

#### **EXHIBIT 44**

KGO Television, Inc. (“KGO, Inc.”), licensee of KGO-TV and KGO-DT (“KGO”), San Francisco, California, respectfully requests processing of the instant application (“Application”) under the standard adopted in paragraph 151 of the Commission’s *Third Periodic Review Order* (“Paragraph 151”), and, if necessary, a waiver of the freeze on the filing of certain DTV maximization applications (“Filing Freeze”).<sup>1</sup> Although the Filing Freeze was lifted in a May 30, 2008 public notice, applications filed pursuant to the *Third Periodic Review Order* by June 19, 2008 will be processed immediately and will enjoy “cut-off” interference protection against maximization applications filed between May 30 and June 20, 2008.<sup>2</sup> Because the facilities proposed in the Application (“Proposed Facilities”) will satisfy every element of the Paragraph 151 standard in the *Third Periodic Review Order*, the Application may be processed immediately.

The Paragraph 151 Standard. The Filing Freeze prohibited parties from filing, *inter alia*, any application that would extend a station’s DTV contour beyond the station’s parameters in (i) the DTV Table of Allotments, (ii) existing Commission authorizations and (iii) applications on file with the Commission prior to release of the *Filing Freeze PN*.<sup>3</sup> In Paragraph 151 of its recent *Third Periodic Review Order*, the Commission announced a new waiver policy intended to allow immediate processing of applications to extend a station’s DTV contour under certain circumstances. Specifically, under the recently-adopted policy, the FCC generally will process an application, and issue a waiver, if necessary, if the station’s proposed expansion: (i) would allow the station to use its analog antenna or a new antenna to avoid a significant reduction in post-transition service from its analog service area, (ii) would be no more than five miles larger in any direction than the station’s authorized service area, as defined by Appendix B, and (iii) would not cause impermissible interference, *i.e.*, more than 0.5 percent new interference, to other stations.<sup>4</sup> This policy is intended to “permit rapid approval of minor expansion applications filed

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<sup>1</sup> See *Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes*, Public Notice, 19 FCC Rcd 14810, 14810-11 (MB 2004) (“*Filing Freeze PN*”).

<sup>2</sup> Maximization applications filed between May 30 and June 20, 2008 that are not consistent with the *Third Periodic Review Order* all will be treated as filed on June 20, 2008. See *Commission Lifts the Freeze on the Filing of Maximization Applications and Petitions for Digital Channel Substitutions, Effective Immediately*, Public Notice, DA 08-1212 (rel. May 30, 2008) (“*May 30<sup>th</sup> PN*”), at 2 (“With the exception of applications filed pursuant to the *Third Periodic PN*, which are cut-off as of the date received by the Commission, all applications filed from the date of release of this Public Notice through June 20, 2008, will be treated for cut-off purposes as being filed on June 20, 2008.”) and n.4 (“Licensees that have not yet filed applications permitted by the *Third Periodic PN* are reminded that they are required to submit these applications not later than June 19, 2008. We will continue to process those applications that remain pending, and those that continue to be filed over the next few weeks.”).

<sup>3</sup> *Id.*

<sup>4</sup> See *Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television; Public Interest Obligations of TV Broadcast Licensees*, Report and Order, FCC 07-70, MB Docket No. 07-91, ¶151 (rel. Dec. 31, 2008) (“*Third Periodic Review Order*”).

by stations that are not using their pre-transition DTV channel for post-transition operation” and to provide “added flexibility for stations that wish to use their existing analog channel antenna.” In doing so, the Commission intended to assist stations that would suffer significant service losses because the “unbuildable, theoretical pattern” in Appendix B does not match the station’s analog antenna pattern.<sup>5</sup>

The Proposed Facilities Satisfy Every Element of the Paragraph 151 Standard. As further described in the attached engineering statement, the Proposed Facilities satisfy every element of the paragraph 151 standard described above. First, KGO proposes to use its existing analog antenna.<sup>6</sup> Use of this antenna, with its associated antenna pattern, would permit KGO to fully replicate with an ERP of 24.0 kW at 514 meters HAAT.<sup>7</sup> In contrast, restricting its current antenna to the antenna pattern currently specified in Appendix B would require KGO to reduce its post-transition ERP to approximately 17.4 kW, resulting in a coverage loss of over 48,190 persons compared to the Appendix B facility.<sup>8</sup> Further, operation with 24.0 kW would permit KGO to increase its overall coverage from the 6,516,000 persons estimated in Appendix B to 6,563,188 persons, an increase of 47,188 persons.<sup>9</sup> Thus, because grant of the waiver request would permit KGO to avoid a reduction in coverage, this request satisfies element one of the Filing Freeze waiver standard. Further, the relevant contour of the Proposed Facilities would extend, at most, only 1.76 miles from the facilities specified in Appendix B.<sup>10</sup> Because this extension is no more than five miles, the second element of the Filing Freeze waiver standard also is satisfied. Finally, the Proposed Facilities satisfy the third element of the waiver standard because they would cause 0.44% or less interference to the only stations potentially affected.<sup>11</sup>

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For the reasons stated herein, KGO, Inc. respectfully requests that the Commission grant the Application and associated waiver request, if necessary, so that KGO may serve its existing analog viewers with a DTV signal.

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<sup>5</sup> *Third Periodic Review Order*, ¶152

<sup>6</sup> Engineering Statement at 2.

<sup>7</sup> Engineering Statement at 5; FCC Form 301, Sec. III-D, DTV Engineering.

<sup>8</sup> Engineering Statement at 5.

<sup>9</sup> Engineering Statement at 5.

<sup>10</sup> Engineering Statement at 5, Exhibit 1, Exhibit 2. The maximum extension is in the direction of 180 degrees true.

<sup>11</sup> Engineering Statement at 6 (calculating additional interference from 0.0035% to 0.4363% interference).