

K33MI-D, Aberdeen, South Dakota  
STA Extension Request  
Attachment  
August 2015

Introductory Note: This is a request for an *extension* of an existing special temporary authorization (“STA”), not a request for a new STA. However, because the request for the existing STA, as well as the extension requests for that STA, were filed in CDBS rather than LMS, Media Bureau staff requested that we file this STA extension request as a request for a new STA. We are, however, in fact simply requesting a 180-day extension of the existing STA for this station.

Purpose Statement: Red River Broadcast Co., LLC (“Red River”), the permittee of TV translator station K-33MI-D, Aberdeen, South Dakota, respectfully requests a 180-day extension of its special temporary authorization (“STA”). The STA, as extended, would permit K33MI-D to continue to serve viewers in and around its community of license with an analog signal pending construction of its authorized digital facilities, as well as the Commission’s resolution of various outstanding issues related to the timing of the digital transition for low-power television (“LPTV”) and TV translator stations.<sup>1</sup>

The Commission initially granted the STA to allow the provision of a new analog television translator service to Aberdeen, South Dakota pending the opening of a filing window for LPTV/TV translator construction permit applications. Red River subsequently filed such an application for permanent analog authority during a filing window in August 2000 (*see* FCC File No. BNPTTL-20000831BPP). The Commission never acted on that analog construction permit application until August 26, 2011, when it dismissed the application on procedural grounds as part of the low-power digital transition rulemaking proceeding. However, despite that dismissal of the analog construction permit application, the STA remains valid because, after the Commission extended the STA in August 2011 (*see* FCC File No. BESTA-20110817ABS), it associated the STA with a more recently filed construction permit application proposing digital translator facilities (*see* FCC File No. BNPDTT-20090825BUL).

The Commission granted that digital construction permit in May 2012, assigning K33MI-D as the new call sign. For the reasons noted above, prior to this grant, Red River never possessed a construction permit authorizing either an analog or digital TV translator station serving the Aberdeen, South Dakota market. Thus, in order to provide service to that market, Red River had no choice but to operate the station pursuant to an STA permitting analog operations. K33MI-D continues to broadcast an analog signal in accordance with its original STA, as extended, while the digital construction permit provides Red River with the authority to construct digital translator facilities to replace these temporary analog facilities.

The Commission granted that digital construction permit (which, as noted, also was the initial construction permit for K33MI-D) on May 29, 2012, which established an expiration date of May 29, 2015. However, on October 10, 2014, the Commission released a Public Notice

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<sup>1</sup> *See Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, Third Notice of Proposed Rulemaking, 29 FCC Rcd 12536 (2014) (“*LPTV Digital Transition Third NPRM*”).

announcing the immediate suspension of “the expiration dates and construction deadlines for all outstanding unexpired construction permits for new digital [LPTV] and TV translator stations ... pending final action in the rulemaking proceeding” initiated by the release of the *LPTV Digital Transition Third NPRM* that same day.<sup>2</sup> As a result, the May 29, 2015 construction deadline for K33MI-D’s digital facilities has been suspended since that date.

In the *LPTV Digital Transition Third NPRM*, the Commission tentatively concluded that it should postpone the September 1, 2015 deadline for LPTV and TV translator stations to complete their digital transitions.<sup>3</sup> In doing so, the FCC noted that such a postponement appears necessary “in order to avoid requiring stations to incur the costs of digital transition before completion of the [incentive] auction and repacking process, which is likely to impact a *significant number* of LPTV and TV translator stations.”<sup>4</sup> Further, if the Commission decides to extend the low-power digital transition deadline, it also “tentatively conclude[d] to extend the deadline for construction permits for *new* digital stations to conform their construction deadline to the new digital transition deadline.”<sup>5</sup>

A further extension of the STA is necessary given the significant uncertainty with respect to the low-power digital transition. For instance, the Commission has not adopted an order based on the record in response to the *LPTV Digital Transition Third NPRM*, and may not for some time given the necessary focus on the incentive auction at this time. Moreover, even at that time, the new digital transition date still may not be known given that the Commission sought comment “on whether to establish a new deadline now or wait until after the incentive auction.”<sup>6</sup> In doing so, the Commission noted that an “advantage of the latter approach would be to allow [it] to examine the outcome of the incentive auction and take into account the overall impact of the repacking process on LPTV and TV translator stations before settling on a new transition date.”<sup>7</sup>

The public interest also requires a further extension of the STA. For instance, the Commission noted that “the full extent to which LPTV and TV translators will be displaced by new channel assignments may not be known until *six or more months after* the conclusion of the incentive auction.”<sup>8</sup> Thus, K33MI-D will not know until that time whether its currently-authorized digital facilities could even remain on-air once the post-incentive auction repacking process concludes. It therefore would be inequitable to force Red River to expend substantial sums to construct digital facilities that could then be forced off-air. A failure to extend the STA, however, would essentially do just that. Unlike most “new” digital low-power stations, K33MI-D already provides an analog service to the viewing public. Without an extension of the STA,

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<sup>2</sup> *Commission Suspends Expiration Dates and Construction Deadlines for New Digital Low Power Television and TV Translator Stations*, Public Notice, 29 FCC Rcd 12534, 12534 (2014).

<sup>3</sup> See *LPTV Digital Transition Third NPRM*, 29 FCC Rcd at 12539.

<sup>4</sup> *Id.* at 12540 (emphasis added).

<sup>5</sup> *Id.* at 12542 (emphasis added).

<sup>6</sup> *Id.* at 12540.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 12541 (emphasis added).

however, K33MI-D could no longer provide this valuable broadcast service to those living in and around Aberdeen, South Dakota.

Thus, in this respect, K33MI-D's situation is far more like that of a licensed analog low-power station with an outstanding digital construction permit than that of a wholly "new" digital low-power station. Notably, in the *LPTV Digital Transition Third NPRM*, the Commission "propose[s] to make corresponding rule changes ... to effectuate any new transition date,"<sup>9</sup> including with respect to §74.731(k)(1), which currently prohibits low-power stations from operating in analog mode after September 1, 2015.<sup>10</sup> Given that K33MI-D also currently provides an analog service, and that terminating that service at this time would harm the public interest, K33MI-D should be treated similarly to licensed analog low-power stations. That is, K33MI-D should be granted continuing authority to provide viewers a free, over-the-air analog service pending resolution of the various issues and uncertainties related to the incentive auction and post-auction repacking process.

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<sup>9</sup> *Id.*

<sup>10</sup> *See id.* at n. 24.