric did not have a valid West Virginia contractor’s license. Promptly thereafter, WVEBA issued a second RFQ to which Stainless responded. Stainless’s bid contemplated that it would remove the top-mounted WSWP analog antenna (and associated transmission line) and install the new digital antenna (and associated transmission line) in its place (“WSWP DTV Construction Project” or “Project”). Due to the fiscal year change, however, the state of West Virginia did not accept Stainless’s bid for the Project until July 22, 2009. In order to finalize its contract with the state, Stainless was required to execute certain paperwork. Upon receipt of the requisite paperwork from Stainless in mid-August, the state of West Virginia provided Stainless with a “Notice to Proceed” with the WSWP DTV Construction Project on August 26, 2009.

During the time that the contract with Stainless was being finalized, WVEBA had several discussions with Stainless regarding the timeframe for completing the WSWP DTV Construction Project given the October 18, 2009 deadline. Stainless had indicated that it would be able to complete this Project before October 18, 2009 (the as-extended deadline for construction of WSWP’s Final DTV Facilities). On August 25, 2009, however, for the first time, Stainless informed WVEBA by e-mail that it would not be able to complete the construction of WSWP’s Final DTV Facilities until mid-January 2010 (barring any delays due to weather). Thereafter,

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<sup>4</sup> *Third DTV Delay Order* at para. 65.

<sup>5</sup> *Third DTV Delay Order* at para. 66.

<sup>6</sup> *Third DTV Delay Order* at para. 66.

Stainless explained in a letter to WVEBA that it was purchasing the digital antenna from Dielectric, and that the antenna would not be delivered until the end of 2009. Stainless also reiterated that, absent any weather delays, the estimated completion date for the WSWP DTV Construction Project is mid-January 2010.

Due to the delays in the state purchasing process described above, as well as delays in Stainless's schedule for the WSWP DTV Construction Project, WVEBA is hereby respectfully requesting an extension of its STA for phased transition relief from October 18, 2009 to February 17, 2010. The delays described above constitute "an appropriate justification" for additional time to construct WSWP's Final DTV Facilities and therefore satisfy the FCC's standard for extensions of phased transition relief. Moreover, WSWP continues to satisfy the technical criteria for phased transition relief. First, WSWP faces a unique technical challenge because the top-mounted WSWP analog antenna has not yet been removed, and therefore the top-mounted digital antenna cannot be installed. Second, there have been no changes in the operating parameters of WSWP's 15.8 kW Facilities such that WSWP continues to cover at least 85% of the population that received analog and pre-transition DTV service prior to June 12, 2009 without causing impermissible interference to other stations.

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For the reasons set forth above, WVEBA respectfully requests an extension of its STA for phased transition relief, until February 17, 2010.