

## EXHIBIT 38

### **“Phased Transition” DTV STA Request** **for Extended Operation of Pre-Transition DTV Service**

NCE Station KTSC-TV/DT, Denver, CO  
Facility ID: 69170 / FRN: 000615582

Rocky Mountain Public Broadcasting Network, Inc. (“RMPBS”), licensee of noncommercial educational Station KTSC(TV/DT), Denver, Colorado, respectfully requests Special Temporary Authority (“STA”) to maintain temporary use of the station’s in-core pre-transition DTV channel beyond the February 17, 2009 transition deadline, while it works towards completion of construction of KTSC’s authorized post-transition facility. As explained below, the KTSC-DT post-transition facility is no longer expected to be completed as of the February, 2009 transition date due to recent and unexpected delays.

*In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, the Commission adopted provisions permitting a “phased transition” in order to allow broadcasters flexibility in meeting post-transition deadlines without disappointing viewer expectations.<sup>1</sup> Specifically, the Commission adopted a proposal “to allow stations that are moving to a different DTV channel for post-transition operations to temporarily remain on their pre-transition DTV channel while they complete construction of their final digital facilities.”<sup>2</sup> The *Report and Order* contemplates temporary use of in-core channels that does not cause impermissible interference to other stations or prevent other stations from making their transition, and that serves at least the same population that receives current analog TV and DTV service.<sup>3</sup>

In KTSC’s case, RMPBS will be moving the station to a different DTV channel for post-transition operations. RMPBS currently operates KTSC(TV)’s analog facility on NTSC Channel 8, and its pre-transition DTV facility on digital Channel 26, as licensed in FCC File No. BLEDT-20060727AAH. RMPBS will utilize digital Channel 8 for KTSC-DT’s post-transition DTV operation. Due to recently developed circumstances which will prevent RMPBS from completing the DTV Channel 8 facility as planned by February 17, 2009, RMPBS now proposes to continue temporary operation of the licensed DTV Channel 26 facility beyond that date, in order to maintain service to the public during the transition. Without continued operation of this pre-transition DTV facility, KTSC’s noncommercial educational broadcast service will be completely lost to viewers on February 17, 2009 because it will be necessary to terminate

---

<sup>1</sup> Report and Order, MM Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007) (“*Report and Order*”), at ¶ 88.

<sup>2</sup> *Report and Order* at ¶ 92.

<sup>3</sup> *See id.* The FCC further recognized, however, that stations which do not satisfy the coverage presumption will be considered on a case-by-case basis for phased transition relief if they provide digital service to a greater population than would their incomplete post-transition facility. *Id.* at footnote 276.

KTSC's analog service as of that date, and RMPBS now anticipates that the new DTV Channel 8 facility will not yet be complete and operational.

RMPBS applied for a DTV Channel 8 post-transition facility for KTSC in FCC File No. BPEDT-20080221ABB. The FCC granted the application on April 9, 2008, with an expiration date of February 17, 2009, and RMPBS is currently working towards its build-out. As RMPBS has informed the Commission through its Form 387 DTV Transition Status Reports, it had expected to complete the authorized KTSC-DT post-transition Channel 8 facility in February, 2009. Specifically, RMPBS's timeline called for submission of the KTSC-DT post-transition facility application in February, 2008; ordering of the new transmitter and the commencement of site preparations in April 2008; installation and testing, and the relocation of the station's antenna in the Fall of 2008; and the commencement of new DTV service by January or February, 2009. Only recently has RMPBS's schedule for this conversion changed, due to a combination of manufacturing and delivery estimates, weather complications, and tower crew availability. Accordingly, RMPBS submits this phased transition request at this time, and requests the Commission's indulgence for its inability to file by the August 18, 2008 time frame contemplated by the *Third Periodic Review*; at that time, however, RMPBS believed that the KTSC-DT conversion would be completed on schedule (and by the transition date).

Unfortunately, several circumstances beyond RMPBS's control now likely prevent the completion of the KTSC-DT post-transition facility during the winter months leading up to the transition date. For instance, the order and manufacture process for the new transmitter is currently taking longer than anticipated due to delays in grant approval, funding, and the issuance of the Request for Proposal and contract award. In addition, weather conditions at the station's mountaintop sites in Colorado are unpredictable and dangerous (especially during the winter months), and will likely temporarily preclude the removal of the current KTSC Channel 8 antenna located on Cheyenne Mountain, and its necessary transfer to the station's authorized post-transition DTV site at Baculite Mesa. As a related matter, the availability of tower crews to safely rig and climb the multiple towers involved in the KTSC facility changes will be extremely limited between now and the end of February, 2009. This combination of factors is now expected to prevent RMPBS from completing the required tower work and conversion from DTV Channel 26 to Channel 8 for a period of several months.

