

Application For Digital Television Broadcast Station License  
Television Station KRMU-DT  
Durango, Colorado  
Channel 20

## EXHIBIT 7

The KRMU-DT facility – as presently constructed -- varies from that authorized in the KRMU-DT construction permit in FCC File No. BPEDT-20040126AJT. These variances were unavoidable, under a unique set of circumstances encountered as part of the digital buildout of a grant-funded “single-channel” noncommercial educational television station. The licensee, Rocky Mountain Public Broadcasting Network, Inc. (“Rocky Mountain”), submits that the variances are minor in nature, and should not affect the acceptability of this license application for the new noncommercial digital TV Station. A copy of PBS’s support letter for this application, attesting to the circumstances, is attached. (Attachment 2)

**Scope of the Discrepancies.** The facility, as constructed, varies from the construction permit (“CP”) in two respects: antenna make/model and transmitter output power. Rocky Mountains plans to install the antenna make/model specified in the permit as soon as the antenna arrives. Rocky Mountain plans to resolve the power level issue by filing FCC Form 340 to license the facility at the reduced power level the transmitter is capable of achieving.

**Antenna Make/Model.** For the reasons described below relating to grant funding delays, the licensee, Rocky Mountain Public Broadcasting Network (“Rocky Mountain”) was forced to use a readily available omni-directional antenna, side mounted, in lieu of the planned directional antenna. Rocky Mountain submits that this variance is minor because the antenna pattern of the side-mounted omni-directional antenna is wholly encompassed by the pattern of the authorized directional antenna, except for a small area that is terrain shielded. See Attachment 1 (comparison of antenna patterns.) Thus, this antenna substitution – on a temporary basis – complies with the spirit and intent of Section 73.1690(c)(2) of the FCC rules with respect to directional patterns. Rocky Mountain expects to replace the temporary antenna with the permanent antenna (as specified in the CP) within sixty (60) days.

The antenna model specified in the CP, an RFS RD-4UA, is a directional antenna with maximum gain of 9.5 dB. This antenna was chosen for engineering reasons at approximately the time that Rock Mountain requested a grant from the Corporation for Public Broadcasting (“CPB”) administered by the Public Broadcasting System (“PBS”) through the Digital Distribution Fund (“DDF”) for construction of KRMU-DT. A majority of PBS stations in the US have relied on this fund, and the similar Digital Universal Service Fund, to construct their digital facilities. These grant funds are **not** available for analog facilities. After weighing available grant opportunities, cost issues, and the state of the digital transition, Rocky Mountain determined that the public interest would be better served by building out a digital facility for KRMU-DT, rather than an analog facility.

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Rocky Mountain made application in October 2003 for the DDF money and a DDF award of \$273,250.00 was announced on December 23, 2003. Rocky Mountain then sought to modify its CP, pursuant to the procedures established in the *Second Memorandum and Opinion on Reconsideration of the Fifth and Sixth Report and Orders*, 14 FCC Rd at 1359. See FCC File No. BPEDT-20040126AJT.

However, under the CPB grant requirements, purchases cannot be made until the grant contract has been signed. Although the grant was announced in December 2003, the grant contract was not ready for signature until July 22, 2004, less than 90 days before the expiration of the CP. Rocky Mountain was then required by CPB grant rules to solicit competitive bids for the antenna. Rocky Mountain started requesting bids as soon as it received the signed grant contract on July 22nd and, as of two weeks prior to the CP expiration date, Rocky Mountain was still working with antenna vendors (Dielectric and RFS) trying to get a suitable antenna delivered in time. Thus, during the bid solicitation and evaluation process, it became apparent that there was not sufficient time available to fully evaluate the proposals, place an order, await the manufacture of the antenna, receive and install the antenna before the CP expiration date of October 2, 2004.

Given the impossibility of receiving the grant-funded antenna in time to complete the buildout, Rocky Mountain began to consider alternatives. In reviewing the available options, Rocky Mountain determined that an omnidirectional antenna operated at 25% of the power specified in the CP would have a contour almost completely contained within the contour of the RD-4UA. Moreover, the topography of Durango and Southwest Colorado is such that the DTV signal will be blocked by terrain in the areas that are exceptions to that statement. See Attachment 1 (comparison of contours.) Finally, Rocky Mountain was already in possession of such an antenna, an Andrew ALP4M1-HSOC having a maximum gain of 8.9 dB, for use with its KRMJ-DT facility. A copy of the engineering analysis supporting the above statements will be provided upon request. By using the available ALP-4 antenna for program tests, Rocky Mountain was able to meet the deadline for construction using an antenna that virtually replicated the directional antenna authorized in the CP.

Rocky Mountain does plan to “change out” the ALP-4 antenna for the permanent RFS directional antenna, once the directional antenna is received and can be installed. It will file an amendment to this license application at that time, so that the station, as ultimately licensed, will have the antenna that was originally specified in the CP. In the meantime, Rocky Mountain urges that this license application be accepted for filing, thus satisfying the construction requirement, but held in abeyance until the “change out” of antennas can occur.

