

Request for Extension and Amendment of Special Temporary Authority

Mercury Broadcasting Company, Inc. (“Mercury”), licensee of KMTW(TV), Hutchinson, Kansas (Facility ID No. 77063) (“KMTW”), hereby requests extension and amendment of Special Temporary Authority (“STA”) granted to KMTW in connection with the Station’s deployment as a Next Gen TV broadcast facility and its broadcast of KMTW’s non-primary multicast streams using the ATSC 1.0 standard, without simulcast of those streams using the ATSC 3.0 standard, on certain host stations located in the Market. (See LMS File No. 0000214744). KMTW’s existing STA is due to expire on October 20, 2023. Pursuant to the terms of that STA, KMTW currently simulcasts its primary programming stream (affiliated with Dabl) in ATSC 1.0 format on KSAS-TV, Wichita, Kansas (Facility ID No. 11911), and simulcasts its multicast programming streams on the stations identified below pursuant to written hosting agreements with the licensees of these stations:

<u>Hosting Arrangements Through October 29, 2023</u>				
<u>Multicast Programming</u>	<u>PSIP Channel</u>	<u>ATSC 1.0 Host Station</u>	<u>Facility ID No.</u>	<u>Host RF Channel</u>
Stadium	36.2	KSAS-TV	11911	26
Charge!	36.3	KSNW	72358	15
TBD	36.4	KAKE	65522	10

In addition to extension of the STA for a period of 180 days, Mercury is hereby further requesting amendment of the STA effective October 30, 2023 because, beginning on that date, KMTW’s affiliation with the *Stadium* network on the multicast stream hosted by KSAS will be replaced with programming from the *Nest* network. No other changes are proposed to any of KMTW’s multicast channels. Effective October 30, 2023, the amended hosting arrangements would be as follows:

<u>Hosting Arrangements Effective October 30, 2023</u>				
<u>Multicast Programming</u>	<u>PSIP Channel</u>	<u>ATSC 1.0 Host Station</u>	<u>Facility ID No.</u>	<u>Host RF Channel</u>
Nest	36.2	KSAS-TV	11911	26
Charge!	36.3	KSNW	72358	15
TBD	36.4	KAKE	65522	10

As explained in KMTW’s request underlying its existing STA, ATSC 1.0 capacity constraints prevent KMTW from broadcasting all of its non-primary multicast streams on the same host station as its primary ATSC 1.0 programming stream (*i.e.*, KSAS-TV). Furthermore, due to ATSC 3.0 capacity and other constraints attendant with the multi-station and multi-market coordination necessary for a successful nationwide ATSC 3.0 deployment, it is not feasible for KMTW’s ATSC 3.0 facility to simulcast KMTW’s non-primary multicast streams in the ATSC 3.0 standard without unduly minimizing, if not largely eliminating, the benefits to the public and the participating stations converting to the ATSC 3.0 standard.

KMTW now serves as the ATSC 3.0 host station for its ATSC 1.0 Host Stations. Simulcasting KMTW's non-primary multicast streams in ATSC 3.0 would reduce capacity available for KMTW and the ATSC 1.0 Host Stations to offer consumers the improved services that ATSC 3.0 enables. These precluded services and improvements include enhanced video featuring High Dynamic Range, Wide Color Gamut and High Frame Rate, immersive and multiple audio channels using Dolby AC-4, Advanced Emergency Alerting and Information functions as part of a broadcast receiver application, and non-real time interactive data delivery. Each of these services and improvements require a portion of the ATSC 3.0 capacity that would be unavailable if KMTW carried multicast program streams as one of the Market's ATSC 3.0 host stations.¹ Furthermore, significant additional engineering work and more equipment would be required to simulcast KMTW's multicast streams in both the ATSC 1.0 and 3.0 formats.

The continued broadcast of KMTW's multicast streams on the ATSC 1.0 Host Stations as described herein will continue to serve the public interest by maintaining access to nearly all pre-transition over-the-air viewers of KMTW's multicast streams. The programming change underlying this request for modification of STA relates only to the affiliation of one of KMTW's multicast channels. It does not alter the spectrum bandwidth used by KMTW's multicast streams or their PSIP (virtual) channel numbers, which will continue to be identified to viewers as being associated with KMTW. KMTW fulfills all of its children's programming requirements by airing core E/I programming on KMTW's primary stream and does not rely on any programming broadcast on its multicast streams for compliance with the Commission's children's programming requirements. KMTW has provided notice to MVPDs and is airing consumer notices regarding the upcoming programming change and will continue to work with all impacted MVPDs to ensure that they continue to receive a good quality signal of KMTW's non-primary multicast streams – whether over-the-air or via alternative delivery methods.

Pursuant to Mercury's multicast agreements with the licensees of the ATSC 1.0 Host Stations, Mercury has agreed to indemnify the licensees of the ATSC 1.0 Host Stations from all liabilities or claims resulting from the airing of its multicast streams on their stations. Accordingly, Mercury is requesting this STA to broadcast its non-primary multicast streams in the manner set forth herein for purposes of confirming and clarifying that 1) the broadcast ownership rules do not apply to the extent this arrangement would otherwise be in potential violation of those rules; and that 2) KMTW is the licensee originating the non-primary multicast streams and is considered the responsible party for compliance with obligations under the Communications Act of 1934, as amended, and the Commission's rules and regulations in the same manner as an ATSC 1.0 primary simulcast stream is treated under the Commission's ATSC 3.0 rules and regulations.

For the foregoing reasons, Mercury respectfully requests extension and amendment of its STA as set forth herein so that KMTW's viewers may continue to receive the station's non-primary multicast streams on ATSC 1.0 host stations KSAS-TV, KSNW, and KAKE, in the manner described herein.

¹ KSCW-TV, Wichita, Kansas (Facility ID No. 72348), licensed to Gray Television Licensee, LLC, also serves as an ATSC 3.0 host station for the Market. *See* LMS File No. 0000190148.