Given the statutorily-mandated analog termination date of February 17, 2009, RMPBS proposes to maintain temporary digital operation on pre-transition DTV Channel 26 in order to avoid a total loss of service to the public on the transition date. Continued operation of the licensed pre-transition digital facility under STA will ensure that all current DTV viewers continue to receive service. The current KTSC-DT Channel 26 operation also serves more than 100% of the station's existing analog viewers.<sup>4</sup> However, the incomplete post-transition DTV facility will be unable to serve any viewers immediately following the transition date. Accordingly, continued service with the pre-transition DTV operation would provide the best possible service to the public and disrupt as few viewers as possible during this interim period

---

<sup>4</sup> Based on studies conducted pursuant to the FCC's OET-69 Longley-Rice analysis methodology, the calculated interference-free terrain-limited service population of KTSC-DT on Channel 26 is 847,086. The KTSC(TV) interference-free terrain-limited analog service on Channel 8 is 841,603. Therefore, the predicted KTSC-DT digital STA facility will provide service to 100.7% of the analog service population.

(and until the post-transition DTV Channel 8 facility can be completed). RMPBS submits that continued use of DTV Channel 8 will also not cause impermissible interference to other stations or prevent other stations from making their transitions. *See attached* Interference Analysis.

The Commission has stated that stations receiving relief to temporarily remain on pre-transition DTV channels may do so for no longer than one year beyond the transition date and will receive an extension of time to construct their post-transition facilities while they remain on their pre-transition digital channel.<sup>5</sup> RMPBS respectfully submits that KTSC's continued pre-transition operation and extension of time to construct post-transition facilities is justified under the *Report and Order*, which recognized that the "stations that face the most significant amount of construction to finalize their post-transition facilities are those that are moving to a different channel for post-transition operation."<sup>6</sup> Despite plans which – until recently – called for a timely build-out, several circumstances beyond RMPBS's control will prevent construction of KTSC's post-transition facilities by February, 2009. As a result, a temporary extension of pre-transition DTV service (and a corresponding extension of the post-transition DTV permit) is needed in order to avoid a significant and immediate loss of service to the public starting on the transition date. RMPBS believes that a six-month STA and extension of time (until August 18, 2009) will provide ample time to address the issues complicating the completion of the KTSC-DT digital conversion.

Moreover, as the Commission has recognized throughout the transition process, and again in the *Report and Order* in the context of phased transitions, special regulatory relief is appropriate for noncommercial educational and non-top-four network stations (such as noncommercial PBS affiliate KTSC).<sup>7</sup> The *Report and Order* specified that case-by-case review and additional flexibility and relief would be warranted given the "unique financial difficulties" faced by such stations.<sup>8</sup>

In accordance with the *Report and Order*, RMPBS plans to notify viewers on its analog channel of its phased transition plans and service limitations, starting at least 30 days prior to the termination of analog service.

RMPBS is a noncommercial educational licensee and it operates KTSC(TV/DT) on a noncommercial educational basis. The licensee is therefore exempt from FCC filing fee requirements, pursuant to Section 1.1114 of the Commission's Rules, and the facility is exempt from FCC regulatory fees, pursuant to Section 1.1162 of the Rules.

---

<sup>5</sup> *Report and Order* at ¶ 93.

<sup>6</sup> *Report and Order* at ¶ 64.

<sup>7</sup> *Report and Order* at ¶ 97.

<sup>8</sup> *See id.*

# KTSC-DT (STA), Pueblo, CO, Channel 26, OET-69 Post-Transition Interference Analysis

TW Census data selected 2000  
Post Transition Data Base Selected /export/home/cdbs/pt\_tvdb.sff

## TV INTERFERENCE and SPACING ANALYSIS PROGRAM

Date: 12-02-2008

Record Selected for Analysis

KTSCDT USERRECORD-01 PUEBLO CO US  
Channel 26 ERP 39. kW HAAT 680. m RCAMSL 02911 m  
Latitude 038-44-43 Longitude 0104-51-39  
Status APP Zone 2 Border  
Dir Antenna Make CDB Model 00000000072890 Beam tilt N Ref Azimuth 0.  
Last update Cutoff date Docket  
Comments  
Applicant

