



WASHINGTON, DC

US BANK/FCC AUG 17 2009

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August 14, 2009

Federal Communications Commission
c/o U.S. Bank - Government Lockbox #979089
SL-MO-C2-GL
1005 Convention Plaza
St. Louis, MO 63101

**Re: Request for Extension of Special Temporary Authority for
Phased Transition Relief (FCC File No. BDSTA-20080818ACJ)
KZTV-DT, Corpus Christi, Texas**

Dear Sir or Madam:

Eagle Creek Broadcasting of Corpus Christi, LLC ("*Eagle Creek*"), licensee of Station KZTV(TV), Corpus Christi, Texas (Facility ID No. 33079) (the "*Station*"), by its attorneys, hereby requests an extension of its Special Temporary Authority ("*STA*") for phased transition relief (FCC File No. BDSTA-20080818ACJ) to permit KZTV to continue to operate on its pre-transition DTV Channel 18 and extend its post-transition construction deadline for the full time contemplated by the Commission, until February 18, 2010.¹

KZTV is a CBS Network affiliate that currently operates on its pre-transition Channel 18. On March 24, 2008, Eagle Creek filed a construction permit application on behalf of KZTV for post-transition operation on Channel 10.² As Mexican concurrence to the station's post-transition authorization had not been obtained, Eagle Creek filed a request for phased transition STA to permit the station to continue temporary operation on its pre-transition digital channel beyond the digital transition date on August 18, 2008. Although Mexican concurrence was ultimately obtained after nearly nine months, the station's digital transition plan was seriously complicated by this delay.

In addition, on July 30, 2008, Eagle Creek had filed an application requesting the Commission's consent to the assignment of the license for KZTV to SagamoreHill of Corpus Christi Licenses, LLC.³ That application is the subject of a petition to deny filed by an in-market

¹ *Third Periodic DTV Review Report and Order* ("*Third Periodic DTV Review*"), 23 FCC Rcd 2994, ¶ 93 (2007).

² FCC File No. BPCDT-20080324AAT.

³ FCC File No. BALCT-20080730AKQ.

competitor and remains pending after more than one year. The pendency of this assignment application has further complicated the Station's digital transition plan. Given the significant expense of a new Channel 10 digital transmitter, and Eagle Creek's understanding that the proposed assignee plans to utilize a different, and even more expensive, digital transmitter, the Station has not yet been able to finalize its digital transition plan and order the necessary equipment.

Eagle Creek emphasizes that it has been working diligently and expeditiously to resolve these issues, including regular contact with the proposed assignee. Indeed, Eagle Creek anticipates ordering its final digital transition equipment in the next few days. However, given the time necessary for delivery and installation of the Station's Channel 10 digital transmitter, an extension of the Station's existing STA is necessary.

Under the Commission's rules, a station is permitted to temporarily remain on its pre-transition channel while it completes construction of its final digital facilities beyond the analog cutoff date if: (i) it serves at least the same population that receives the station's current analog and digital service so that over-the-air viewers will not lose TV service and (ii) it does not create impermissible interference to other stations or prevent other stations from making their transition.⁴

The Commission has previously found that the Station qualifies for a phased transition STA under those criteria.⁵ As explained in the original request for STA, operation of KZTV on Channel 18 neither causes impermissible interference to any other station, nor prevents any other station from making its digital transition. Moreover, an extension of the existing STA will ensure that viewers who currently receive the station's over-the-air broadcast continue to receive the Station with no service loss.

As Eagle Creek has previously noted, the Commission will also review requests for STA to permit a station to continue to operate using its pre-transition channel on a case-by-case basis.⁶ Under such a review, the station must demonstrate that such operation would provide digital service to a greater population that would [its] incomplete post-transition facility. Certainly permitting KZTV to continue to provide CBS Network service to over-the-air viewers using its current pre-transition Channel 18 facilities provides digital service to a significantly larger number of viewers than KZTV from its un-built post-transition Channel 10 facilities.

Under such a case-by-case review, the Commission has recognized that it "will continue to consider requests for extension of time where the station is awaiting action by the Commission ...

⁴ *Third Periodic DTV Review* at ¶ 92.

⁵ BDSTA-20080818ACJ. Although that STA was to expire on August 18, 2009, that authority was extended until October 18, 2009 by the Commission *sua sponte*. *Implementation of the DTV Delay Act*, 24 FCC Rcd 3399, ¶ 61 (2009).

