

EXHIBIT 38

Request for Authorization for Early Termination of Analog and Pre-Transition DTV Service and Early Commencement of Post-Transition DTV Operation

NCE Station KXNE-TV/DT, Norfolk, Nebraska
Facility ID: 47995 / FRN: 0002385441

Nebraska Educational Telecommunications Commission (“NETC”) hereby requests approval for early termination of the analog and pre-transition digital television service for noncommercial educational Station KXNE-TV, NTSC channel 19 and pre-transition DTV channel 16, Norfolk, Nebraska. As described below, NETC proposes to terminate KXNE’s analog operation and pre-transition digital operation as of **November 4, 2008**, in connection with the early commencement of operation of its post-transition digital facility on channel 19.

With *In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*,¹ the Commission set forth procedures for stations to obtain prior approval to terminate analog service before the February 17, 2009 transition date if necessary to achieve transition.² The Commission also established application procedures for the termination of pre-transition DTV channel service in connection with early digital operation on a post-transition channel.³ Specifically, the *Third Periodic Review* provided that applicants must file at least 90 days in advance for early analog termination (and at least 60 days in advance of proposed pre-transition termination), demonstrate that the analog and pre-transition DTV terminations are directly related to the construction and operation of post-transition facilities, and conduct viewer notifications. In order to terminate pre-transition digital service and begin post-transition digital operations before the transition date, the *Third Periodic Review* directs applicants to show that the early transition will not cause impermissible interference to another station, that the station will continue to serve its existing viewers until the transition date, and that the station will commence full, authorized post-transition operations on February 18, 2009.⁴

In this case, KXNE’s proposed early analog reduction is directly related to and necessitated by KXNE’s construction of its post-transition digital facility. Notably, the station’s NTSC channel 19 analog operation must terminate in order to allow construction of the post-transition DTV facility on the same channel. NETC currently operates KXNE on analog channel 19 and pre-transition DTV channel 16. NETC has already applied for its post-transition DTV channel 19 facility in FCC File No. BPEDT-20080317ABG, and received an FCC construction permit grant on April 8, 2008. However, in order to build the post-transition digital transmitter

¹ Report and Order, MM Docket No. 07-91, FCC 07-228 (Rel. Dec. 31, 2007) (“*Third Periodic Review*”).

² Id. at ¶ 107, et. seq.

³ Id. at ¶ 121, et. seq.

⁴ Id.

in advance of the February 17, 2009 transition date, KXNE must arrange for the transmitter manufacturer to convert KXNE's analog transmitter for digital use. Thus, NETC has "equipment currently in use with their analog operations that they plan to use with their digital operations," per paragraph 111 of the *Report and Order*.

In addition, the manufacturer and NETC must coordinate this process with transmitter conversions at five sister station sites for KPNE-DT, North Platte, KRNE-DT, Merriman, KTNE-DT, Alliance, KMNE-DT, Bassett and KUON-DT, Lincoln. Given the manufacturer's overall DTV conversion schedule, NETC has been informed that on or around November 4, 2008 is the only feasible time to conduct the transmitter conversion at the KXNE site and at the five other NETC sites in order to ensure that the DTV transmitter work can be completed by the transition deadline. The transmitter conversion is expected to take about two weeks, so post-transition digital service should begin by November 17, 2008.

Accordingly, NETC seeks approval to terminate KXNE's analog channel 19 service as of November 4, 2008, in order to allow for build-out of KXNE's post-transition facility. In addition, in connection with the analog termination and post-transition construction, NETC requests approval to terminate pre-transition DTV channel 16 service at the same time, and commence its DTV channel 19 service upon completion of the facility conversion.

NETC submits that the above proposal will serve the public interest by allowing NETC to complete the KXNE digital conversion, and switch to the current analog channel for post-transition DTV use, in connection with the construction schedules for its manufacturer and the other full service stations in its statewide noncommercial educational TV network. As provided in engineering exhibit 38, KXNE's post-transition DTV facility will not cause impermissible interference to any other station. Moreover, once complete, KXNE's post-transition DTV facility will replicate its existing analog and DTV service and conform to the FCC's Table of Allotments. Although viewers will temporarily be without service during the actual transmitter conversion, this temporary loss of service is simply unavoidable and must occur at some point during transition in order to complete the conversion to DTV channel 19. Station KXNE in Norfolk, Nebraska is affiliated with PBS. Its coverage includes a population of 98,640 and there is 63% cable penetration. NETC will commence viewer notifications of the proposed analog and pre-transition digital service terminations starting 60 days before November 4, in accordance with the *Third Periodic Review*.

NETC is a noncommercial educational licensee and it operates KXNE 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.