Cell Size for Service Analysis 2.0 km/side

Distance Increments for Longley-Rice Analysis 1.00 km

Facility meets maximum height/power limits

Azimuth (Deg)	ERP (kW)	HAAT (m)	41.0 dBu F(50,90) (km)
0.0	18.690	992.0	97.3
45.0	5.441	1065.9	88.2
90.0	2.832	1135.5	84.3
135.0	15.724	1123.1	99.0
180.0	31.985	876.2	99.4
225.0	5.528	90.0	47.9
270.0	6.303	33.0	36.3
315.0	5.097	125.8	51.1

### Evaluation toward Class A Stations

Station inside contour of Class A station  
KGHB-CA 27 PUEBLO, ETC. CO BSTA 20050718AAI

Station inside contour of Class A station  
KGHB-CA 27 PUEBLO, ETC. CO BLTT 19961025JB

### Class A Evaluation Complete

Proposed facility OK to FCC Monitoring Stations

Proposed facility OK toward West Virginia quiet zone

Proposed facility OK toward Table Mountain

Proposed facility is beyond the Canadian coordination distance

Proposed facility is beyond the Mexican coordination distance

Proposed station is OK toward AM broadcast stations

KTSC-DT (STA), Pueblo, CO, Channel 26, OET-69 Post-Transition Interference Analysis

\*\*\*\*\*  
 Start of Interference Analysis

Channel	Proposed Station Call	City/State	ARN
26	KTSCDT	PUEBLO CO	USERRECORD01

Stations Potentially Affected by Proposed Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
26	KOB-TV	ALBUQUERQUE NM	417.3	LIC	BLCDT	-20051003BQP
26	KOB-TV	ALBUQUERQUE NM	417.3	PLN	DTVPLN	-DTVP0965
27	KGHB-CA	PUEBLO, ETC. CO	0.0	APP	BSTA	-20050718AAI
27	KGHB-CA	PUEBLO, ETC. CO	0.0	LIC	BLTT	-19961025JB

\*\*\*\*\*

Analysis of Interference to Affected Station 1

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
26	KOB-TV	ALBUQUERQUE NM	BLCDT	-20051003BQP

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
27	KASA-TV	SANTA FE NM	0.3	LIC	BLCDT	-20030624AAM
27	KASA-TV	SANTA FE NM	0.3	PLN	DTVPLN	-DTVP1008
27	KASA-TV	SANTA FE NM	0.3	CP	BPCDT	-20080619AIC
26	KTSCDT	PUEBLO CO	417.3	APP	USERRECORD-01	

Proposal causes no interference

#####

Analysis of Interference to Affected Station 2

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
26	KOB-TV	ALBUQUERQUE NM	DTVPLN	-DTVP0965

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
27	KASA-TV	SANTA FE NM	0.3	LIC	BLCDT	-20030624AAM
27	KASA-TV	SANTA FE NM	0.3	PLN	DTVPLN	-DTVP1008
27	KASA-TV	SANTA FE NM	0.3	CP	BPCDT	-20080619AIC
26	KTSCDT	PUEBLO CO	417.3	APP	USERRECORD-01	

Proposal causes no interference

#####

Analysis of Interference to Affected Station 3

Analysis of current record

Channel	Call	City/State	Application	Ref. No.
27	KGHB-CA	PUEBLO, ETC. CO	BSTA	-20050718AAI

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application	Ref. No.
------	------	------------	----------	--------	-------------	----------

KTSC-DT (STA), Pueblo, CO, Channel 26, OET-69 Post-Transition Interference Analysis

19	KTVD	DENVER CO	114.1	CP	BPCDT	-20080617ACA
19	KTVD	DENVER CO	114.1	PLN	DTVPLN	-DTVP0669
20	KTVD	DENVER CO	114.1	CP	BPCT	-20020813ABA
24	KRDO-TV	COLORADO SPRINGS CO	0.1	LIC	BLCDT	-20060329AAW
24	KRDO-TV	COLORADO SPRINGS CO	0.1	PLN	DTVPLN	-DTVP0875
27	NEW	ASPEN CO	178.6	APP	BNPTT	-20000831CNN
27	KZCO-LP	DENVER CO	107.6	LIC	BLTTL	-20050223ABM
27	KGJT-LP	GRAND JUNCTION CO	293.6	LIC	BLTTL	-20010814AAV
27	KLWY	CHEYENNE WY	256.0	LIC	BLCT	-19880921KG
27	KLWY	CHEYENNE WY	256.0	PLN	DTVPLN	-DTVP1024
27	KLWY	CHEYENNE WY	256.0	CP MOD	BMPCDT	-20080618ABI
28	K28GE	WOODLAND PARK CO	32.3	LIC	BLTTL	-19991203AAV
31	KDVR	DENVER CO	114.0	LIC	BLCT	-19830818KM
34	KWGN-TV	DENVER CO	114.4	CP MOD	BMPCDT	-20080620AFA
34	KWGN-TV	DENVER CO	114.4	PLN	DTVPLN	-DTVP1243
35	KCNC-TV	DENVER CO	114.1	CP	BPCDT	-20080616ABP
35	KCNC-TV	DENVER CO	114.1	PLN	DTVPLN	-DTVP1281
41	KRMT	DENVER CO	99.6	LIC	BLET	-20050519AHE
42	K42CX	CRIPPLE CREEK CO	29.0	LIC	BLTT	-19900723IK
42	KOAA-TV	PUEBLO CO	0.0	CP	BPCDT	-19991029AGS
42	KOAA-TV	PUEBLO CO	0.0	PLN	DTVPLN	-DTVP1493
26	KTSCDT	PUEBLO CO	0.0	APP	USERRECORD-01	