⁶ *Amendment to Pending Request for Special Temporary Authority (BDSTA-20080818ACJ)*, Eagle Creek Broadcasting of Corpus Christi, LLC, filed January 6, 2009, at 3 (citing *Third Periodic DTV Review*, n. 276).



on a pending application ... or where action on an application is being delayed for other reasons beyond the station's control."⁷ In the instant case, the long-pending application to assign KZTV's license, the grant of which is beyond the Station's control, has further delayed the station's ability to finalize its digital transition given the competing transition plans developed by Eagle Creek and the propose assignee.

Eagle Creek has however continued to work closely with the proposed assignee and anticipates that the necessary equipment to permit KZTV's final conversion to its post-transition facilities will be ordered immediately.

Grant of an extension in KZTV's existing STA is in the public interest as it will allow the station to continue to provide valuable over-the-air CBS Network programming to viewers in the Corpus Christi, Texas market. By contrast, the failure to obtain the requested STA extension would likely result in the station having to cease providing any digital broadcast service at all.

For these reasons, Eagle Creek respectfully submits that the public interest strongly supports grant of this request for an extension of KZTV's existing phased transition STA, allowing it to continue to provide digital broadcast service on its pre-transition Channel 18 facilities and extend the Station's post-transition construction deadline.

Also enclosed is a completed FCC Form 159 for the credit card payment of the applicable \$170.00 filing fee and an executed Anti-Drug Abuse Certification.

Please date-stamp the enclosed "Return Copy" of this filing and return it to the courier delivering this package. A copy of this letter is being served on counsel for the petitioner to deny the pending KZTV license assignment application.

Should there be any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

Dennis P. Corbett
*Counsel for Eagle Creek Broadcasting of
Corpus Christi, LLC*

Attachments

cc: Shaun Maher, Media Bureau (via email)
Mary M. Fitzgerald, Media Bureau (via email)
Todd Stansbury, Esq.
Kevin Reed, Esq.
Robert Jacobi, Esq.

⁷ *Third Periodic DTV Review* at 78.

ANTI-DRUG ABUSE ACT CERTIFICATION

Eagle Creek Broadcasting of Corpus Christi, LLC hereby certifies that no party to this application is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

**EAGLE CREEK BROADCASTING
OF CORPUS CHRISTI, LLC**

By: 

Name: Brian Brady
Title: President/CEO

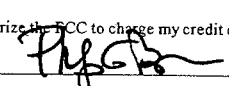
Date: 8-14-09

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READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE
FORM 159

Approved by OMB
3060-0589
Page No. 1 of 1

(1) LOCKBOX # 979089		<div style="border: 1px solid black; padding: 2px;">SPECIAL USE ONLY</div> <div style="border: 1px solid black; padding: 2px;">FCC USE ONLY</div>	
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Lerman Senter PLLC		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$170.00	
(4) STREET ADDRESS LINE NO. 1 2000 K Street, NW			
(5) STREET ADDRESS LINE NO. 2 Suite 600			
(6) CITY Washington		(7) STATE DC	(8) ZIP CODE 20006
(9) DAYTIME TELEPHONE NUMBER (include area code) (202) 429-8970		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0004054979		(12) FCC USE ONLY	
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME Eagle Creek Broadcasting of Corpus Christi, LLC			
(14) STREET ADDRESS LINE NO. 1 2111 University Park Drive			
(15) STREET ADDRESS LINE NO. 2 Suite 650			
(16) CITY Okemos		(17) STATE MI	(18) ZIP CODE 48864
(19) DAYTIME TELEPHONE NUMBER (include area code) (517) 347-4141		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN) 0007277445		(22) FCC USE ONLY	
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN/OTHER ID KZTV-DT	(24A) PAYMENT TYPE CODE MGT	(25A) QUANTITY 1	
(26A) FEE DUE FOR (PTC) \$170.00	(27A) TOTAL FEE \$170.00	FCC USE ONLY	
(28A) FCC CODE 1 33079		(29A) FCC CODE 2 Corpus Christi, TX	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY	
(28B) FCC CODE 1		(29B) FCC CODE 2	
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, _____, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief. SIGNATURE _____ DATE _____			
SECTION E - CREDIT CARD PAYMENT INFORMATION			
MASTERCARD _____ VISA _____ AMEX <input checked="" type="checkbox"/> DISCOVER _____ ACCOUNT NUMBER _____ EXPIRATION DATE _____ I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described. SIGNATURE  DATE <u>August 14, 2009</u>			

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003