

## **EXHIBIT 38**

### **Request for Approval of Commencement of Post-Transition DTV Operation**

Station KZSD-DT, Martin, SD (Facility ID No. 61062)

The South Dakota Board of Directors for Educational Telecommunications (“SDBDET”) hereby requests approval to commence post-transition DTV service for noncommercial educational television station KZSD-DT, DTV Channel 8, Martin, SD (“KZSD-DT”) prior to the new transition date of June 12, 2009.

A special operating condition in the construction permit for KZSD-DT’s post-transition DTV facility in FCC File No. BMPEDT-20080618ACQ states that the station is not to commence operation pursuant to the permit prior to February 17, 2009 – *or such other date as the Commission may establish in the future* – without prior Commission approval.

Accordingly, with the passage and signing of legislation that will delay the DTV transition deadline beyond February 17, 2009, SDBDET seeks authority to commence post-transition DTV Channel 8 operation of KZSD-DT under the station’s construction permit prior to June 12, 2009.

In accordance with *In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, SDBDET certifies that it has operated analog station KZSD(TV) on NTSC Channel 8 since 1979 and that operation of KZSD-DT’s post-transition facility on DTV Channel 8 will likely not cause impermissible interference to any other station.<sup>1</sup> If the FCC interference analysis determines otherwise, however, SDBDET hereby agrees to reduce the station’s effective radiated power to a level that is acceptable to the FCC.

Once complete, KZSD-DT’s post-transition Channel 8 facility will provide service to all of its existing analog viewers for the remainder of the transition.<sup>2</sup> In addition, post-transition digital operation of KZSD-DT will ensure that the station complies with the final deadline for the commencement of full, authorized post-transition service.<sup>3</sup> Indeed, KZSD-DT’s full, authorized post-transition DTV service obligations will be met immediately upon commencement of operation of the facilities specified in FCC File No. BMPEDT-20080618ACQ.

SDBDET submits that commencement of KZSD-DT’s post-transition DTV service prior to June 12, 2009 will serve the public interest. SDBDET believes that post-transition digital operation of KZSD-DT on that date will not cause impermissible interference to any other station. In addition, operation of KZSD-DT’s post-transition DTV service as of February 17, 2009 will continue KZSD-DT’s service to existing viewers following the termination of KZSD-DT’s analog service on February 17, 2009.

SDBDET has notified the Commission of its intent to terminate analog service for KZSD(TV) as of February 17, 2009.

Grant of this STA will also allow KZSD-DT to transition to post-transition digital operation with the least amount of disruption to viewers.

SDBDET will begin viewer notifications regarding the commencement of KZSD-DT's post-transition DTV service in accordance with the *Third Periodic Review*.

SDBDET will also run additional viewer notifications per day, as required, in order to ensure that a total of 120 viewer notifications are run prior to the commencement of KZSD-DT's post-transition digital operation.

SDBDET is a noncommercial educational licensee and operates KZSD-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>1</sup>See Report and Order, MM Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007), at 121, et seq.

<sup>2</sup>See *id*

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

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