Proposal causes no interference

#####

Analysis of Interference to Affected Station 4

Analysis of current record

Channel	Call	City/State	Application Ref. No.
27	KGHB-CA	PUEBLO, ETC. CO	BLTT -19961025JB

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application Ref. No.
19	KTVD	DENVER CO	114.1	CP	BPCDT -20080617ACA
19	KTVD	DENVER CO	114.1	PLN	DTVPLN -DTVP0669
20	KTVD	DENVER CO	114.1	CP	BPCT -20020813ABA
24	KRDO-TV	COLORADO SPRINGS CO	0.1	LIC	BLCDT -20060329AAW
24	KRDO-TV	COLORADO SPRINGS CO	0.1	PLN	DTVPLN -DTVP0875
27	NEW	ASPEN CO	178.5	APP	BNPTT -20000831CNN
27	KZCO-LP	DENVER CO	107.6	LIC	BLTTL -20050223ABM
27	K27CB	FRASER, ETC. CO	146.8	LIC	BLTT -19890609IM
27	KGJT-LP	GRAND JUNCTION CO	293.5	LIC	BLTTL -20010814AAV
27	KLWY	CHEYENNE WY	256.0	LIC	BLCT -19880921KG
27	KLWY	CHEYENNE WY	256.0	PLN	DTVPLN -DTVP1024
27	KLWY	CHEYENNE WY	256.0	CP MOD	BMPCDT -20080618ABI
28	K28GE	WOODLAND PARK CO	32.3	LIC	BLTTL -19991203AAV
34	KWGN-TV	DENVER CO	114.4	CP MOD	BMPCDT -20080620AFA
34	KWGN-TV	DENVER CO	114.4	PLN	DTVPLN -DTVP1243
35	KCNC-TV	DENVER CO	114.1	CP	BPCDT -20080616ABP
35	KCNC-TV	DENVER CO	114.1	PLN	DTVPLN -DTVP1281
41	KRMT	DENVER CO	99.6	LIC	BLET -20050519AHE
42	K42CX	CRIPPLE CREEK CO	28.9	LIC	BLTT -19900723IK
42	KOAA-TV	PUEBLO CO	0.1	CP	BPCDT -19991029AGS
42	KOAA-TV	PUEBLO CO	0.1	PLN	DTVPLN -DTVP1493
26	KTSCDT	PUEBLO CO	0.0	APP	USERRECORD-01

Proposal causes no interference

#####

Analysis of Interference to Affected Station 5

KTSC-DT (STA), Pueblo, CO, Channel 26, OET-69 Post-Transition Interference Analysis

Analysis of current record

Channel	Call	City/State	Application Ref. No.
26	KTSCDT	PUEBLO CO	USERRECORD-01

Stations Potentially Affecting This Station

Chan	Call	City/State	Dist(km)	Status	Application Ref. No.
26	KOB-TV	ALBUQUERQUE NM	417.3	LIC	BLCDT -20051003BQP
26	KOB-TV	ALBUQUERQUE NM	417.3	PLN	DTVPLN -DTVP0965

Total scenarios = 1

Result key: 1  
 Scenario 1 Affected station 5  
 Before Analysis

Results for: 26A CO PUEBLO USERRECORD01 APP

HAAT 680.0 m, ATV ERP 39.0 kW	POPULATION	AREA (sq km)
within Noise Limited Contour	1100708	20950.0
not affected by terrain losses	847086	18402.5
lost to NTSC IX	0	0.0
lost to additional IX by ATV	0	0.0
lost to ATV IX only	0	0.0
lost to all IX	0	0.0

Potential Interfering Stations Included in above Scenario 1

#####

FINISHED FINISHED FINISHED FINISHED FINISHED FINISHED