**Power Level.** With respect to the power (TPO) variance, this variation resulted from an honest misunderstanding of the Commission’s unusual rules for DTV

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conversion/construction of unpaired DTV channels, like KRMU-DT's, which were initially awarded analog permits and allowed to convert to digital.

Rocky Mountain has put two previous noncommercial DTV stations on air in Colorado serving a majority of the state's population. One of them, KRMA-DT, Denver, CO, was a "DTV pioneer" that went on air in 1999 and the other, KTSC-DT, Pueblo, CO, went on air in February 2004. In both cases the DTV stations are operated under low power DTV STAs while various funding and local zoning issues are resolved. Similarly, Rocky Mountain anticipated operating KRMU-DT under a lower power STA (1.5 kW transmitter output power) station until such time as the FCC set its maximization deadline and funding became available for an upgrade to the authorized power level of nearly 6 kW transmitter output power.

Thus, Rocky Mountain had fully expected to request an STA for low power DTV operation that would "toll" the deadline for building out the authorized facility until the replication/maximization deadline, which was the process that Rocky Mountain has utilized in placing its other DTV stations on air. See *Memorandum Opinion and Order on Reconsideration* in MM Docket No. 00-39 ("MO&O"). Rocky Mountain did not learn that the low power DTV STA procedure was in all likelihood inapplicable to its situation until it was too late in the buildout process to request reduced power. If FCC staff confirm that the low power DTV STA procedure is, indeed, unavailable to it for KRMU-DT, Rocky Mountain plans to file FCC Form 340 for minor changes to reduce the power to match the transmitter's capabilities, as soon as the permanent antenna arrives.

Rocky Mountain has purchased a transmitter capable of upgrade to 6 kW through the future installation of additional power modules, when funding (and the possibility of an upgrade) becomes available. Rocky Mountain has also installed AC power components and an RF system capable of supporting the higher transmitter power.

However, as of the date of this license application, the KRMU-DT transmitter is capable of achieving a maximum of 1.5 kW TPO and Rocky Mountain requests a license for that power level. Following the calculations specified in the CP, the resulting ERP is shown in the following table.

Proposed Operation (after antenna replacement)	
Parameter	DTV
Transmitter Power Output (measured at combiner output)	1.76 dBk (1.5 kW)
Transmission Line Loss (Andrew model HJ12-50, 2-1/4" 50-ohm flexible coaxial line, 75 ft, attenuation)	0.30 dB

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.403 db per 100 ft)	
Antenna Input Power	1.46 dBk
Antenna Gain (as specified in CP)	9.5 dB
Effective Radiated Power	10.96 dBk (12.5 kW)

**Exigent Circumstances and Funding Delays.** As the Commission has noted previously, “noncommercial stations, as a group, may have more difficulty with the transition to DTV than commercial stations,” and concluded therefore that “noncommercial stations need and warrant special relief to assist them in the transition.” *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Fifth Report and Order*, 12 FCC Rcd 12809, 12847—48, ¶ 93 (1997) (“*Fifth Report and Order*”). The FCC also expressed a willingness to deal on a case-by-case basis with these “unique problems” noncommercial licensees face in their transition to digital broadcasting. The FCC also stated its desire to afford noncommercial broadcasters “every opportunity to participate in the transition to digital television.” *Fifth Report and Order*, 12 FCC Rcd at 12852, ¶ 104.

Rocky Mountain had sought funding for KRMU-DT from a CPB funding program specifically designed to use grant funds for low power, rural noncommercial DTV station construction. This grant program is described more fully on CPB’s website, at <http://www.cpb.org/digital/tv/stations/grants.html> with detailed information on this joint equipment purchasing program available at [http://www.cpb.org/about/corp/board/resolutions/0206\\_ddf.pdf](http://www.cpb.org/about/corp/board/resolutions/0206_ddf.pdf).

In brief, Congress appropriated \$20 million in FY2001, \$25 million in FY02 and \$48.4 million in FY 2003 for CPB to use to assist stations with "costs related to digital program production, development and distribution." As directed by Congress, CPB has convened digital consultation panels, consisting of representatives of "public radio and television licensees or permittees" and other public broadcasting organizations, to advise CPB on awarding the funds.

CPB designed the DDF program to provide funding to both individual stations and to multi-station collaborations for digital transmission equipment to inaugurate new digital services with particular emphasis on educational and rural broadband services. The DDF program helps grant recipients to obtain this equipment through a program coordinated with the Public Broadcasting Service’s (“PBS”) Digital Strategic Services Group.

As explained above, due to the need to comply with the grant program and CPB requirements, Rocky Mountain was unable to install the authorized antenna by the CP expiration date. However, given the important purposes underlying the DDF fund, the

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digital transition, service to rural areas like Durango, and the overarching public interest, Rocky Mountain submits that the FCC should license Station KRMU-DT.

