

Request for Waiver

The applicant NPG of Texas, L.P., respectfully requests a Waiver of Section 73.622(f)(7) of the Commission's rules in order to increase authorized power (ERP) of station KVIA-DT, Channel 7, from approximately 32.4 KW to approximately 55 KW. There is abundant "good cause" for a grant of this request.

1. A waiver is needed because the 55KW proposal exceeds the maximum allowable ERP limit of Section 73.622(f)(7). At a height of 592 meters, the maximum ERP that "normally" would be permitted would be approximately 32.4 KW -- the station's current ERP.
2. The situation faced by KVIA-DT is far from "normal," however. Station KVIA-DT, Channel 7, El Paso, TX, is one of only a handful of digital television stations in the Nation to obtain *extraordinary relief* from the FCC, in the form of a post-Transition STA -- in order to address significant "loss of coverage" issues that developed immediately after KVIA-DT commenced digital channel 7, post-Transition service on June 12, 2009. See BDSTA-20090707ADB, granted (after several supplemental filings and discussions with Video Division staff) on July 23, 2009 ("STA").
3. Following months of studies by KVIA-DT (and another El Paso VHF digital station with similar digital VHF coverage issues after June 12, 2009), a consensus has emerged that a power increase for KVIA-DT's digital channel 7 is the MOST RATIONAL plan promptly to provide service to thousands of viewers in KVIA-DT's DMA who lost channel 7's digital signal after June 12, 2009. A grant of this Waiver Request and the subject application, authorizing a modest power increase for digital channel 7, would assist KVIA-DT -- the ABC-TV affiliate in the El Paso DMA (# 98).
4. Moreover, a grant of the requested Waiver and of the underlying application may "moot" any need for KVIA-DT to obtain an extension of the STA, which is set to expire on January 11, 2010.
5. Furthermore, the applicant's choice of 55 KW is with *special regard* for the maximum immediate increase in power that would not require coordination with Mexico. The predicted 36 dBu service contour of KVIA-DT at 55KW would be within the predicted contour of the 65 KW allotment facility for KVIA-DT, on digital channel 7, that was negotiated with Mexico. (No coordination with Mexico is necessary for this application to be granted.)
6. The instant request for Waiver is similar to the waiver of Sections 73.622(f)(5) and also (f)(7) requested last month by station WTVD (TV), Durham, NC. The Waiver requested for KVIA-DT, however, would implicate only Section 73.622(f)(7).

7. Finally, a waiver of the rules is appropriate for KVIA-DT in order "to serve [the station's] former analog viewers" with the station's new digital signal. See Sixth Report and Order, 12 FCC Rcd 14588 at ¶ 29 (1997).