

June 28, 2006

VIA ECFS

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
ATTN: Video Services Division

Note: Exempt From Filing Fees

Re: **Request for Waiver of July 1, 2006 DTV Replication/Maximization Deadline**
Noncommercial Educational Station KWSU-DT, Pullman, WA
Facility ID: 71024 / FRN: 0001563949
MB Docket No. 03-15

Dear Ms. Dortch:

On behalf of Washington State University ("WSU"), licensee of noncommercial educational television station KWSU-TV, Pullman, Washington, and pursuant to the FCC Public Notice in DA 06-1255, *DTV Channel Election Issues – Compliance with the July 1 Replication/Maximization Interference Protection Deadline* (June 14, 2006), we hereby request a waiver of the station's July 1, 2006 DTV replication requirements.

In the *Second DTV Periodic Review Report and Order*,¹ the Commission adopted a July 1, 2006 replication/maximization protection deadline for noncommercial DTV licensees. The Commission stated that, in cases where a station was unable to meet the applicable deadline due to "circumstances beyond a station's control," it would "grant extensions of the applicable replication or maximization interference protection deadline on a six-month basis if good cause is shown."²

WSU certified that it would operate post-transition "replication" facilities for KWSU-DT in its November, 2004 Pre-Election Certification. See FCC File No. BCERET-20041105AFT. Pursuant to a tentative FCC channel designation, WSU will use KWSU's current NTSC Channel

¹ Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, 19 FCC Rcd 18279 (rel. Sept. 7, 2004) ("*Report and Order*").

² *Id.*, ¶ 87.

10 for permanent DTV use (*see* FCC File No. BFREEET-20050119AAF). WSU is presently operating KWSU-DT's digital facility on DTV Channel 17 pursuant to a grant of Special Temporary Authorization ("STA") in FCC File No. BDSTA-20041118AEO (as extended by BEDSTA-20051216AAI). As explained below, severe financial limitations and unique terrain considerations, which drastically affect KWSU's coverage and replication calculations, will prevent WSU from meeting the 80% replication and warrant waiver of the July 1 DTV deadline.

Based on the FCC's replication methodology, KWSU-DT's current digital coverage reaches only 41% of the baseline analog population for KWSU-TV. *See* Exhibit 14. However, those figures are extremely misleading due to the inclusion of population from the Spokane, Washington area within the contour and population calculation for the analog baseline figures. KWSU is licensed to Pullman, Washington, a town of 24,675 people in southeast Washington state. Located approximately seventy (70) miles to the north is the city of Spokane, Washington, population 196,624. Although portions of Spokane are within the Grade B contour for analog KWSU-TV, those areas do not actually receive the analog signal due to intervening terrain. Exhibits 6-7 demonstrate the severe terrain blockage that occurs outside of Spokane, and prevents actual reception of the KWSU signal.

Of particular note, the baseline analog population numbers include "KMX error points" which are counted as interference-free coverage, allowing an entire population block to be included in a contour calculation if the signal is predicted to be received in any portion of that block. *See* Exhibits 1-5. However, as demonstrated by Exhibits 8-10 and 12-13 (and summarized in Exhibit 14), a more realistic Longley-Rice calculation that excludes the KMX error population results in an analog population of 138,830, and a DTV coverage of 110,403 persons, or 79.5%, which essentially satisfies the 80% coverage requirement.

In order to reach 80% replication utilizing the formal FCC calculations, WSU would need to spend nearly \$1,000,000 on facility modifications and equipment purchases. As detailed in Exhibit 11, WSU would have to acquire a new transmitter (available at a discounted price of \$589,424), and several other items (including transmission line, antenna, interconnect line kit, power conditioner, TX RF System, etc.) totaling approximately \$95,000. In addition, the itemized installation costs for the antenna and feedline, tower, transmitter, and transmitter building would total nearly \$300,000.

The \$1 million total cost of 80% replication compliance is completely impractical for WSU for several reasons. First, from a purely financial standpoint, the expense is prohibitive for this public broadcaster and state educational institution. WSU has already spent \$1,202,000 on digital conversion for KWSU-TV and its other full power station KTNW(TV), and the annual operating budget for KWSU-TV and KTNW(TV) (FY 2007 projected) is only \$1,710,000. Moreover, WSU must still incur the costs associated with converting current NTSC Channel 10 to digital for KWSU's permanent DTV operation. For that matter, the temporary status of KWSU-DT's digital operation on Channel 17 makes it even more difficult to justify the exorbitant costs associated with reaching the 80% level at this time.

Even more compelling with respect to the cost/benefit analysis is the terrain blockage situation. While the costly transmitter, equipment and installation costs would permit WSU to reach the theoretical 80% replication level, in reality most of those purportedly served by the analog baseline coverage and to be added by such an increase in DTV coverage would actually be receiving neither the analog nor the digital signals due to the intervening terrain. Thus it is unreasonable to expect WSU to bear the great expense that would be required in order to reach 80% replication when much of the additional population to be replicated on paper in fact cannot receive analog KWSU-TV, and still would not receive an upgraded KWSU-DT digital signal.

Continued protection of KWSU's full replication facilities will serve the public interest by allowing WSU to maintain existing noncommercial television service for its viewers in the Pullman area after it converts Channel 10 to digital operation. Notably, WSU should be more readily able to achieve full replication using DTV Channel 10, as it will be able to utilize its current NTSC Channel 10 top-mounted antenna position for KWSU's digital Channel 10 operation. In the meantime, WSU has applied to modify its DTV construction permit for KWSU-DT in order to maximize its DTV power utilizing its existing equipment. Without encountering the serious expense involved with a transmitter replacement, WSU can immediately increase KWSU-DT's current operating power from 4.5 kW to 10 kW ERP upon grant of the application pending in FCC File No. BMPEDT-20060616ABM.³

Based on the foregoing, WSU submits that good cause exists for a waiver of the July 1, 2006 replication requirements as apply to Station KWSU-TV/DT. Not only do severe financial constraints demonstrate the impracticality of achieving 80% replication of KWSU-TV's baseline analog population on its current DTV channel, but circumstances beyond WSU's control (as affect the replication calculations and terrain considerations in this case) render compliance with the 80% figure an academic exercise that does not truly reflect the actual analog and digital reach of the station's signals. WSU therefore respectfully requests a waiver of the DTV replication/maximization interference protection deadline for KWSU-TV/DT.

WSU is a noncommercial educational broadcaster and operates station KWSU-TV/DT on a noncommercial educational basis. Moreover, WSU qualifies as governmental entity. WSU is therefore exempt from filing fees pursuant to Section 1.1114 of the FCC's Rules, and exempt from regulatory fees pursuant to Section 1.1162 of the FCC's Rules. This request is also exempt from the Anti-Drug Abuse Act certification requirements pursuant to Section 1.2002(c) of the Rules.

³ WSU is separately filing an application to extend its STA for KWSU-DT, to authorize continued operation of the station's DTV facility until the minor modification in BMPEDT-20060616ABM is granted and can be licensed.

Marlene H. Dortch, Esq.

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Should any questions arise concerning this waiver request, kindly contact this office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Barry Persh".

Todd D. Gray

Barry S. Persh

Counsel for Washington State University

cc: Shaun Maher (FCC) (at Shaun.Maher@fcc.gov)