### **CONCLUSION**

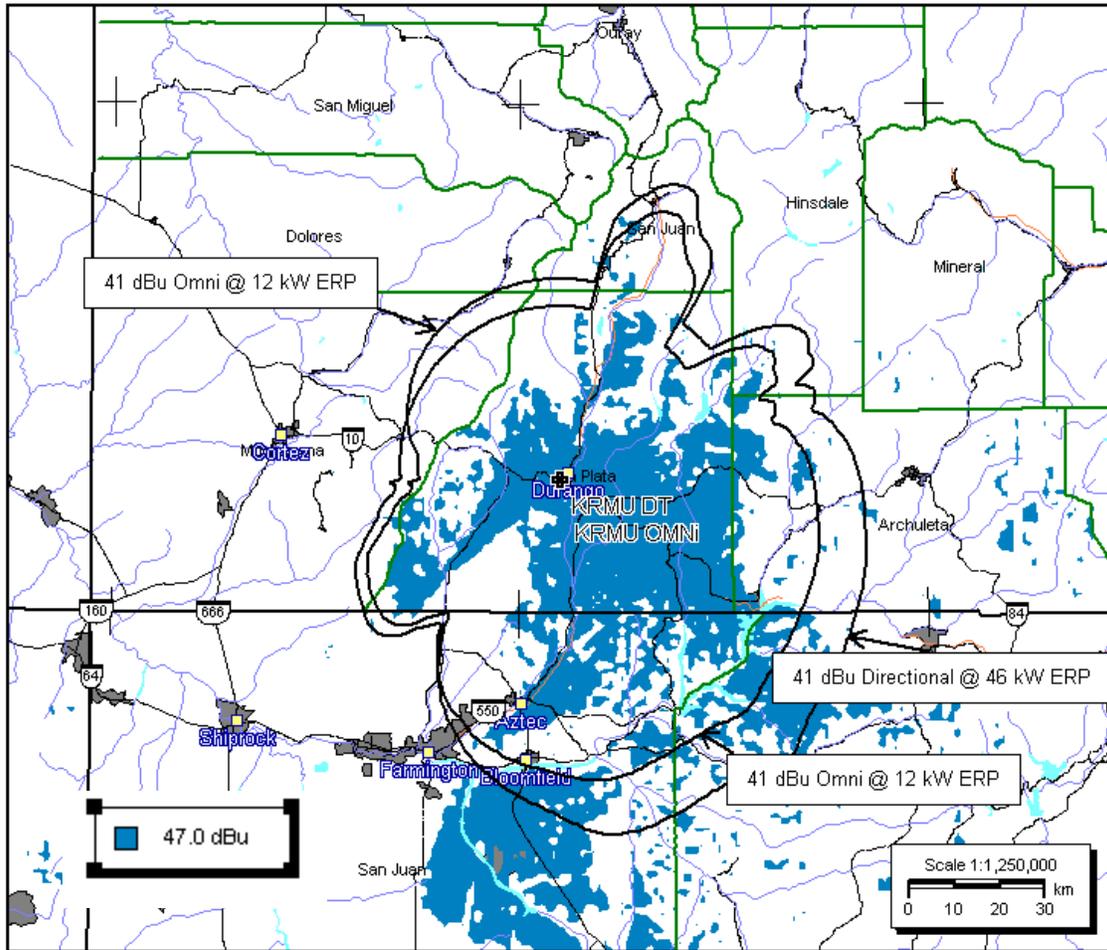
Due to Herculean efforts by a public broadcasting station to meet a CP buildout deadline, Station KRMU-DT is now providing the first noncommercial television service (and the only digital noncommercial television service) to the community of Durango and surrounding areas in rural Southwest Colorado. Moreover, KRMU-DT is only the second DTV service being provided to these communities

As explained above, Rocky Mountain timely sought DDF grant funds for KRMU-DT, however, due to funding delays and competitive bidding requirements, Rocky Mountain was unable to complete the purchasing process for the authorized antenna in time. Moreover, since Rocky Mountain could not build out the facility at the power level specified in the CP, faced with the choice of whether to build a low powered facility versus no facility at all, Rocky Mountain opted to build the lower powered facility. Therefore, Rocky Mountain submits that it has made acceptable substitutions under the circumstances and that, overall, the public interest is well-served by Rocky Mountain's extraordinary efforts to build out the **first** noncommercial DTV service to Durango and the **second** DTV service to the area.

For these reasons, we request that the FCC accept for filing this license application for the KRMU-DT facility, and hold the license application in abeyance until Rocky Mountain can receive and install the authorized directional antenna, consistent with CPB requirements for DDF grantees, as explained herein.

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Attachment 2  
Contour Map



PREDICTED COVERAGE CONTOURS  
CURRENT OPERATION VS. CP AUTHORIZATION

Shaded area indicates predicted signal coverage using Longley Rice modeling to account for terrain shielding.