



Federal Communications Commission
Washington, D.C. 20554

September 8, 2023

Derek Teslik, Esq.
Gray Miller Persh LLP
2333 Wisconsin Avenue, NW
Suite 226
Washington, D.C. 20007

Seth L. Williams, Esq.
Fletcher, Heald & Hildreth
1300 N. 17th Street, Suite 1100
Arlington, Virginia 22209

Re: Joint Request for Approval of Settlement Agreement
KUON-TV, Lincoln, Nebraska
MB Docket No. 22-347; RM-11932

Dear Counsel:

This is with respect to the Joint Request for Approval of Settlement Agreement filed on August 18, 2023 on behalf of the University of Nebraska (University), the licensee of noncommercial educational television station KUON-TV, channel *12, at Lincoln, Nebraska, and Flood Communications of Omaha, LLC (Flood), the licensee of low power television stations KOHA-LD, Omaha, Nebraska, and KFDY-LD, Lincoln, Nebraska (Flood Stations) (collectively the Parties). The University filed a rulemaking petition to substitute channel *27 for channel *12 at Lincoln on September 14, 2022,¹ and the Video Division, Media Bureau (Bureau) issued a Notice of Proposed Rulemaking on September 26, 2022,² which Flood opposed, arguing that the Flood Stations would be displaced.³

To resolve these issues, the Parties have entered into a Settlement Agreement, dated August 10, 2023, asking that the Bureau dismiss Flood's Opposition. The Parties agree that Flood will withdraw its Opposition with prejudice and no later than five business days after the effective date of a Report and Order approving the University's rulemaking petition is published in the Federal Register, Flood shall file with the Commission two displacement applications for the Flood Stations.⁴ The Parties further agree that they will coordinate and cooperate in good faith to implement the facility changes contemplated in the Settlement Agreement;⁵ that Flood shall diligently complete construction of the displacement facilities within 12 months after grant of its displacement applications;⁶ and that the University shall not commence operations on channel *27 until both of the Flood Stations commences operations on its respective

¹ University of Nebraska, Petition for Rulemaking (filed Sept. 14, 2022).

² *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations, KUON-TV (Lincoln, Nebraska)*, MB Docket No. 22-347, Notice of Proposed Rulemaking, (DA 22-1009, released Sept. 26, 2022).

³ Opposition of Flood Communications of Omaha, LLC (filed Nov. 7, 2022). The University filed Reply Comments on November 21, 2022.

⁴ Settlement Agreement at para. 2. Flood and Bureau staff have confirmed that at least two channels are available for displacement relief for the Flood Stations.

⁵ *Id.* at para. 3.

⁶ *Id.* at para. 4.

displacement channel, unless the Flood Stations have not commenced operations by June 20, 2025, at which time the University may commence operations on channel *27.⁷ The Settlement Agreement further states that if the University has equipment that can be used by Flood to construct its displacement facilities, the Parties shall cooperate in good faith to determine an appropriate price for Flood to purchase such equipment from the University. The Settlement Agreement also states that “each Party shall bear its own attorneys’ fees and expenses in relation to the preparation, filing, prosecution, and performance of the duties contemplated by this Agreement, subject to compliance herein”⁸ and that the Agreement “sets forth the entire understanding of the Parties with respect to the subject matter hereof . . .”⁹

We conclude that the Settlement Agreement complies with the Commission’s rules¹⁰ and that grant would serve the public interest by conserving Commission resources. Accordingly, the Joint Request for Approval of Settlement Agreement in MB Docket No. 22-347 **IS HEREBY GRANTED** and the Opposition filed by Flood Communications of Omaha, LLC in that docket is **HEREBY DISMISSED WITH PREJUDICE**. The Bureau is simultaneously issuing a Report and Order granting the University of Nebraska’s rulemaking petition substituting channel *27 for channel *12 at Lincoln, Nebraska.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Cc (via electronic mail):

Derek Teslik, Esq. (Counsel for KUON-TV) - dteslik@graymillerpersh.com

Seth Williams, Esq. (Counsel for KOHA-LD and KFDY-LD) - sethwilliams@fhhlaw.com

⁷ *Id.* at para. 5.

⁸ *Id.* at para. 3.

⁹ *Id.* at para. 6.

¹⁰ *See* 47 CFR §§ 1.420, 73.3588.